FOR FURTHER INFORMATION CONTACT:
Malvin E. McGaha, (202) 447–5975.

SUPPLEMENTARY INFORMATION: Findings. This regulation and amendment are issued under the marketing agreement, as amended, an Order No. 907, as amended (7 CFR Part 907), regulating the handling of navel oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendation and information submitted by the Navel Orange Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the act.

This action is consistent with the marketing policy for 1979–80 which was designated significant under the procedures of Executive Order 12044. The marketing policy was recommended by the Committee following discussion at a public meeting on October 30, 1979. A final impact analysis on the marketing policy is available from Malvin E. McGaha, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

The committee met again publicly on April 22, 1980 at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of navel oranges deemed advisable to be handled during the specified weeks. The committee reports the demand for navel oranges is extremely active for all grades and sizes.

It is further found that there is insufficient time between the date when information became available upon which this regulation and amendment are based and when the actions must be taken to warrant a 60 day comment period as recommended in E.O. 12044, and that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), and the amendment relieves restrictions on the handling of navel oranges. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

§ 907.790 Navel Orange Regulation 490.

Order. (a) The quantities of navel oranges grown in Arizona and California which may be handled during the period April 25, 1980, through May 1, 1980, are established as follows:

(1) District 1: 1,500,000 cartons;

(2) District 2: Unlimited cartons;

(3) District 3: Unlimited cartons;

(4) District 4: Unlimited cartons.

(b) As used in this section, "handle," "District 1," "District 2," "District 3," "District 4" and "carton" mean the same as defined in the marketing order.

Paragraph (a) in § 907.789 Navel Orange Regulation 489 (45 F.R. 26021), is hereby amended to read:

§ 907.789 Navel Orange Regulation 489.

(a) * * *

(1) District 1: 1,600,000 cartons;

(2) District 2: Unlimited cartons;

(3) District 3: Unlimited cartons;

(4) District 4: Unlimited cartons.

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

Dated: April 23, 1980.

Charles R. Brader

Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 80-12846 Filed 4-23-80; 11:32 am]

BILLING CODE 3410-02-M

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7 CFR Part 908

[Valencia Orange Regulation 643]

Valencia Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona Valencia oranges that may be shipped to market during the period April 25–May 1, 1980. Such action is needed to provide for orderly marketing of fresh Valencia oranges for this period due to the marketing situation confronting the orange industry.

EFFECTIVE DATE: April 25, 1980.

FOR FURTHER INFORMATION CONTACT:
Malvin E. McGaha, 202–447–5975.

SUPPLEMENTARY INFORMATION: *Findings.* This regulation is issued under the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendations and information submitted by the Valencia Orange Administrative Committee and upon other available information. It is hereby found that the action will tend to effectuate the declared policy of the act.

This action is consistent with the marketing policy for 1979–80 which was designated significant under the procedures of Executive Order 12044. The marketing policy was recommended by the Committee following discussion at a public meeting on January 22, 1980. A final impact analysis on the marketing policy is available from Malvin E. McGaha, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

The committee met again publicly on April 22, 1980 at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of Valencia oranges deemed advisable to be handled during the specified week. The committee reports the demand for Valencia oranges is continuing to improve.

It is further found that there is insufficient time between the date when information became available upon which this regulation is based and when the action must be taken to warrant a 60-day comment period as recommended in E.O. 12044, and that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553). It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

§ 908.943 Valencia Orange Regulation 643.

Order. (a) The quantities of Valencia oranges grown in Arizona and California which may be handled during the period April 25, 1980 through May 1, 1980, are established as follows:

(1) District 1: 63,000 cartons;

(2) District 2: 77,000 cartons;

(3) District 3: 210,000 cartons;

(b) As used in this section, "handled," "District 1," "District 2," "District 3," and "carton" mean the same as defined in the marketing order.

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

Dated: April 23, 1980.

Charles R. Brader

Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 80-12844 Filed 4-23-80; 11:32 am]

BILLING CODE 3410-02-M

Office of the Secretary

7 CFR Part 2900

Amendment of Certification of Essential Agricultural Uses and Requirements; Natural Gas Policy Act of 1978

AGENCY: Office of the Secretary, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture hereby amends its regulations certifying essential agricultural uses and requirements under the Natural Gas Policy Act of 1978 (NGPA) 7 CFR Part 2900.

This amendment adds a definition of the term "process fuel" as it relates to the uses and amounts of interstate natural gas needed for the production of fertilizer, agricultural chemicals, animal feed, and food necessary for full food and fiber production as certified by the Secretary of Agriculture pursuant to Section 401(f)(1) of the NGPA.

EFFECTIVE DATE: This amendment will become effective on April 24, 1980.

FOR FURTHER INFORMATION CONTACT: Earle E. Gavett, Office of Energy, USDA, Washington, DC: (202) 447–7195.

The Combined Final Environmental Impact Statement and Final Impact Statement describing the options considered in developing 7 CFR Part 2900 and the impact of implementing each option is applicable to this amendment, and is available upon request from Mr. Gavett.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified "significant."

After reviewing this amendment pursuant to USDA's responsibilities under the National Environmental Policy Act of 1979, Pub. L. 91–190, 83 Stat. 852 (42 U.S.C. 4321), the USDA has determined that this action does not alter the impacts disclosed or conclusions drawn in the combined Environmental Impact Statement and Final Impact Analysis prepared by the USDA, May 14, 1979, in connection with the Essential Agricultural Uses and Requirements certification rule, 7 CFR Part 2900. The inclusion of the definition of "process fuel" adds some 26.5 billion cubic feet or 3 percent to the interstate gas component identified as essential agricultural use in that analysis.

Under Section 401 of the NGPA, the Secretary of Agriculture is required to certify to the Secretary of Energy and the Federal Energy Regulatory Commission (FERC) essential agricultural uses of natural gas and the amounts of natural gas for such essential agricultural uses necessary for full food and fiber production. A final rule containing such certification was issued by the Secretary of Agriculture on May 17, 1979, (44 FR 28782).

The Secretary of Energy and the FERC have incorporated the USDA certification in their rules promulgating and implementing agricultural priority in curtailment plans of interstate pipelines in accordance with the NGPA.

It has become apparent that an ambiguity exists in the USDA regulations in that the absence of a definition of "process fuel" could jeopardize some agricultural uses. Steam plays a critical and inseparable role in a number of operations during the manufacture of fertilizer, other agricultural chemicals, and animal feed and food. In such instances, any disruption in the flow of steam can bring the entire process to a halt. Where natural gas is used as a boiler fuel to generate that steam, a curtailment in the absence of economically practicable and readily available alternative fuels can certainly cause the same adverse consequences—shutdown, loss of production, spoilage, and higher food costs—that could result from curtailment of natural gas used as feedstock or in direct flame applications.

On December 21, 1979, the Acting Secretary issued a proposed rule that was published in the **Federal Register** on December 31, 1979, (44 FR 77187) which would amend Chapter XXIX of Title 7, section 2900.2 Code of Federal Regulations by adding the definition "(e) 'Process fuel' means the direct use of natural gas in a manufacturing process, and that use of natural gas in a boiler where the manufacturing process includes the boiler use of natural gas as an integral part of the process." The proposed amendment was in response to a number of inquiries concerning whether any boiler fuel use of natural gas may be classified as "process fuel" for purposes of section 401(f)(1)(B) of the NGPA.

The public was invited to participate in any aspect of the proposed amendment by submitting data, views, or arguments with respect to the inclusion of the definition of "process fuel" as it would relate to section 401(f)(1)(B) of the Natural Gas Policy Act. Section 401(f)(1)(B) of the NGPA includes in the definition of essential agricultural use when used with respect to natural gas, "any use of natural gas—

(B) *as a process fuel* or feedstock in the production of fertilizer, agricultural chemicals, animal feed, or food, which the Secretary of Agriculture determines is necessary for full food and fiber production." (Emphasis added.)

As indicated in the preamble to the proposed rule, USDA had been apprised of a number of instances whereby natural gas is used in a boiler to produce steam which is a necessary part of the manufacturing process of products included under section 401(f)(1)(B). For example, in the manufacture of ammonium nitrate fertilizer pure nitric acid is combined with anhydrous ammonia to produce liquid ammonium nitrate. Steam is used as the heat source in the evaporators, and the steam condensate from the evaporators is used in the nitrate acid adsorption tower to produce nitric acid feedstock. In the drying stage, the drums contain steam coil heaters permitting material to be dried under the proper temperature in order to produce a uniform, salable pelleted fertilizer.

Unlike the manufacture of phosphate and potash fertilizers which use natural gas in open flame heaters, ammonium nitrate fertilizers are so volatile they cannot be exposed to open flames or sparks. The heat must be contained within a vessel.

Another example is the manufacture of vitamins essential as livestock feed supplements. Manufacturing vitamins requires steam as a source of process catalyzation to complete the manufacture of a number of different products. Steam is essential to the process as direct fired vessels would destroy the products.

Where the manufacturing process includes the boiler use of natural gas as an integral part of the process, such as in the examples cited above, the fact that natural gas is used as a boiler fuel should not prevent its being considered as a "process fuel" for purposes of section 401(f)(1)(B) of the NGPA. This is in addition to the Federal Power Commission concept of "process gas" as direct flame application of natural gas in a manufacturing process and where natural gas is required to maintain temperatures within a critical range for a process to continue.

Where natural gas is used as a boiler fuel for purposes that are not an integral part of the manufacturing process, such as for space heating, generating hot water for plant cleaning, and electric power generation, such uses are not included in the definition of "process fuel" as promulgated by this rulemaking.

Public comment was received through 4:30 p.m. February 29, 1980. In total, some 60 comments were received. Fifty favored the amendment, nine were opposed, and the Federal Energy Regulatory Commission supported the

authority of the Secretary of Agriculture to define "essential agricultural use" and urged the Secretary to carefully consider the larger-than-agricultural effects of adopting a definition of "process fuel" that deviated from a clear demarcation between boiler fuel and process fuel. The possible non-agricultural ramifications raised by FERC were similar to those of gas distributors and non-agricultural users which are discussed below.

The fifty comments favoring the proposed amendment were all from agricultural related firms most of which were affected by the proposed rule under section 401(f)(1)(B). Feed processors submitted 21 comments; fertilizer manufacturers, 10; agricultural chemical producers (including vitamins), eight; food manufacturers, six; pet food makers, two; and three other firms including one farm, submitted comments.

Of the nine comments in opposition, six were from the natural gas industry, primarily distributors; two represented comments of industrial consumers of natural gas, and one was from a State public service commission.

