DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

23 CFR Part 1217

[Docket No. 79-11; Notice 5]

Highway Safety Innovative Project Grants Program

AGENCY: National Highway Traffic Safety Administration, (NHTSA) Department of Transportation.

ACTION: Delay of deadline for preapplications.

SUMMARY: In the **Federal Register** of December 22, 1980, (45 FR 84037), NHTSA set February 1, 1981, as the deadline for preapplications for grants under the Highway Safety Innovative Project Grants Program. The deadline for preapplications is hereby extended to March 1, 1981, to coincide with the application date for related programs of the Department of Transportation.

Issued on January 21, 1981.

Charles F. Livingston,

Associate Administrator for Traffic Safety Programs.

[FR Doc. 81-2823 Filed 1-23-81; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF JUSTICE

Office of the Attorney General

28 CFR Parts 19 and 61

[Order No. 927-81]

Procedures for Implementing the National Environmental Policy Act

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: On November 29, 1978, the Council on Environmental Quality (CEQ) promulgated regulations implementing the procedural provisions of the National Environmental Policy Act (NEPA). CEQ required federal agencies to adopt, as necessary, procedures to supplement their regulations. As a result, the Department of Justice and certain subunits have adopted procedures to facilitate compliance with NEPA.

EFFECTIVE DATE: February 25, 1981.

FOR FURTHER INFORMATION CONTACT: Lois J. Schiffer, Chief, General Litigation Section, Land and Natural Resources Division, U.S. Department of Justice, Washington, D.C. 20530, Tel. (202) 633-2704.

SUPPLEMENTARY INFORMATION: The National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 *et seq.*, requires all federal agencies to give appropriate consideration to the environmental effects of their proposed actions in their decisionmaking and to prepare detailed environmental statements on proposals for legislation significantly affecting the quality of the human environment and on other major federal actions significantly affecting the quality of the human environment. The Council on Environmental Quality (CEQ) issued regulations to implement the procedural provisons of NEPA (codified at 40 CFR Parts 1500–1508, hereafter referred to by section number), under the direction of Executive Order No. 11991. These regulations require all agencies to prepare supplemental procedures as necessary to implement the regulations (§ 1507.3). The procedures are to be brief and are to contain only information not already specified in the CEQ regulations but which is necessary to facilitate Department compliance with NEPA.

The Department of Justice has endeavored to assure that where NEPA is applicable, its requirements will be met consistently with the goal of reducing paperwork and delay. Major Departmental subunits have reviewed their activities to determine which are covered by NEPA. CEQ has been consulted regularly throughout this process. The Department of Justice has determined that most of its actions do not come within the definition of "major federal actions" invoking the NEPA process. The Department of Justice is primarily engaged in activities in the litigation framework and in giving legal advice and these actions are excluded from the definition of "major federal action" by CEQ regulations (§ 1508.18).

The Bureau of Prisons, the Drug Enforcement Administration, the Immigration and Naturalization Service, and the Office of Justice Assistance, Research and Statistics have developed internal procedures to supplement the departmentwide procedures for those activities not conducted elsewhere in the Department which necessitate environmental review. The internal procedures for these components are included for informational purposes in the appendices to this part.

The requirements of 5 U.S.C. 553 (informal rulemaking) and Executive Order No. 12044 (improving government regulations) do not apply to these procedures. The provisions of the Department of Justice and subunit procedures that provide for internal management of NEPA review are exempt under 5 U.S.C. 553(a)(2) and section 6(b)(3) of Executive Order No. 12044. Other provisions interpret the CEQ regulations in the context of Department activities and are therefore exempt under 5 U.S.C. 553(b)(A) and the Department of Justice's understanding of the coverage of the Executive order. These regulations are not "significant" within the meaning of section 2(e) of the Executive order and section III(D) of the Department report on implementation of the Executive order (44 FR 30461).