Feed manufacturers indicated that natural gas is used for generating steam for several essential feed processing operations including steam flaking, steam rolling, extruding and the most common, pelleting. They contended that such use of steam is consistent with the Congressional objective of full food and fiber production. Without such steam for processing feed, farmers would have to produce more feed grain ingredients to achieve the same output of livestock because by using steam in feed processing several advantages are gained over raw grain by introducing heat and moisture: (1) The starch is gelatinized, improving feed efficiency and animal performance; (2) the nutrients become more readily available to the animal; (3) the palatability of the grain is improved; (4) the physical change reduces loss of fine material which is not readily consumed and is usually wasted; (5) the materials handling of the feedstuff is improved; (6) the density of pelleted feeds is increased, making storage space and transportation more efficient; (7) pelleted feed can be used in automatic feeders; and (8) overall livestock performance is improved by increased daily weight gain and feed efficiency is increased with greater gain per pound of feed. Without steam processed feeds livestock production would decrease. The USDA finds these arguments are supported by research studies on efficiency in livestock feeding.

Fertilizer manufacturers' comments stressed the essential uses of natural gas for process steam similar to those cited in the preamble to the proposed rule concerning manufacture of ammonium nitrate. Manufacturers of other types of fertilizer, including ammonia and urea, cited the uses of boiler fuel gas that are an integral part of the manufacturing process. They indicated that such process steam use is essential for production of sufficient nitrogen fertilizer so that full food and fiber production can be maintained. Some concern was evidenced that denial of certification of such "process fuel" may permit even greater incursions by foreign nitrogen fertilizer manufacturers into our domestic market with the potential for making our food supply dependent upon uncertain nitrogen supplies much the same as our transportation is dependent upon foreign oil. The USDA finds that increasing amounts of nitrogen fertilizer are being imported from Russia, Mexico and other countries.

Some ammonia manufacturers stressed the need for use of steam as a feedstock where steam is used for its chemical composition in the manufacture of anhydrous ammonia, and where steam is used as a heat source to complete a process such as removal of water by evaporation and drying to render the product stable, storable and useable. Natural gas used as feedstock in anhydrous ammonia production was covered under the USDA's final rule issued March 17, 1979. The amendment will also certify the use of natural gas to produce steam as a heat source to complete the manufacturing process including the drying function.

Agricultural chemical producers cited similar uses of steam as integral parts of the manufacturing process that are essential for feedstock, even heat control and for evaporation and drying for manufacture of both intermediate and final products. The vitamin manufacturers reaffirmed the critical use of natural gas for process steam similar to the example cited in the preamble to the proposed rule.

One agricultural chemical firm commented that there is more than one type of problem relating to the establishing of user priority status concerning process fuel. It suggested that USDA define what constitutes a manufacturing process. The concern is that the interstate pipeline serving the firm does not include pollution control equipment mandated by Federal and State environmental regulations in the definition of a manufacturing process. Thus, during periods of curtailment natural gas would not be available to operate the pollution control equipment and may impair output essential for full food and fiber production. The USDA amendment is restricted only to the inclusion of certain boiler fuel uses of natural gas as an integral part of a manufacturing process, as "process fuel" in addition to direct uses of natural gas. The intent of the USDA definition is to provide for curtailment protection of section 401(f)(1)(B) uses of natural gas by a definition construing "process" in a production sense, is consistent with statutory language indicating that not all gas used in production of section 401(f)(1)(B) products is covered. USDA is not persuaded that gas used in pollution control facilities for section 401(f)(1)(B) functions is "integrally" associated with the manufacturing process in the nature of the cited examples.

Pet food firms indicated that some plants have equipment that was designed for direct application of gas flame in the manufacturing process while other plants have equipment using gas indirectly as process steam. Failure to amend the rule would create preferences among different manufacturing processes serving the same function and thereby create artificial competitive advantages to the direct fired plants. The amended rule eliminates these artificial barriers as far as section 401(f) certification of uses is concerned.

Several agricultural firms, both farm and food processing entities, commented favorably on the use of boiler fuel gas as process fuel and urged that the proposed rule be adopted so that they may be protected from curtailment. However, the examples they cited were uses under section 401(f)(1)(A) which already were protected by the USDA final rule of May 17, 1979. The amended rule does not affect essential agricultural uses under 401(f)(1)(A). It is a definition of the term "process fuel" only where the term is used in section 401(f) of the NGPA and 7 CFR 2900.3.

One supporter of the proposed rule recommended that the USDA give retroactive effect to its determination that use of natural gas in boilers is an integral part of the fertilizer manufacturing process as an essential agricultural use. The action taken by this proceeding is an amendment and operates prospectively. The certification promulgated pursuant to section 401(f) of the NGPA operates only in time of natural gas curtailments.

Among those opposed to the rule, one firm objected to the statement made in the preamble that the gas covered in the

proposed rule "will add an unknown amount of natural gas, probably less than 10 billion cubic feet, to the total agricultural gas use of 1,392 billion cubic feet, and probably less than 1 percent of the interstate gas component identified as essential agricultural use in the combined Final Environmental Impact Statement and Final Impact Statement." They contend that the proposed rule would "substantially increase" the size of the essential agricultural use priority.

The USDA has reexamined the data on natural gas affected by the proposed rule and has concluded that the proposed rule somewhat understated the amount of gas likely to be covered by the proposed rule. However, upon review of the available data in the combined final Environmental Impact Statement and Final Impact Statement, the 1976 Annual Survey of Manufactures and other industry data we have determined that the maximum amount of natural gas likely to be included in the proposed rule is less than 30 billion cubic feet. the following tabulation indicates the probable magnitude of interstate gas used for boiler fuel by the affected industry groups:

Industry	SIC	Gas[1] used H and P (bcf)	Interstate[2] gas use (percent)	Used[3] for steam (percent)	Interstate gas for steam (bcf)
Pet food	2047	6.9	70	90	4.3
Animal feed	2048	12.2	60	70	5.1
Fertilizers	2873, 2874, 2875	292.9	40	10	11.7
Agricultural chemicals	2879	18.4	25	50	2.3
Subtotal		330.4			23.4
Curtailed boiler gas [4]					6
Total gas involved					29.4

[1] Gas used for heat, power and electric generation, Annual Survey of Manufactures, 1976. (Excludes feedstocks, but includes process gas.)
[2] From the USDA–FEISFIS, March 14, 1979 and industry data.
[3] Estimated by USDA from industry data.
[4] From table 6, FEISFIS, March 14, 1979.

It should be remembered that the Annual Survey of Manufactures data on "gas used for heat and power" includes process gas (as defined under FPC Order 493) which was already certified in the essential agricultural uses rule prior to this rulemaking. In the fertilizer industry, an estimated 90 percent of the process gas involved is direct flame gas or gas required for precise temperature control. Subtraction of the volumes of such "FPC type" process gas, already included under the non-curtailment priority for firms in section 401(f)(1)(B) and 7 CFR 2900.3, greatly reduces the amount of gas otherwise added to the agricultural priority by this rulemaking. Thus, when the intrastate gas is subtracted, the remaining interstate gas is a mere fraction of the gas these commenters were concerned about.

Furthermore, the definition does not include all boiler fuel uses of natural gas for section 401(f)(1)(B) functions, but only those uses of natural gas as an integral part of the process. Excluded are uses that are not an integral part of the manufacturing process, such as for space heating, hot water generation for plant cleaning and electric power generation. Such uses may represent 10 percent of boiler fuel gas usage by the affected industries. Therefore, an estimated 26.5 billion cubic feet of gas appears to be involved in the definition. Including 26.5 billion cubic feet of additional interstate gas to the essential agricultural use category would result in a 3.0 percent increase from 878 billion cubic feet to 904.5 billion cubic feet. A 3.0 percent increase is well within the range of data limitations of and would not negate the conclusions drawn in the March 14, 1979 combined Final Environmental Impact Statement and Final Impact Statement (FEISFIS). It would not be considered as substantially increasing the size of the essential agricultural use priority or affecting the impacts discussed in the FEISFIS.

A further point that must be considered is that while the rule would add some 26.5 billion cubic feet of boiler fuel gas to the list of essential agricultural uses, the users of this gas are subject to the alternative fuel provisions of section 401(b). USDA is not defining "boiler" but rather "process fuel" and thus the FERC rule implementing section 401(b) would apply to boilers involved in the definition the same as any other boiler under 7 CFR 2900.3.

One commenter asserted that the USDA proposed policy of defining "process fuel" was unauthorized in light of the language of section 501(b) of NGPA, which provides: "(b) Authority to Define Terms.—Except where otherwise expressly provided, the Commission is authorized to define, by rule, accounting, technical, and trade terms used in the Act. Any such definition shall be consistent with the definitions set forth in this Act." While section 401(f)(1) grants the Secretary of Agriculture the authority to define which uses of gas are "necessary for full food and fiber production," it is not "expressly provided" that USDA may redefine the term "process fuel" during the course of meeting its section 401(f)(1) responsibilities. The commenter contends that the FERC has the statutory authority to define "process fuel" for purposes of section 401(f)(1)(B).

USDA notes that section 501(b) *authorizes* FERC to define accounting, technical and trade terms. While it is arguable that "process fuel" is a technical or trade term, its use in section 401(f) and legislative history supporting the broad discretion given the Secretary of Agriculture provide strong argument that "process fuel" is terminology to be dealt with by the Secretary of Agriculture. Moreover, the FERC in its comments to USDA did not question the authority of the Secretary of Agriculture to define for purposes of section 401(f)(1)(B) the term "process fuel." On the contrary, it stated, "The Commission views the definition of which uses of natural gas qualify as essential agricultural uses, pursuant to the NGPA, as being within the authority of the Secretary of Agriculture." The USDA concludes that Congress in not clearly defining the term "process fuel" under section 401(f) Definitions, or elsewhere in the NGPA, gave the Secretary of Agriculture the authority to define under section 401(c) the natural gas requirements, including certain boiler fuel uses as process fuel, for essential agricultural uses in order to meet the requirements for full food and fiber production.

Other reasons cited for the lack of the authority of the Secretary of Agriculture to define "process fuel" under section 401(f)(1)(B) were (a) historical Federal Power Commission policy regarding boiler fuel as an "inferior" use of natural gas and (b) the existence of an FPC definition of "process gas" promulgated under the Natural Gas Act (NGA) (15 U.S.C. section 717 *et seq.*).

With respect to the first argument, the notion of boiler fuel use of natural gas

as "inferior" is a concept associated with certificates of convenience and necessity under the NGA. The FPC decisions and court cases concern the Commission's discretionary authority under the NGA to grant certificates of public convenience and necessity. Specifically, the Commission's policy of regarding boiler fuel use of gas as "inferior" is an element of public interest relied on by the Commission in denying certificates. The court decision on the issue cited in comments upholds the Commission's consideration of this policy as within the scope of its authority. *(FPC v. Transcontinental Gas Pipe Line Corp. et al.*, 365 U.S. 1, 65 L. Ed 2d 277, 31 S.C. 435 (1960). It is by no means a judicially mandated concept. Moreover, even as a policy matter, it has limited applicability in the context of section 401. While under previous curtailment philosophy under the NGA, boiler fuel use of natural gas as a whole was placed in a low priority; the NGPA changed this by mandating agricultural use priority above other industrial uses of natural gas and it is without question that the category A uses listed in section 401(f) may include boiler fuel. Additionally, the FPC curtailment philosophy was based on the consideration that denial of natural gas use where alternative fuel capability existed was in the public interest. The NGPA, section 401(b) legislates an alternative fuel test for "essential agricultural uses" to be implemented by FERC. The USDA amendment does not purport to redefine "boiler" for purposes of the alternate fuel rule,[1] thus that rule would apply to any essential agricultural uses which may fall within the new definition.

With respect to the second point, USDA is aware of the FPC definition of "process gas" codified as 18 CFR 2.78(c)(8), but is not persuaded that Congress intended the FPC definition to prevail in section 401. The evolution of the FPC definition itself contradicts a conclusion that the meaning of the term is universal. In 1973, the Federal Power Commission codified its policies regarding curtailment priorities for natural gas as 18 CFR 2.78(a). Pursuant to public comment the FPC also promulgated definition for certain terms used in § 2.78(a). Among these is the term "process gas." FPC Order No. 493 defines "process gas" as "gas use for which alternate fuels are not technically feasible such as in applications requiring precise temperature controls and precise flame applications." (18 CFR 2.78(c)(8)).

[1] See FERC Order No. 55, 44 FR 62484, October 31, 1979.

Under the FPC definition, the use of natural gas in a boiler to produce steam, would not be a "process gas." However, it must be emphasized that the FPC definition was part of a codified curtailment priority schedule based on FPC policy, and developed in the absence of a legislative framework such as Title IV of the NGPA. Moreover, in Order No. 493–A, issued October 29, 1973, to clarify and amend Order No. 493, the FPC recognized that its terms were by no means axiomatic. The FPC stated, "The intent of this rulemaking proceeding is to standardize end use classifications and service priorities in order to aid the industry in meeting its responsibilities to serve the public's needs during this time of critical nationwide gas shortage. The natural gas industry has evolved as one of the largest energy sources for this Nation. The industry, however, has not developed and implemented any uniform definitions in serving the public, which would aid in characterizing the markets. . . . *However, we recognize that it is impossible to set forth specific definitions dealing with every conceivable industrial, commercial, or residential use of natural gas.* . . .

Accordingly, in this proceeding, we have determined to define generally the terms within which the preponderance of natural gas usage can be included. Obviously, particular end uses will not fit neatly into the definitions prescribed herein, and, accordingly, the appropriate individual curtailment proceeding will deal with the details and specifics of applying these definitions to the markets on a particular pipeline's system." (38 FR 30432, November 5, 1973.) (Emphasis added.)

Furthermore, the issue of alternative fuel capability, which is a cornerstone of the pre-NGPA FPC policy on curtailment priority, has been legislatively dealt with by the Congress in section 401(b) which excludes from the priority 2 curtailment protection, agricultural uses for which the use of a fuel other than natural gas is both economically practicable and reasonably available as an alternative fuel.

Moreover, contrary to several comments, other sections of the NGPA do not provide evidence of Congressional intent to use FPC definitions. In section 201(c)(2) Congress saw fit to define the term "boiler fuel use" and did so in a way substantially similar to the FPC definition of "boiler fuel" found at 18 CFR 2.78(c)(9). This would indicate that Congress did not think it obvious that FPC pre-NGPA definitions would necessarily apply and that it needed to specify a definition. Additionally, the main thrust of Title II is toward incremental pricing of industrial boilers, and yet Congress provided for exemption of "process fuel and feedstock" for certain agricultural uses.

Another section of the NGPA cited as evidence of a Congressional intent to use the FPC definitions, with a clear demarcation between boiler fuel and process fuel in section 402. Reference is made by such proponents to the Conference Report discussion of section 402 which provides a priority 3 for "essential industrial process or feedstock uses." The conclusion is drawn that the reference to boiler fuel in that discussion is clear indication that the NGPA recognized boiler fuel could not be process fuel. This argument fails to examine the statutory language of section 402, where Congress defined "essential industrial process or feedstock gas" in a different manner from the FPC definitions and included an alternate fuel test which would have no applicability if pre-NGPA FPC definitions were used.

USDA further submits that this indicates that Congress did not assume one definition to be sufficient for all purposes under the NGPA, since such a definition would appear in section 201 where definitions applicable to all sections of the NGPA are located.

USDA therefore is not persuaded that this rulemaking is contrary to statutory authority.

Without an established definition for the term "process fuel" in section 401 of the NGPA, the Secretary of Agriculture's broad discretion to determine "essential agricultural uses" permits him to define the term consistent with the statutorily delegated determination of what natural gas uses are essential for full food and fiber production. It has become evident to USDA that the previous FPC general definition of "process gas" as developed under the NGA is not appropriate for providing non-curtailment protection to producers of fertilizer, agricultural chemicals, animal feed and food in order to maintain full food and fiber production.

Several commenters indicated that elevation of certain agricultural boiler fuel uses to priority status might cause other non-agricultural boiler fuel users to claim a higher priority status for gas for all boiler fuel uses. The commenters failed to identify the specific section of NGPA that non-agricultural industries might use, such as section 402. The USDA amendment covers only certain boiler fuel uses of those industries defined in section 401(f)(1)(B) producing fertilizer, agricultural chemicals, animal

feed, and food. It does not apply to other industries.

Several of the commenters objected to the proposed elevation of boiler fuel use of gas for essential agricultural uses in that it would deny gas to nonagricultural users for process and feedstock uses. They cite the technical inability for alternate fuels for gas for feedstock and process uses which means that during a curtailment period such non-agricultural firms would have to cease production and cause unemployment to increase while essential agricultural users burn gas in boilers for which there are alternative fuels.

The Natural Gas Policy Act was a deliberate action on the part of Congress to modify long standing priorities in the use of interstate natural gas. Congress determined that essential agricultural uses shall have a non-curtailment priority second only to that for high-priority users, principally residences, small commercial establishments, schools, hospitals and similar institutions and to prevent endangering life, health, or maintenance of physical property. Congress was concerned over the cost and availability of food and fiber and charged the Secretary of Agriculture with determining those essential agricultural uses and amounts of gas necessary for full food and fiber production, the Department of Energy to prescribe a rule to prevent curtailments of interstate gas for essential agricultural uses, and the Federal Energy Regulatory Commission to implement the non-curtailment rule. Congress shifted the priority status elevating essential agricultural uses higher than other industrial uses. However, Congress recognized the essential characteristics of natural gas as a process fuel and feedstock to industry by providing in section 402(a) non-curtailment priority for interstate natural gas for essential industrial process and feedstock uses, immediately below the agricultural priority. These uses take precedence over other non-agricultural natural gas uses not covered under section 402, and the agricultural boiler fuel uses not covered by the USDA certification as amended and those eliminated from priority 2 by the alternative fuel test of section 401(b). (To date, the Secretary of Energy has not prescribed a rule providing non-curtailment priority for essential industrial process and feedstock uses as authorized under section 402.)

One gas distributor expressed concern over the regional implications of the rule indicating that some pipeline curtailment plans will be difficult to operate without the opportunity to curtail large volumes of boiler fuel from agricultural establishments. It is expected that pipeline curtailment plans will be modified to the extent necessary to incorporate the new rule. However, end use data are not available by individual pipeline to assess the specific impacts of implementing the rule on individual pipeline curtailment plans. If a particular pipeline has insufficient gas to serve its high-priority customers, then gas for essential agricultural users may be curtailed to serve those high priority needs.

Several commenters objected on grounds of administrative problems associated with the definition. However, Congress mandated a priority 2 classification for "essential agricultural uses" as determined by the Secretary of Agriculture. This rule is in keeping with that mandate. Additionally, prorating of gas to carry out the priority 2 curtailment protection is a necessity to its implementation with or without the definition. (See for example the limitation of "agricultural related only" or "food related only" in 7 CFR 2900.3.) Similar prorating will be associated with implementation of "high priority" and "essential industrial process fuel and feedstock" priority.

One commented that the preamble to the USDA Interim Final Rule excludes boiler fuel "used in the production of fertilizer, agricultural chemicals, and animal feed and food under section 401(f)(1)(B) which expressly covers only feedstock or process uses for these categories of use." The Interim Final Rule was superseded by the Final Rule (44 FR 28782, May 17, 1979) and in the Final Rule this aspect was not changed. However, under the operation of the Final Rule it became apparent that certain boiler fuel uses are so integrated with the manufacturing processes of fertilizer, agricultural chemicals, animal feed and food that, they are essential to full food and fiber production. Therefore, the Secretary of Agriculture would be following the intent of Congress by defining "process fuel" for purposes of section 401(f)(1)(B) to include certain boiler fuel gas uses.

A couple of comments suggested that the proposed definition be worded to more precisely state those activities included in the term "process fuel." USDA has refined the definition in this final rule with more specific language.

Based on the foregoing, USDA has determined that a definition of "process fuel" including certain boiler fuel uses that are integral to the manufacturing processes for producing both intermediate and final products of fertilizer, agricultural chemicals, animal feed and food is necessary for full food and fiber production.

§ 2900.2 [Amended]

Accordingly, Chapter XXIX of Title 7, § 2900.2 Code of Federal Regulations is amended by adding "(e) 'process fuel' means natural gas used to produce steam which in turn is directly applied in processing of products and for compression of products so that processing may take place, in addition to direct flame and precise heating applications of natural gas in processing of products. This does not include natural gas used for space heating, generation of hot water for plant cleaning and generation of electric power." (Pub. L. 95–621, November 8, 1979, 92 Stat. 3350, 15 U.S.C. 3301 *et seq.*)

Dated: April 18, 1980.

Jim Williams,

Acting Secretary of Agriculture.

[FR Doc. 80-12692 Filed 4-23-80; 8:45 am]

BILLING CODE 3410-34-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 61 and 65

[Docket No. 20189; Amdt. Nos. 61-68 and 65-25]

Air Traffic Control Tower Operators: Medical Standards

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Delay of effective date of final rule.

SUMMARY: This action delays the effective date of Amendments Nos. 61–68 and 65–25 to the Federal Aviation Regulations which except air traffic control tower operators who are employed by the FAA from the requirement that they hold a second class medical certificate. This delay is necessary for administrative reasons.

DATE: Effective Date: May 7, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Edward Harris, Office of Management Systems (AMS–300), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591, Telephone (202) 426–8067.

SUPPLEMENTARY INFORMATION: On March 17, 1980, the FAA issued Amendments Nos. 61–68 and 65–25 (45 FR 18911; March 24, 1980). Amendment No. 61–68 revises §§65.31 and 65.33, to except FAA employees from the requirement to hold a second class medical certificate in order to be eligible

for, and to exercise the privileges of, an air traffic control tower operator certificate. Amendment No. 65–25 revises § 61.23(b)(1) to make clear the 12-month duration of the second class medical certificate as it applies to non-FAA control tower operators.

The FAA has determined that a delay in the effective date of these amendments is necessary for administrative reasons.