No significant public comments were received on the procedures as published in proposed form in 44 FR 43751 and 45 FR 45311. They have, therefore, been revised only to the extent suggested by CEQ.

Accordingly, in order to adopt procedures for the Department of Justice to supplement the regulations of the Council on Environmental Quality, 40 CFR Parts 1500–1508, and by virtue of the authority vested in me by 28 U.S.C. 509, 510; 5 U.S.C. 301 and Executive Order No. 11991, I hereby order the following:

1. Part 19 [Removed]

Part 19 of Title 28, Code of Federal Regulations is revoked and removed.

2. A new Part 61, to read as follows, is added to Chapter 1 of Title 28, Code of Federal Regulations:

PART 61—PROCEDURES FOR IMPLEMENTING THE NATIONAL ENVIRONMENTAL POLICY ACT

Authority: 28 U.S.C. 509, 510; 5 U.S.C. 301; Executive Order No. 11991.

Subpart A—General

§ 61.1 Background.

(a) The National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 *et seq.*, establishes national policies and goals for the protection of the environment. Section 102(2) of NEPA contains certain procedural requirements directed toward the attainment of such goals. In particular, all federal agencies are required to give appropriate consideration to the environmental effects of their proposed actions in their decisionmaking and to prepare detailed environmental statements on proposals for legislation significantly affecting the quality of the human environment and on other major federal actions significantly affecting the quality of the human environment.

(b) Executive Order No. 11991 of May 24, 1977, directed the Council on Environmental Quality (CEQ) to issue regulations to implement the procedural provisions of NEPA. Accordingly, CEQ issued final NEPA regulations, 40 CFR Parts 1500–1508, ("The NEPA regulations"). These regulations provide that each federal agency shall, as necessary, adopt implementing procedures to supplement the regulations. The NEPA regulations identify those sections of the regulations which must be addressed in agency procedures.

§ 61.2 Purpose.

The purpose of this part is to establish Department of Justice procedures which supplement the relevant provisions of the NEPA regulations and to provide for the implementation of those provisions identified in 40 CFR 1507.3(b).

§ 61.3 Applicability.

The procedures set forth in this part, with the exception of the appendices, apply to all organizational elements of the Department of Justice. Internal procedures applicable, respectively, to the Bureau of Prisons, the Drug Enforcement Administration, the Immigration and Naturalization Service, and the Office of Justice Assistance, Research and Statistics are set forth in the appendices to this part, for informational purposes.

§ 61.4 Major federal action.

The NEPA regulations define "major federal action." "Major federal action" does not include action taken by the Department of Justice within the framework of judicial or administrative enforcement proceedings or civil or criminal litigation, including but not limited to the submission of consent or settlement agreements and investigations. Neither does "major federal action" include the rendering of legal advice.

Subpart B—Implementing Procedures

§ 61.5 Typical classes of action.

(a) The NEPA regulations require agencies to establish three typical classes of action for similar treatment under NEPA. These classes are: actions normally requiring environmental impact statements (EIS), actions normally not requiring assessments or EIS, and actions normally requiring assessments but not necessarily EIS. Typical Department of Justice actions falling within each class have been identified as follows:

(1) *Actions normally requiring EIS.* None, except as noted in the appendices to this part.

(2) *Actions normally not requiring assessments or EIS.* Actions not significantly affecting the human environment.

(3) *Actions normally requiring assessments but not necessarily EIS.* (i) Proposals for major federal action; (ii) proposals for legislation developed by or with the significant cooperation and support of the Department of Justice and for which the Department has primary responsibility for the subject matter.

(b) The Department of Justice shall independently determine whether an EIS or an environmental assessment is required where:

(1) A proposal for agency action is not covered by one of the typical classes of action above; or

(2) For actions which are covered, the presence of extraordinary circumstances indicates that some other level of environmental review may be appropriate.

§ 61.6 Consideration of environmental documents in decisionmaking.