Change of Effective Date

PART 61—CERTIFICATION: PILOTS AND FLIGHT INSTRUCTORS

PART 65—CERTIFICATION: AIRMEN OTHER THAN FLIGHT CREW MEMBERS

Accordingly, the effective dates of Amendments Nos. 61–68 and 65–25 to Parts 61 and 65 of the Federal Aviation Regulations (14 CFR Parts 61 and 65) are changed to May 7, 1980.

(Secs. 313(a), 601, and 602 of the Federal Aviation Act of 1958 (49 U.S.C. §§ 1354(a), 1421, and 1422); and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. § 1655(c)))

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). In addition, the FAA has determined that the expected impact of the regulation is so minimal that it does not require an evaluation.

Issued in Washington, DC., on April 17, 1980.

Langhorne Bond,

Administrator.

[FR Doc. 80-12521 Filed 4-23-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 79-NE-23]

Alteration of Pittsfield, Mass., 700-foot Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment amends the Pittsfield, Massachusetts, 700-foot transition area so as to provide additional protected airspace for aircraft executing a new proposed NDB Runway 26 and LOC Runway 26 Standard Instrument Approach Procedures (SIAP), to the Pittsfield Municipal Airport, Pittsfield, Massachusetts.

EFFECTIVE DATE: April 17, 1980.

FOR FURTHER INFORMATION CONTACT:

Richard G. Carlson, Operations, Procedures and Airspace Branch, ANE-536, Air Traffic Division, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone (617) 273–7285.

SUPPLEMENTARY INFORMATION: On Monday, February 4, 1980, a Notice of Proposed Rulemaking was published in the **Federal Register**, Volume 45, No. 24, stating that the Federal Aviation Administration proposed to enlarge the Pittsfield, Massachusetts, 700-foot transition area so as to provide added protected airspace for aircraft executing new instrument approach procedures, identified as LOC and NDB, Runway 26 at Pittsfield Municipal Airport, Pittsfield, Massachusetts.

Interested persons were invited to participate in this rulemaking process by submitting written comments on the proposal to the Federal Aviation Administration.

No objections or comments were received. As the new instrument approach procedure becomes effective April 17, 1980, good cause exists for making this rule effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the description of the Pittsfield, Massachusetts, 700-foot transition area in subpart G of § 71.181 of the Federal Aviation Regulations (14 CFR Part 71) is amended as follows:

1. Deleting from the present description all after "Pittsfield Municipal Airport, Pittsfield, Massachusetts."

2. Inserting after Pittsfield Municipal Airport, Pittsfield, Massachusetts,

" * * * and within 5-miles each side of the 065 degree bearing and the 245 degree bearing from the Dalton, Massachusetts NDB (latitude 42°28'15" N, longitude 73°10'14.8" W) extending from the 7-mile radius area to 12-miles northeast of the NDB."

(Sections 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348(a) and Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c) and 14 CFR 11.69)].

Note.—The FAA has determined that this document involves a regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by Interim Department of Transportation guidelines (43 FR 9582; March 8, 1978). The anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Burlington, Massachusetts, on April 15, 1980.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 80-12443 Filed 4-23-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 80-NE-06]

Designation of Lawrence Airport, Lawrence, Mass. Control Zone

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment designates a control zone over Lawrence Airport, Lawrence, Massachusetts. This designation will provide protection to aircraft executing instrument approaches which have been developed for the airport.

EFFECTIVE DATE: June 15, 1980.

FOR FURTHER INFORMATION CONTACT:

Richard G. Carlson, Operations Procedures and Airspace Branch, ANE-536, Air Traffic Division, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone (617) 273–7385.

SUPPLEMENTARY INFORMATION: On Monday, March 10, 1980, a Notice of Proposed Rulemaking was published in the **Federal Register**, Volume 45, Page 15187, No. 48, stating that the Federal Aviation Administration proposed to designate a new control zone at Lawrence Airport, Lawrence, Massachusetts, to coincide with the establishment of a new air traffic control tower at the Lawrence Airport on or about June 15, 1980.

Interested persons were invited to participate in this rulemaking process by submitting written comments on the proposal to the Federal Aviation Administration.

No objections were received.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration is amending Section 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) designating a Lawrence, Massachusetts Airport control zone as follows:

"Within a 5 mile radius of the Lawrence Municipal Airport (latitude: 42°43'01.5"N, longitude: 71°07'26.2"W) and within 4.0 miles either side of the Lawrence VOR 042° radial extending from the VOR to 8 miles northeast, and within 1.5 miles either side of the Haget NDB 038° bearing extending from the 5 mile

radius zone to the NDB. Excluding that airspace which overlaps the Beverly, Massachusetts Municipal Airport control zone. The Lawrence control zone will be effective from 0700 to 2300 hours (local time) daily or during the specific dates and times established in advance by a Notice to Airmen which, thereafter, will be continuously published in the airport facility directory."

[Sections 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348(a) and Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c) and 14 CFR 11.69)].

Note.—The FAA has determined that this document involves a regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by Interim Department of Transportation guidelines (43 FR 9582; March 8, 1978). The anticipated impact is so minimal that this action does not warrant preparation of regulatory evaluation.

Issued in Burlington, Massachusetts, on April 11, 1980.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 80-12444 Filed 4-23-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 79-ANW-7]

Alteration of Transition Area; Mountain Home, Idaho

AGENCY: Federal Aviation Administration (FAA), DOT

ACTION: Final rule.

SUMMARY: This amendment alters the 700-foot transition area at Mountain Home, Idaho, to provide controlled airspace for aircraft executing the new NDB runway 28 Standard Instrument Approach Procedure developed for the Mountain Home Municipal Airport, Mountain Home, Idaho

EFFECTIVE DATE: July 10, 1980.

FOR FURTHER INFORMATION CONTACT: Robert L. Brown, Operations, Procedures and Airspace Branch, Air Traffic Division, ANW-530, Federal Aviation Administration, Northwest Region, FAA Building, Boeing Field, Seattle, Washington 98108; telephone (206) 767-2610.

SUPPLEMENTARY INFORMATION:

History

On February 7, 1980, the FAA published, for comment a Notice of Proposed Rulemaking (NPRM) to alter the 700-foot transition area at Mountain Home, Idaho, (45 FR 8309). The sole responder interposed no objection to the proposal

Rule

This amendment to Subpart G of Part 71 of the Federal Aviation Regulations (FAR's) amends the 700-foot transition area at Mountain Home, Idaho. This action is necessary to provide controlled airspace for aircraft executing the NDB Runway 28 Standard Instrument Approach at Mountain Home Municipal Airport.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (45 FR 445) is amended effective 0901 G.M.T., July 10, 1980, as follows: § 71.181 *Mountain Home, Idaho,* is amended as follows:

Add after "* * * 18 miles northwest of the TACAN:" on line three; "and that airspace extending upward from 700 feet above the surface within 8.5 mile radius of the Mountain Home Municipal Airport (Latitude 43°07'54.8" N Longitude 115°43'43.9"W), thence extending east of the radius 3.5 miles each side of the Sturgeon (STI) NDB 112° bearing to a point 8.5 east of STI NDB;"

(Sec. 307(a), Federal Aviation Act of 1958, (49 U.S.C. 1348(a)); and Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and (14 CFR 11.69).)

Note.—The Federal Aviation Administration 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.

Issued in Seattle, Washington, April 14, 1980.

C. B. Walk, Jr.

Director, Northwest Region.

[FR Doc. 80-12446 Filed 4-23-80; 8:45 am]

BILLING CODE 4910-13-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 210

[Release Nos. 33-6207; 34-16752; 35-21526; IC-11133; AS-277]

Oil and Gas Reserve Information—Postponement of Audit Requirement

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: Regulation S-X contains rules for financial accounting and reporting practices for oil and gas producing activities. These rules include requirements for the disclosure of certain oil and gas reserve information, including reserve quantities, estimated future net revenues, the present value of future net revenues and changes therein, and a summary of oil and gas activities prepared on the basis of reserve recognition accounting ("supplemental RRA summary"). These disclosure requirements were adopted pursuant to the Commission's decision, announced in Accounting Series Release No. 253, to evaluate the feasibility of reserve recognition accounting as a uniform method of accounting by oil and gas producers.

In Accounting Series Release No. 270, the Commission amended the disclosure requirements of Regulation S-X to permit oil and gas reserve information to be presented as "unaudited" for fiscal years ending before December 26, 1980. Although the Commission strongly believes in the importance of these disclosures, there continues to be uncertainty concerning the costs and related benefits of requiring reserve information to be audited as long as the information remains outside the primary financial statements. Accordingly, the Commission is amending Regulation S-X to postpone the audit requirement for reserve information until a decision is reached on adopting reserve recognition accounting as a uniform method of accounting in the primary financial statements. The amendments also permit registrants to present the reserve information disclosures as supplementary information outside the financial statements until the above determination is made.

EFFECTIVE DATE: April 17, 1980.

FOR FURTHER INFORMATION CONTACT: James L. Russell or Rita J. Gunter, Office of the Chief Accountant, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549 (202-272-2133).

SUPPLEMENTARY INFORMATION: In Accounting Series Release ("ASR") No. 253, August 31, 1978 (43 FR 40688), the Commission adopted requirements for the disclosure of oil and gas reserve information (estimated reserve quantities, future net revenues, and present value of future net revenues) as part of audited financial statements for fiscal years ending after December 25, 1979. In ASR No. 269 (September 24, 1979) (44 FR 57030), the Commission added requirements for a supplemental RRA summary and a reconciliation of beginning and ending present value amounts. ASR No. 270, issued concurrently with ASR No. 269,

permitted these financial statement disclosures to be presented as an "unaudited" note or schedule to the financial statements for fiscal years ending before December 26, 1980.

The postponement of the audit requirement, which had been proposed in June 1979 in Securities Act Release No. 6079 (44 FR 36068), was intended to provide additional time for the establishment and implementation of uniform guidelines and standards for reserve estimation and reporting by petroleum engineers and independent accountants. In December 1979 the Society of Petroleum Engineers published its "Standards Pertaining to the Estimating and Auditing of Oil and Gas Information." These standards, while voluntary, make available a set of guidelines for reserve work, including minimum professional qualifications and standards of independence and objectivity. Meanwhile, the AICPA's Auditing Standards Board is considering comments received on its proposed industry audit and accounting guide, "Oil and Gas Reserve Information." This guide would specify the procedures to be followed in order for an auditor to obtain sufficient competent evidential matter on reserve information included in financial statements. Unless the financial auditor possesses the knowledge and experience necessary to examine oil and gas reserve estimates, the proposed guide would require use of the work of a consulting reservoir engineer who is unrelated to the entity whose financial statements are being examined. The auditor would be responsible for testing certain data obtained from the entity's financial records and for evaluating the professional qualifications, reputation and objectivity of the consulting reservoir engineer.

When oil and gas reserve information is presented as supplementary information pursuant to Statement of Financial Accounting Standards ("SFAS") No. 25, "Suspension of Certain Accounting Requirements for Oil and Gas Producing Companies," of the Financial Accounting Standards Board ("FASB") or in an unaudited footnote pursuant to Regulation S–X (for fiscal years ending before December 26, 1980), the limited review procedures to be followed are specified in Statement on Auditing Standards ("SAS") No. 27, "Supplementary Information Required by the Financial Accounting Standards Board," and a related proposed SAS, "Supplementary Oil and Gas Reserve Quantity Information." These procedures are limited in scope and consist primarily of inquiry and analytical comparison.

Audit Requirement

The Commission has continued to monitor developments related to the financial reporting of oil and gas reserve information and has given further consideration to the concerns that have been raised regarding the requirement that reserve information be audited. It has been argued by some persons that the cost of an audit would outweigh the potential benefits because of the lack of precision inherent in reserve estimates. These persons believe that, as long as the Commission continues to consider whether reserve valuations have sufficient reliability to be included in formal financial statements, the costs associated with requiring the data to be audited are not justified. Therefore, such a requirement during the interim period of evaluation would only serve to demonstrate that reserve information can, in fact, be audited. Yet the auditing procedures and standards now in place or under development indicate that an audit requirement is feasible.

The Commission also recognizes that additional work is necessary to make disclosures of reserve information as meaningful as possible and that experimentation with alternative valuation methodologies may be appropriate. However, an audit requirement could serve to restrict experimentation if registrants are reluctant to depart from a literal application of the Commission's rules in spite of specific statements permitting additional disclosures based on differing assumptions. In addition, the FASB has indicated that it will issue in the near future an exposure draft of a supplement to SFAS No. 33, "Financial Reporting and Changing Prices," that will specify the application of current cost disclosures to natural resource assets and income producing real estate. This exposure draft is expected to provide for the disclosure of supplementary information of the "fair value" of proved oil and gas reserves. The notion of fair value differs from the valuations prescribed by Regulation S–X by encompassing expectations of future prices and costs and permitting the use of varying discount rates believed to be appropriate by the reporting entity. Although the Commission continues to believe that strong arguments exist for the use of uniform assumptions in the preparation of reserve valuations, it recognizes that the disclosures contemplated by the FASB could result in useful experimentation aimed at enhancing the relevance of the information. The development of meaningful disclosure standards would likely be enhanced if the information is subject to similar levels of auditor association during this evolutionary period.

Accordingly, the Commission has concluded that maximum benefit would result from a further postponement of the requirement that reserve information be audited, until a final decision is reached on the appropriateness of incorporating reserve information into the formal financial statements.

Supplementary Information

In Statement of Financial Accounting Concepts No. 1, "Objectives of Financial Reporting by Business Enterprises," the FASB indicated its intention to establish standards for the reporting of financial information outside the financial statements. As part of its conceptual framework project, the FASB is currently preparing a discussion paper that addresses, among other questions, where information that meets the objectives of financial reporting should be disclosed—within or outside of financial statements. In view of the evolutionary and experimental nature of deciding where information should be disclosed (which includes consideration of such qualitative characteristics as relevance and reliability as well as the appropriate degree of independent verification), the Board in SFAS Nos. 25 and 33 has permitted the prescribed disclosures of oil and gas reserve quantity data and information on certain effects of changing prices to be reported as supplementary information accompanying, but outside, the financial statements.

The Commission has recognized this trend in financial reporting by proposing in Securities Act Release No. 6178 (January 15, 1980) (45 FR 5943), "General Revision of Regulation S–X," to remove from Regulation S–X the requirement relating to unaudited selected quarterly financial data and to place this requirement in Regulation S–K (i.e., outside the financial statements). With the deletion of the Commission's replacement cost rule in December 1980 as announced in ASR No. 271 (October 23, 1979) (44 FR 62888), this would eliminate all other requirements for unaudited footnotes.

Several benefits may be realized by permitting oil and gas reserve information, as long as it remains unaudited, to be reported as supplementary information. Such an approach would achieve consistency with the reporting of similar unaudited information, thereby reducing possible confusion on the part of users of financial reports with respect to the

nature of the data and the degree of auditor verification. It would also facilitate coordination on the part of registrants of disclosures required by the Commission with the reserve quantity and value information specified by the FASB.

A further consideration is the ongoing development of auditor review and reporting standards for supplementary information. SAS No. 27 provides for exception reporting, i.e., the auditor is required to expand his standard report only to call attention to the omission of required supplementary information, material departures from FASB guidelines on its measurement or presentation, or the inability to complete the prescribed review procedures. The Auditing Standards Board indicated in SAS No. 27 that it has under consideration the issue of explicit reporting on supplementary information. Such reporting would permit the auditor to state, based on the limited procedures prescribed by SAS No. 27, that he is not aware of any material modifications that should be made to the information for it to conform with established guidelines. Further action will depend upon resolution of uncertainties concerning (1) implications that the location of the information may have on explicit versus exception reporting, (2) application of Section 11(a) of the Securities Act of 1933 to such reports when included in a Securities Act filing [1] and (3) the nature of information that may become required supplementary information. Disclosure of oil and gas reserve information as supplementary information should lead to explicit auditor reporting on the data, when the issues discussed above are resolved.

The amendments to Rule 3-18(k) of Regulation S-X contained in this release permit unaudited reserve information to be reported as supplementary information accompanying the financial statements. However, the disclosure requirements are being kept as part of Regulation S-X because of the Commission's ongoing study and evaluation of reserve recognition accounting.

The Commission emphasizes that it considers reserve quantity and value information to be extremely important to an understanding of the financial position and operations of an oil and gas producing company. Considerable progress has been made in the development of these disclosures. However, additional experience in the preparation and use of reserve information is necessary in order to achieve the maximum degree of relevance and reliability. The accompanying rule amendments, by postponing the audit requirement and permitting reserve information to be reported as supplementary information until a final determination is reached on requiring this information in the primary financial statements, are intended to promote this process by minimizing the cost of compliance and by encouraging useful experimentation. The amendments do not represent any conclusions on the part of the Commission as to the feasibility of reserve recognition accounting as a uniform method of accounting in the primary financial statements. As indicated in ASR No. 253, several years' experience with the disclosure of reserve information will be necessary before such a determination can be made.

[1] The Commission expects to consider the issuance of a release proposing rule amendments that would exclude accountants from potential liability under Section 11 for reports on reviews of unaudited supplementary information on the effects of changing prices as well as supplementary oil and gas reserve information.

Commission Action

The Commission hereby amends 17 CFR Part 210 by revising the two introductory sentences to § 210.3-18(k) to read as follows:

PART 210—FORM AND CONTENT OF FINANCIAL STATEMENTS, SECURITIES ACT OF 1933, SECURITIES EXCHANGE ACT OF 1934, PUBLIC UTILITY HOLDING COMPANY ACT OF 1935, INVESTMENT COMPANY ACT OF 1940, AND ENERGY POLICY AND CONSERVATION ACT OF 1975

* * * * *

§ 210.3-18 Financial accounting and reporting for oil and gas producing activities pursuant to the Federal securities laws and the Energy Policy and Conservation Act of 1975.

* * * * *

(k) *Disclosure of oil and gas reserve information and historical financial data.* The information specified by subparagraphs (1) through (4) of this paragraph shall be disclosed in the body of the financial statements, in the notes thereto, or in a separate schedule or other presentation that is an integral part of the financial statements. The information in subparagraphs (5) through (8) is not required to be audited and may be reported as supplementary information accompanying, but outside, the financial statements.

* * * * *

These amendments are adopted pursuant to authority in sections 6, 7, 8, 10 and 19(a) (15 U.S.C. 77f, 77g, 77h, 77j, 77s) of the Securities Act of 1933; sections 12, 13, 15(d) and 23(a) (15 U.S.C. 78*l*, 78m, 78o(d), 78w) of the Securities Exchange Act of 1934; sections 5(b), 14 and 20(a) (15 U.S.C. 79e, 79n, 79t) of the Public Utility Holding Company Act of 1935; sections 8, 30, 31(c) and 38(a) (15 U.S.C. 80a-8, 80a-29, 80a-30(c), 80a-37(a)) of the Investment Company Act of 1940; and section 503 (42 U.S.C. 6383) of the Energy Policy and Conservation Act of 1975.

Inasmuch as these amendments do not involve any additional reporting requirements, and in recognition of the need for timely notification to registrants of the postponement of the audit requirement for oil and gas reserve information, the Commission has determined that issuance for public comment of proposed amendments would serve no useful purpose. Accordingly, the amendments are being adopted as final rules and will be effective immediately.

Pursuant to section 23(a)(2) of the Securities Exchange Act, the Commission has considered the impact of these amendments on competition and is not aware of any burden that such rule amendments would impose on competition.

By the Commission.

George A. Fitzsimmons,

Secretary.

April 17, 1980.

[FR Doc. 80-12601 Filed 4-23-80; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

19 CFR Part 355

Countervailing Duties—Pig Iron From Brazil; Document Classification

Correction

FR Doc. 80-10282, published in the **Federal Register** at p. 23045, April 4, 1980, appeared in the Notices section. The document should have appeared in the Rules and Regulations section.

BILLING CODE 1505-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Assistant Secretary for Housing-Federal Housing Commissioner

24 CFR Part 200

[Docket No. R-80-713]

Revision No. 9, Increases of Fire Safety Requirements for HUD Minimum Property Standards (MPS)

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing and Urban Development.

ACTION: Final rule.

SUMMARY: This rule improves and clarifies fire safety requirements for the HUD Minimum Property Standards (MPS) for Multifamily Dwellings Handbook 4910.1 and MPS for Care-Type Housing Handbook 4920.1.

EFFECTIVE DATE: June 23, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Donald L. Moore, Architect, Minimum Property Standards Division, Office of Architecture and Engineering Standards, Department of Housing and Urban Development, Washington, D.C. 20410, telephone (202) 755-6590. This is not a toll free number.

SUPPLEMENTARY INFORMATION: HUD Minimum Property Standards are published in handbooks: Minimum Property Standards for One- and Two-Family Dwellings 4900.1, Multifamily Dwellings in Handbook 4910.1, and Care-Type Housing in Handbook 4920.1. The Minimum Property Standards are incorporated by reference into 24 CFR 200.927. All substantive changes in the MPS are required by 24 CFR 200.933 to be published in the **Federal Register** using the same procedure as for the publication of regulations. The MPS to which these changes apply are available for examination in all HUD Field Offices and in Room 6170 of Headquarters at the above address during business hours.

A Finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy of this Finding of Inapplicability will be available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Room 5218, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410.

This rule is not listed in the Department's semiannual agenda of significant rules, published pursuant to Executive Order 12044.

In this revision ASTM E84 and UL 992 flammability tests for flooring materials have been replaced with NFPA 253 Standard Method of Test for Critical Radiant Flux of Floor Covering Systems Using a Radiant Heat Energy Source. Flooring previously tested to ASTM E84 or UL 992 and meeting present MPS criteria will be acceptable until there is a change in the construction of the material. Then, the new flooring material shall meet criteria and be tested to procedures prescribed in this revision.