The NEPA regulations contain requirements to ensure adequate consideration of environmental documents in agency decisionmaking. To implement these requirements, the Department of Justice shall:

(a) Consider from the earliest possible point in the process all relevant environmental documents in evaluating proposals for Department action;

(b) Ensure that all relevant environmental documents, comments and responses accompany the proposal through existing Department review processes;

(c) Consider those alternatives encompassed by the range of alternatives discussed when evaluating proposals for Department action, or if it is desirable to consider substantially different alternatives, first supplement the environmental document to include analysis of the additional alternatives;

(d) Where an EIS has been prepared, consider the specific alternatives analyzed in the EIS when evaluating the proposal which is the subject of the EIS.

§ 61.7 Legislative proposals.

(a) Each subunit of the Department of Justice which develops or significantly cooperates and supports a bill or legislative proposal to Congress which may have an effect on the environment shall, in the early stages of development of the bill or proposal, undertake an assessment to determine whether the legislation will significantly affect the environment. The Office of Legislative Affairs shall monitor legislative proposals to assure that Department procedures for legislation are complied with. Requests for appropriations need not be so analyzed.

(b) If the Department of Justice has primary responsibility for the subject matter involved and if the subunit affected finds that the bill or legislative proposal has a significant impact on the environment, that subunit shall prepare a legislative environmental impact statement in compliance with 40 CFR 1506.8.

§ 61.8 Classified proposals.

If an environmental document includes classified matter, a version containing only unclassified material shall be prepared unless the head of the office, board, bureau or division determines that preparation of an unclassified version is not feasible.

§ 61.9 Emergencies.

CEQ shall be consulted when emergency circumstances make it necessary to take a major federal action with significant environmental impact without following otherwise applicable procedural requirements under NEPA.

§ 61.10 Ensuring Department NEPA compliance.

The Land and Natural Resources Division shall have final responsibility for ensuring compliance with the requirements of the procedures set forth in this part.

§ 61.11 Environmental information.

Interested persons may contact the Land and Natural Resources Division for information regarding Department Justice compliance with NEPA.

Appendix A—Bureau of Prisons.—Procedures relating to the Implementation of the National Environmental Policy Act

1. Authority: (CEQ Regulations) NEPA, the Environmental Quality Improvment Act of 1970, as amended (42 U.S.C. 4371 et seq.) Section 309 of the Clean Air Act, as amended (42 U.S.C. 7609), and Executive Order 11514, Protection and Enhancement of Environmental Quality (March 5, 1970, as amended by Executive Order 11991, May 24, 1977.)

2. Purpose: This guide shall apply to efforts associated with the leasing, purchase, design, construction, management, operation and maintenance of new and existing Bureau of Prisons facilities as well as the closing of existing Bureau of Prisons institutions. These procedures shall be used by the Regional Facilities Administration staff as well as the Central Office of Facilities Development and Operations staff. Activities concerning Bureau of Prisons compliance with NEPA shall be handled by and coordinated with these staff members and coordinated by Central Office Personnel. (Reference shall be made to Part 1507—Agency Compliance of the CEQ Regulations.)

3. Agency Description: The Bureau of Prisons, a component of the U.S. Department of Justice, is responsible for providing custody and care to committed Federal offenders in an integrated system of correctional institutions across the nation.

The Bureau of Prisons performs its mission of protecting society by implementing the judgments of the Federal courts and safeguarding Federal offenders committed to the custody of the Attorney General.

The administration of the Federal Prison System consists of six divisions. The central office in Washington, D.C., is supplemented by five regional offices located in Atlanta, San Francisco, Dallas, Kansas City, and Philadelphia.