Discussion of Major Comments

On September 25, 1979 (44 FR 55198) HUD published proposed changes to Minimum Property Standards. Interested persons were given until November 26, 1979 to comment on the proposed amendment. Five sets of comments were received in response to the proposed changes. The revision was changed in light of comments received on the flame spread criteria and Table 4–5.1 Fire Protection Requirements.

At the request of two commenters a reference to the Department of Commerce Standard for the Surface Flammability of Carpets and Rugs (FF 1–70; Pill Test) has been added to Table 4–5.4 as a note for nonexit areas.

The critical radiant flux limitation of 0.45 for corridors and exitways in housing for the elderly has been changed to 0.22. This is based on the consideration that these elderly people are mobile.

An exception has been made which would exempt traditional noncombustible, wood and resilient flooring from the flame spread criteria contained in Table 4–5.4. These flooring materials have been shown to be not a hazard under fire conditions in the past. Traditional noncombustible flooring is considered to be ceramic tile, terrazzo, marble, concrete, etc. Traditional wood flooring is considered to be tongue and groove oak strips and slat or laminated block. Traditional resilient flooring is considered to be asphalt tile, vinyl tile, vinyl-asbestos tile and vinyl sheet.

Revision of Final Rule Language

For clarity, the Handbook section will be cited followed by the revised language. Accordingly, Handbook 4910.1, MPS for Multifamily Housing and Handbook 4920.1, MPS for Care-Type Housing, incorporated by reference in 24 CFR 200.927, are revised as follows:

The Following are Final Rule Changes to The MPS for Multifamily Housing 4910.1.

Section 401–2.5 Facilities for Trash and Garbage Disposal

a. Provide for the temporary sanitary storage of trash and garbage and for its subsequent disposal or removal.

b. Design and construction of incinerators and trash chutes shall be of appropriate size and type and in accordance with NFPA Standard No. 82, Incinerators and Rubbish Handling. Each trash chute hopper shall be located in a room of not less than 20 sq ft.

c. Incinerators shall be designed and equipped to control stack emission to levels below maximum prescribed limits of governing air pollution regulations.

Section 402–4.5 Maximum Lengths

a. In corridors affording access to enclose stairways (exits) or horizontal exits, the distance between a living unit entrance and one of the exits shall not exceed 100 ft measuring from the center lines of the doorways. This distance may be increased to 150 ft where buildings are equipped throughout with an automatic sprinkler fire extinguishing system. As a max., the first 35 ft of a corridor measuring from the center line of the farthest living unit entrance doorway may afford access in only one direction as a part of the above dimensions to exits. See 405–6.2.

(Paragraph b. deleted and present paragraphs c. and d. retained.)

Section 402–6.1

Stairways and landings shall provide for safe ascent and descent under normal and emergency conditions and for the transport of furniture and equipment. All public stairways shall be enclosed in accordance with Section 405.

Section 402–6.2

Public stairways shall be designed in accordance with the criteria of Table 4–2.1.

Section 405–2 Types of construction

All residential buildings shall be classified into one of the following construction types:

Type 1—Fire Resistive Construction

Type 2—Protected Noncombustible Construction

Subtypes: 2a and 2b

Type 3—Protected Ordinary Construction

Subtypes: 3a and 3b

Type 4—Protected Wood Frame Construction

See Appendix A for definitions of each construction type.

Section 405–3 Mixed types of construction

Lower fire resistant types of construction may only be erected on higher fire resistant types of construction and the entire building shall then be subject to the restrictions of the lowest classification used in the building.

Section 405–4 Fire resistance requirements

The fire resistance of the walls, floors, roofs, etc. shall meet provisions of Table 4–5.1. Fire resistance ratings shall be determined by ASTM E119 "Standard Methods of Fire Tests of Building Construction and Materials" or by estimation when an ASTM E119 test is available as a bench mark.

Table 4–5.1.—*Fire Protection Requirements; Minimum Fire Resistance Ratings in Hours by Types of Construction* [1]

Elements of construction	Type 1 NC	Type 2		Type 3		Type 4 C
		2a NC	2b NC	3a	3b	
Exterior walls:						
Bearing:						
Under 30 ft separation	3	2	1	2NC	2NC	1
30 ft and over separation	3	2	1	2NC	1NC	1
Nonbearing:						
Under 10 ft separation	2	1	1	2NC	2NC	1
10 ft to 30 ft separation	1	1	¾	1NC	1NC	¾
Over 30 ft separation	NC	NC	NC	NC	NC	C
Interior walls and partitions:						
Fire, and lot-line walls	2	2	2	2NC	2NC	2
Bearing	3	1	1	2NC	1C	1
Nonbearing	[5]NC	[5]NC	[5]NC	C	C	C
Enclosure of public stairways, elevator shafts, etc.[3]	2	2	[15]1	[2]NC	[12]1C	1
Partitions separating living units and enclosing public corridors	1	1	1	[2]NC	1C	1
Columns, beams, girders, main members	[13]3	2	1	2NC	[6]1C	1
Floor/ceiling assemblies [10]	2	1	1	1C	[6]1C	1
Roof/ceiling assemblies [4]	1½	[5]1	[5]¾	1C	[6]1C	¾
Walls, floors and ceilings:						
1. Of lobbies and vestibules between exit stairways and exterior	2	2	1	2NC	1C	1
2. Separating commercial from residential	2	2	2	2C	2C	2
3. Enclosing service spaces [9]	1	1	1	1C	1C	1
4. Enclosing tenant general storage area	1	1	1	1C	1C	1
5. Separating garage from residential:						
For 1 to 4 cars	1	1	1	1C	1C	1
For more than 4 cars	2	2	2	2C	2C	2
Public stairways	NC	NC	NC	NC	[7]C	[7]C
Exterior stairways and exterior corridors	NC	NC	NC	NC	[8]C	[8]C
Shaft enclosures (vertical chase)	2	2	[15]1	[12]1C	[12]1C	1
Construction enclosing boiler, heater or incinerator rooms, fuel storage, and trash rooms and chutes [11]	2	2	2	2C	2C	1

[1] Abbreviations: NC designates noncombustible construction, but no specific fire resistance rating is required where none is indicated. C designates that the structural members of the construction may be of combustible materials but no specific fire resistance rating is required where none is indicated.

[2] Construction enclosing corridors and vertical openings (stairways and elevator shafts) shall be two hours noncombustible for structures four stories or more in height and one hour noncombustible for structures three stories or less in height.

[3] In buildings of types 1, 2a and 3a construction not more than three stories in height, exit enclosures may have a fire resistive rating of not less than one hour.

[4] Roof construction with ventilated attic needs to have only ceiling assemblies with a finish rating of at least 25 minutes.

[5] The use of fire-retardant treated wood is acceptable for non-load bearing vertical construction and for roof assemblies including purlins and decking where access stairs to the roof are not provided.

[6] In type 3b construction when exposed heavy timber is used, the following minimum sizes shall be used:

Component	Nominal Supporting floors (inches)	Nominal Supporting roofs (inches)
Columns	8 x 8	8 x 6
Beams and girders	6 x 10	4 x 8
Floors and roof decks	4	[2]

[1] Nominal or 1⅛ plywood with exterior glue.

[7] In type 3b buildings more than three stories in height and in type four buildings more than two stories high having a single exit, interior stairways shall be of noncombustible materials.

[8] For buildings three or more stories in height construction shall be noncombustible or fire retardant treated wood or one hour fire resistant construction. See 405–10.2.

[9] Service spaces are paint, carpentry or maintenance shops and other spaces where flammable materials are stored.

[10] Floor/ceiling assemblies within a two story living unit may have a ⅓ hour fire resistance rating, where limited to one living unit in building height, and walls separating units are at least 1½ hours rating.

[11] Individual living unit heater rooms not included in this requirement. For buildings not more than three stories in height, construction may have a fire resistance of one hour and in types 3a protected combustible. Trash chutes shall be constructed in accordance with NFPA 82.

[12] Two hours for buildings four stories or more in height.

[13] Members supporting one floor (deck) or roof only may have a fire resistance of two hours.

Section 405–5.2 Smoke Compartments

a. For buildings containing more than eight living units per floor, the corridors on each floor shall be divided into at least two approximately equal smoke compartments by a one hour fire-rated wall containing ¾ hour fire doors (smoke barrier) with closer and automatic release holder activated by a smoke detector, except that compartmentation is not required where buildings are equipped throughout with an automatic sprinkler fire extinguishing system. See 402–9.2 for location of elevators.

b. The distance between a living unit entrance and smoke barrier shall not exceed 150 ft. measuring from the center lines of the doorways.

Section 405–6.1 General

b. All means of egress shall provide a continuous and unobstructed path of travel from any point in the building to a public way. All exit stairways shall terminate directly to the outside or at an exit discharge, both leading to a public way.

Section 405–6.2 Number of Exits

a. Every living unit shall have access to at least two separate exits which are remote from each other and are reached by travel in different directions, except that a common path of travel is permitted under certain conditions, see 402–4.5 and 405–6.3.

b. A horizontal exit through a firewall may comprise not more than fifty percent of the required exits in a fire area.

Section 405–6.3 Conditions Where a Single Exit is Acceptable (Except for item (a) below, a single exit is not acceptable in housing for the elderly or handicapped.)

a. A living unit which has an:

(1) exit which discharges directly to the street or yard at ground level or,

(2) exit by way of an exterior stairway when protected from snow and ice and serving that living unit only or,

(3) enclosed stairway with fire resistance rating of one hour or more serving the living unit only and not communicating with any floor below the floor of exit discharge or other area not a part of the living unit served.

b. A one-story building containing a maximum of eight living units.

c. A three or four-story building having not more than four living units per floor and each living unit having immediate access (not more than 20 ft. distance from living unit door) to:

(1) a smokeproof tower or,

(2) an exterior stairway separated by one hour fire resistant construction and stairs protected from snow and ice or,

(3) a fire resistive enclosed stairway with a two hour rating for a four-story building or a one hour rating for a three or less story building.

Section 405–6.4 Access to the Roof

In buildings of three or more stories in height and having roof slopes of less than 20 degrees, a stairway or stair ladder and roof scuttle located in the stairwell shall provide access to the roof.

Section 405–6.5 Door Opening Ratings

a. The fire resistance of a wall opening requiring a fire-rated door shall not be less than that shown in Table 4–5.3.

Table 4–5.3—*Minimum Fire Resistance of Interior Doors* [2]

Location	Rating (hour)	Maximum temperature rise/30 minutes	Rated frame and hardware
2 hour fire wall	1½	450 F	Yes.
2 hour stair enclosure	1½	450 F	Yes.
1 hour stair enclosure	1	450 F	Yes.

Table 4–5.3—*Minimum Fire Resistance of Interior Doors* [2]

Location	Rating (hour)	Maximum temperature rise/30 minutes	Rated frame and hardware
Furnace, trash room or other hazardous areas	1½		Yes.
1 hour rated wall	¾ [1]		Yes. [1]

[1] Doors to living units from public corridors may have a 20-minute rating and shall be installed to minimize the passage of smoke. Frames may be non-rated 18 gauge steel or fire retardant wood and metal hardware may be non-rated for 20-minute doors.

[2] Where a building is equipped throughout with an automatic sprinkler fire extinguishing system, doors may have a 20-minute fire resistance rating except at openings in fire walls.

Section 405–8.3 Flame Spread Tests

Flame spread ratings for wall and ceiling surfaces shall be determined by an independent testing laboratory or recognized association laboratory in accordance with ASTM E84. ASTM E162 may be used for kitchen cabinets and similar items. Floor finish materials shall have a flame spread (Critical Radiant Flux) of not less than shown in Table 4–5.4 when tested in accordance with NFPA 253 Standard Method of Test for Critical Radiant Flux of Floor Covering Systems Using a Radiant Heat Energy Source.

Table 4–5.4.—*Flame Spread Rating and Smoke Generated Limitations of Interior Finishers* [1 2 3]

Location within building	Surface flame spread rating—maximum range		Maximum optical smoke density		
	Walls and ceiling	Floors [4]	Walls	Ceiling	Floors
Enclosed stairways and other vertical openings	0–25	[5]0.22	Reserved—pending evaluation of test procedures.		
Corridors used for exit access	0–75	[5]0.22			
Within living unit except for kitchen [6]	0–200	([7])			
Kitchen space within living unit [8]	0–75	([7])			
Public rooms (dining rooms, etc.)	0–75	([7])			
Lobbies and corridors between exit stairway and exterior [9]	0–25	[5]0.22			
Service rooms, enclosing heat producing or other mechanical equipment, and all other fire hazardous areas	0–25	([7])			

[1] Doors (except closet doors exceeding 6 ft in width), trim around openings, baseboards, moldings and chair rails may be excluded in the calculation of flame spread limitations.

[2] Draperies when provided shall be noncombustible or be rendered flameproof and shall pass both large and small scale tests in accordance with NFPA Standard No. 701 Test—Flame-resistant Textiles and Films.

[3] Where complete automatic sprinkler fire extinguishing system is provided throughout the building the flame spread ratings may be increased in the following amounts: 0–25 to 0–75, and 0–75 to 0–200 and flooring materials need not meet flame spread requirements.

[4] Traditional wood, resilient and noncombustible flooring are exempted.

[5] Critical radiant flux watts/cm^2

[6] Flame spread rating of walls and ceiling in housing for elderly shall not exceed 75.

[7] Carpet shall be least meet flammability requirements of the Department of Commerce Standard DOC FF–1–70.

[8] The flame spread rating of combustible kitchen cabinet doors, exposed end panels and bottoms and counter tops shall not exceed 200. Cabinet frame rails, stiles, mullions and toe strips are exempted.

Section 405–14.1 Fire Alarm Systems

a. Every exit arrangement serving more than eight living units or buildings of three stories or more in height shall be equipped with a manual fire alarm system. Each floor shall have at least one or more manual fire alarm boxes and sounding devices at visible points in the natural paths of escape from fire and near each exit.

b. Exterior and interior corridor type buildings four or more stories in height shall have an alarm system which transmits an alarm automatically to the fire department which is legally committed to serve the area in which the building is located, or to a 24 hour monitoring service inside or outside the building. An annunciator which indicates the fire floor shall be located at a central point within the building.

c. Buildings may have a zoned noncoded alarm system that sounds an alarm on the fire floor, on the floor below the fire floor and on the floor above the fire floor and provision at the central monitoring point to activate a general fire alarm.

d. All fire alarm systems shall be electrically supervised.

e. Smoke detectors, which may be a single or multiple alarm device, shall be installed in each living unit near the sleeping areas on each floor and on each additional floor of the living unit.

f. All smoke detectors that control fire doors or elevators shall automatically initiate a general fire alarm when activated.

Section 405–14.2 Fire Extinguishing System

a. For all buildings four stories or more in height, an automatic sprinkler protection system shall be provided in all corridors, common spaces used by occupants such as dining rooms and lounges, service and utility areas such as maintenance shops, laundries, central boiler rooms and trash collection rooms.

Section 405–14.3 Equipment and Installation

d. Installation of fire alarm and extinguishing systems shall be in accordance with NFPA No. 72A, B, C, D, or E as applicable and NFPA No. 13 for sprinkler systems in light hazard occupancies. When an automatic sprinkler fire extinguishing system is not provided throughout the building, the corridor sprinkler system required in 405–14.2a shall be designed to discharge water at a flow rate of at least 15 gallons per minute for 7/16 in. heads or at least 25 gallons per minute for ½ in. heads. Sprinkler heads shall be installed not more than 24 in. from the center line of each living unit door and in the center of the corridor. One head may serve opposite doors. The system shall be hydraulically designed for operation of at least three heads. Min. water supply shall be in accordance with Table 2–2.1(b) of NFPA No. 13.

Section 615–10 Incinerators

Construction and installation of incinerators shall comply with NFPA Standard No. 82, Federal and local air pollution standards and shall be structurally safe, durable, and suitable for the intended use.

Appendix A—Definitions

Construction Classification: A classification of buildings into types of construction which is based upon the fire properties of walls, floor/ceilings, roof/ceilings and other elements.

Type 1, Fire-resistive Construction.

That type of construction in which the walls, partitions, columns, floor/ceiling and roof/ceiling assemblies and other structural members with fire resistance to withstand the effects of a fire and prevent its spread from one story to another. Fire resistive ratings shall not be less than those contained in Tables 4–5.1 and 4–5.3 of this standard.

Type 2, Protected Noncombustible Construction. That type of construction in which the walls, partitions, columns, beams, floor/ceiling and roof/ceiling assemblies and other structural members are noncombustible but which does not qualify as Type 1, fire resistive construction. The structure shall withstand the effects of a fire and prevent its spread from one story to another. Fire resistive ratings shall not be less than those contained in Tables 4–5.1 and 4–5.3 of this Standard. Type 2 construction is further classified as Type 2a and Type 2b which have less fire resistance for certain members.

Type 3, Protected Ordinary Construction. That type of construction in which the exterior walls are of noncombustible construction and which are structurally stable under fire conditions and in which the interior structural members, floor/ceiling and roof/ceiling assemblies are wholly or partly of protected combustible construction, or of unprotected heavy timber construction. The structure shall withstand the effects of a fire and prevent its spread from one story to another. The construction shall meet fire resistive ratings not less than those contained in Tables 4–5.1 and 4–5.3 of this standard. Type 3 construction is divided into two subtypes as follows:

Type 3a. Protected ordinary construction in which the interior exitways, columns, beams and bearing walls are noncombustible in combination with the floor/ceiling and roof/ceiling assemblies and non-loadbearing partitions of combustible construction.

Type 3b. Protected ordinary construction in which the interior structural members are of protected combustible materials, or of heavy unprotected construction.

Type 4. Protected Wood Frame Construction. That type of construction in which the exterior walls, partitions, floor/ceiling and roof/ceiling assemblies and other structural members are wholly or partly of wood or other protected combustible materials with a fire resistive rating not less than those contained in Table 4–5.1 of this standard. The structure shall retard the spread of fire from one story to another.

Horizontal Exit. A way of passage on the same level, from one building or fire area to an area of refuge in another building, or a fire area, separated by a fire wall, and a pair of fire doors that swing in opposite directions.

The Following Are Final Rule Changes to the MPS for Care-Type Housing 4920.1

Section 405–3 Mixed types of construction

Lower fire resistant types of construction may only be erected on higher fire resistant types of construction and the entire building shall then be subject to the restrictions of the lowest classification used in the building.

Section 405–5.2 Smoke Compartments

a. Each floor used by patients for sleeping or treatment and any floor having an occupant load of 50 or more persons shall be divided into at least two smoke compartments by a one hour fire-rated wall containing a pair of ¾ hour fire-rated doors with closers and hold open devices. See 402–3.7 and 405–4.3c.

Section 405–6 Exits

Section 405–6.1 General

b. All means of egress shall provide a continuous and unobstructed way of travel from any point in the building to a public way. All exit stairways shall terminate directly to the outside or at an exit discharge both leading to a public way.

Section 405–6.2 Number of Exits

b. A horizontal exit through a firewall may comprise not more than two-thirds of the required exits in a fire area.

Section 405–6.3 Access to the Roof

In buildings of four or more stories in height and having roof slopes of less than 20 degrees, a stairway or ladder and roof scuttle located in the stairwell shall provide access to the roof.

Section 405–6.4 Door Ratings

a. The fire resistance of a fire rated door in a fire rated wall shall not be less than that shown in Table 4–5.3.

Table 4–5.3—*Minimum Fire Resistance of Interior Doors*

Location	Rating (hours)	Maximum temperature rise/30 minutes	Rated frame and hardware
3 hour fire wall	3	450 F	Yes.
2 hour stairwells	1½	450 F	Yes.
1 hour stairwells	1	450 F	Yes.
Furnace, trash room or other hazardous areas and 2 hour walls	1½		Yes.
1 hour rated wall	[1] ¾		[1] Yes.

[1] Doors to patient rooms from corridors may have a 20 minute rating and shall be installed to minimize the passage of smoke. Frames may be non-rated 18 gauge steel and metal hardware may be non-rated.

Section 405–8.3 Flame Spread Tests

Flame spread ratings for wall and ceiling surfaces shall be determined by an independent testing laboratory or recognized association laboratory in accordance with ASTM E84. Floor finish materials shall have a flame spread (Critical Radiant Flux) of not less than shown in Table 4–5.4 when tested in accordance with NFPA 253 Standard Method of Test for Critical Radiant Flux of Floor Covering Systems Using a Radiant Heat Energy Source.

Table 4–5.4.—*Flame Spread Rating and Smoke Generated Limitations of Interior Finishes*[1,2]

Location within building	Surface flame spread rating—maximum range		Maximum optical smoke generated		
	Walls and ceilings	Floors [3]	Walls	Ceilings	Floors
Within patient's rooms	0–75	([4])	Reserved		
Exit access corridors, exit stairs, and exit discharge areas	0–25	[5]0.45			
All other areas	0–25	([4])			

[1] Trim and other incidental interior finish not in excess of ten percent of the aggregate wall and ceiling areas of any room or space may have a flame spread of 0–200. Closet doors exceeding six ft. in width shall comply with wall and ceiling flame spread limitations.

[2] Draperies and cubicle curtains shall be noncombustible or be rendered flameproof and shall pass both large and small scale tests in accordance with NFPA Standards No. 701 Tests—Flame-Resistant Textiles and Films.

[3] Traditional wood, resilient and noncombustible flooring are exempted.

[4] Carpet shall at least meet flammability requirements of the Department of Commerce Standard DOC FF–1–70.

[5] Critical Radiant Flux watts/cm².

Appendix A—Definitions

Horizontal Exit. A way of passage on the same level, from one building or fire area to an area of refuge in another building, or fire area, separated by a fire wall and a pair of fire doors that swing in opposite directions.

(Sec. 7(d) of the Department of HUD Act (42 U.S.C. 3535(d)))

Issued at Washington, D.C. April 17, 1980.

Lawrence B. Simons,

Assistant Secretary for Housing, Federal Housing Commissioner.

[FR Doc. 80–12576 Filed 4–23–80: 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF JUSTICE

Attorney General

28 CFR Part 0

[Order No. 833-79]

Office of Professional Responsibility; Protection of Department of Justice Whistleblowers

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: This order establishes procedures for the disclosure of information evidencing misconduct by Department employees and provides protection for persons making such disclosures. The purpose of the order is to implement section 2303 of title 5, United States Code, as added by section 101(a) of the Civil Service Reform Act of 1978, Pub. L. 95-454.

EFFECTIVE DATE: January 16, 1980.

FOR FURTHER INFORMATION CONTACT: Michael E. Shaheen, Jr., Counsel, Office of Professional Responsibility, Department of Justice, Washington, D.C. 20530 (202-633-2236).

By virtue of the authority vested in me by 5 U.S.C. 2303, and 28 U.S.C. 509 and 510, Subpart G-2 of Part 0 of Chapter I of Title 28, Code of Federal Regulations, is revised to read as follows:

Subpart G-2—Office of Professional Responsibility

Sec.

Authority: 5 U.S.C. 2303 and 28 U.S.C. 509 and 510.

Subpart G-2—Office of Professional Responsibility

§ 0.39 Organization.

The Office of Professional Responsibility shall be headed by a Counsel, appointed by the Attorney General. The Counsel shall be subject to the general supervision and direction of the Attorney General or, whenever appropriate, of the Deputy Attorney General or the Associate Attorney General or the Solicitor General.

§ 0.39a Functions.

The Counsel on Professional Responsibility shall:

(a) Receive and review any information or allegation concerning conduct by a Department employee that may be in violation of law, regulations or orders, or of applicable standards of conduct or may constitute mismanagement, gross waste of funds, abuse of authority, or a substantial and specific danger to public health or safety. However, this provision does not preempt the primary responsibility of internal inspection units of the Department to receive such information or allegations and to conduct investigations.

(b) Receive and review any allegation of reprisal against an employee or applicant who discloses information pursuant to paragraph (a) of this section. Any disclosure by an employee or applicant to the appropriate internal inspection unit of the Department under this subsection shall constitute disclosure to the Attorney General or the Counsel.

(c) Make such preliminary inquiry as may be necessary to determine whether the matter should be referred to another official within the Department.

(d) Refer any matter that appears to warrant examination in the following manner:

(1) If the matter appears to involve a violation of law, to the head of the investigative agency having jurisdiction to investigate such violations;

(2) If the matter appears not to involve a violation of law, to the head of the office, division, bureau or board to which the employee is assigned, or to the head of its internal inspection unit;

(3) If referral to the official indicated in paragraph (d)(1) or (2) of this section would be inappropriate, to the Attorney General and the Deputy Attorney General or, if referral to both the Attorney General and the Deputy Attorney General would also be inappropriate, to whichever of them would be proper or to the Associate Attorney General or the Solicitor General.

(e) *Receive.* (1) Reports containing the findings of any investigation undertaken upon matters referred under paragraph (d)(2) of this section and the administrative sanction to be imposed, if any sanction is warranted; and

(2) Monthly reports from the internal inspection units setting forth any information or allegations received pursuant to paragraph (a) or (b) of this section and the status of any pending investigations.

(f) Notify within a reasonable period of time any person who has submitted information or made allegations pursuant to paragraphs (a) or (b) of this section of the final result of any investigation undertaken: *Provided,* That such notification is permitted by and accords with applicable statutes and regulations.

(g) Recommend to the Attorney General, the Deputy Attorney General, the Associate Attorney General, or the Solicitor General what further action should be undertaken with regard to any matter referred to such official under paragraph (d)(3) of this section, including the assignment of any task force or individual to undertake the action recommended and any special arrangements that appear warranted.

(h) Undertake any investigation of a matter referred under paragraph (d)(3) of this section that may be assigned by the Attorney General, the Deputy Attorney General, the Associate Attorney General, or the Solicitor General, or cooperate with any other organization, task force, or individual that may be assigned by such official to undertake the investigation.

(i) Submit to the Attorney General and the Deputy Attorney General or, if submission to both would be inappropriate, to whichever of them would be proper or to the Associate Attorney General or the Solicitor General:

(1) An immediate report concerning any matter referred under paragraph (d)(1) or (d)(2) of this section that should be brought to the attention of a higher official;

(2) An immediate report concerning the adequacy of any investigation of a matter referred under paragraph (d) of this section, if the Counsel believes that a significant question exists as to the adequacy of such investigation; and

(3) An annual report, or a semi-annual report if the Counsel determines this to be necessary, reviewing and evaluating the activities of internal inspection units, or where there are no such units, the discharge of comparable duties within the Department.

(j) Submit recommendations to the Attorney General and the Deputy Attoney General on the need for changes in policies or procedures that become evident during the course of the Counsel's inquiries.

(k) Undertake any other responsibilities assigned by the Attorney General including duties relating to the improvement of the performance of the Department.

§ 0.39b Confidentiality of Information.

Whenever any employee of or applicant to the Department provides information pursuant to § 0.39a(a) or (b), the Counsel and the internal inspection unit shall maintain the confidentiality of the employee or applicant unless the employee or applicant consents to the release of his or her identity or the Counsel determines that the disclosure

of the identity is necessary to resolve the allegation.

§ 0.39c Stays of Certain Personnel Actions in the Federal Bureau of Investigation.

(a) The Counsel may, with respect to employees of the Federal Bureau of Investigation, request the Attorney General to stay any personnel action for any period which the Attorney General considers appropriate if the Counsel determines that there are reasonable grounds to believe that the personnel action was taken, or is to be taken, as a reprisal for a disclosure of information by the employee to the Attorney General (or the Department official designated by the Attorney General for such purpose) which the employee reasonably believes evidences:

(1) A violation of any law, rule or regulation; or

(2) Mismanagement, a gross waste of funds, abuse of authority or a substantial and specific danger to public health or safety.

(b) The Attorney General, when requested to stay a personnel action under paragraph (a) of this section, may stay such action when the Attorney General determines that under the facts and circumstances involved such stay would be appropriate.

§ 0.39d Relationship to other departmental units.

(a) Primary responsibility for assuring the maintenance of the highest standards of professional responsibility by Department employees shall continue to rest with the heads of the offices, divisions, bureaus and boards of the Department.

(b) Primary responsibility for investigating an allegation of unprofessional conduct that is lodged against an employee of the Department normally shall continue to rest with the head of the office, division, bureau, or board to which the employee is assigned, or with the head of its internal inspection unit, or, if the conduct appears to constitute a violation of law, with the head of the agency having jurisdiction over the subject matter involved.

(c) The heads of the offices, divisions, bureaus, and boards shall provide information and assistance requested by the Counsel in connection with reviews or investigations conducted by the Counsel or by any other person assigned to conduct reviews or investigations and shall keep the Counsel informed of major investigations that they are conducting.

(d) Employees of the Department may be assigned to the Office of Professional Responsibility on a case-by-case basis to conduct such inquiries as may be warranted. However, no investigative personnel shall be assigned except under the specific direction of the Attorney General or the Deputy Attorney General and, in normal course, with the agreement of the head of the unit to which the investigative personnel are regularly assigned. Personnel assigned to the Office shall work under the direction of the Counsel.

§ 0.39e Committee on Professional Responsibility.

The Committee on Professional Responsibility shall consist of Department officials designated by the Attorney General and shall serve as an advisory body to the counsel.

Dated: January 16, 1980.

Benjamin R. Civiletti,

Attorney General.

[FR Doc. 80-12587 Filed 4-23-80; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF DEFENSE

Department of the Army

32 CFR Part 553

Arlington National Cemetery; Opening of Columbarium for Inurnment of Cremated Remains

AGENCY: Department of the Army, DOD.

ACTION: Final rule; effective date.

SUMMARY: Notice is given that a Columbarium for the inurnment of cremated remains at Arlington National Cemetery will be dedicated on 26 April 1980. A final rule on eligibility for inurnment, published in the **Federal Register** on 8 August 1978, (43 FR 35043) will become effective on that date. The first inurnment will take place on 28 April.

EFFECTIVE DATE: 26 April 1980. The final rule published on August 8, 1978, (43 FR 350343) is effective on April 26, 1980.

FOR FURTHER INFORMATION CONTACT: Ed McCarthy, Casualty and Memorial Affairs Directorate, TAGCEN, HQ Department of the Army, Washington, D.C. 20314 (202-6930-0177).

SUPPLEMENTARY INFORMATION: On 8 August 1978, announcement was made in the **Federal Register** of the construction of a Columbarium for the inurnment of cremated remains. 32 CFR 553 was amended to add a new § 553.15a, setting forth the criteria of eligibility for inurnment in the Columbarium. It was stipulated that this Final Rule regarding eligibility for the Columbarium would become effective upon the completion of that structure; completion will occur on 26 April.

By authority of the Secretary of the Army.

Dated: April 21, 1980.

Ellsworth S. Clarke,

LTC, GS, Acting Director, Casualty and Memorial Affairs.

[FR Doc. 80-12522 Filed 4-23-80; 8:45 am]

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Corps of Engineers, Department of the Army

33 CFR Part 207

Restricted Area, St. Johns River, Fla.; Navigation Regulations

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Final rule.

SUMMARY: The Department of the Army is amending the regulations which govern the use, administration and navigation of a restricted area at the U.S. Naval Fuel Depot, St. Johns River, Florida. This amendment allows the officer in charge of the fuel depot to designate other governmental agencies to assist in enforcing the regulations.

DATE: May 15, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Ralph T. Eppard at (202) 272-0200 or write: Office of the Chief of Engineers, ATTN: DAEN-CWO-N, Pulaski Building, Washington, D.C. 20314.

SUPPLEMENTARY INFORMATION: Regulations were approved by the Deputy Under Secretary of the Army on February 12, 1979 establishing regulations in 33 CFR 207.167 governing the use, administration and navigation of a restricted area adjacent to the U.S. Navy Fuel Depot Pier in the St. Johns River, Florida. Paragraph b(2) of the regulations identify the Officer in Charge of the fuel depot as being responsible for the enforcement of the regulations. These regulations are amended to allow the officer in charge of the fuel depot to designate other governmental agencies to assist in enforcing the regulations. The Department of the Army has determined that Notice of Proposed Rulemaking and public procedures thereto are unnecessary and impractical since the change is an agency procedural matter and does not directly affect the general public. Accordingly, the regulations in 33 CFR 207.167 are amended with respect to paragraph (b)(2) as set forth below:

§ 207.167 U.S. Navy Fuel Depot Pier, St. Johns River, Jacksonville, Florida; restricted area.

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