4. (*Reference: § 1501.2(d)(1)—CEQ Regulations*) The Bureau of Prisons shall make available the necessary technical staff to review proposals and prepare feasibility studies for facilities under consideration for possible use as Federal correctional institutions. (*Reference: § 1501.2(d)(2)—CEQ Regulations*) At the appropriate time after project funding approval, the Bureau of Prisons, having identified a preferred general area for a new facility, will inform the members of Congress representing the affected locale of the intent to pursue the establishment of a Federal correctional institution in the area. This activation might include but not be limited to: (1) The construction of a new facility; (2) or Surplus Federal, state, or local facility to the Bureau of Prisons for prior use. The Bureau of Prisons shall advise and inform interested parties concerning proposed plans which might result in implementation of the NEPA regulations. After inital informal contacts have been made, the Bureau of Prisons will with the aid of local area officials, begin to identify desired locations for the proposed new facility. In the event of proposed activation of an existing facility for prison use, the Bureau of Prisons shall seek initial involvement among local officials and advice on alternative courses of action.

In either case, if the issues appear significantly controversial, an informal public hearing will be held to present the issues to the community and seek their involvement in the planning process. Upon completion of the preliminary groundwork described above, the Bureau of Prisons will issue an A-95 letter of intent to (1) either file an EIS; (2) file an EIA; or (3) discontinue the efforts of locating a facility in the proposed area.

5. *Public Involvement: (Reference: Part 1506.6(3)—CEQ Regulations)* Information regarding the policies of the Bureau of Prisons for implementing the NEPA process can be obtained from: Bureau of Prisons Facilities Development and Operations Office, 320 First Street, NW., Washington, D.C. 20534.

6. *Supplemental Statements: (Reference: Part 1502.9(c)(3)—CEQ Regulations)* If it is necessary to prepare a supplement to a Draft or Final Environmental Impact Statement, the supplement shall be introduced into the project administrative record.

7. *Bureau of Prisons Decisionmaking Procedures: (Reference: Part 1501.1 (a) through (e)—CEQ Regulations)* Major decision points likely to involve the NEPA process:

1. Construction of a new Federal correctional institution.

2. Closing of an existing Federal correctional institution.

3. Activation of a surplus facility for conversion to a Federal correctional institution.

4. Significant change from the original mission of a Federal correctional institution.

5. New construction at an existing Federal correctional institution which might significantly impact upon the existing community environment.

When the inclusion of certain voluminous data in environmental documents would prove impractical, the Bureau of Prisons will summarize the data and retain the original material as a part of its administrative record for the project. This material will be made available to the public in a central place to be designated in Environmental Impact Statements, and upon written request or court order copies of specified material will be provided. A charge may be made for copying, in accordance with current Department of Justice gudelines for reproduction of records.

Decisionmakers shall verify the consideration of all available options in the EIS with a comparative analysis of the alternatives to be considered in the decisionmaking process.

8. Those Actions Which Normally Do Require Environmental Impact Statements: *(Reference: § 1507.3(b)(2)(ii)—CEQ Regulations* (1) New Federal correctional institution construction projects.

(2) Acquisition of surplus facilities for conversion to Federal correctional institutions, if the impact upon the quality of the human environment is likely to be significant.

(3) The closing of an existing Federal correctional institution, if that is likely to have a significant impact upon the quality of the human environment.

(4) Significant change from the original mission of a Federal correctional institution when the issue is likely to have an impact upon the quality of the human environment.

(5) New construction at an existing Federal correctional institution which would significantly affect the physical capacity, when the action is likely to have an impact upon the quality of the human environment.

(6) New construction at an existing Federal correctional institution which would significantly impact upon the quality of the community environment.

9. Those Actions Which Normally do not Require Either an Environmental Impact Statement or an Environmental Assessment: *(Reference: Part 1507.3(b)(2)(ii) and Part 1508.4—CEQ Regulations)* (1) Increase or decrease in population of a facility, above or below its physical capacity.

(2) Construction projects for existing facilities, including but not limited to: additions and remodeling; replacement of building systems and components; maintenance and operations, repairs, and general improvements; when such projects do not significantly alter the program of the facility or significantly impact upon the quality of the environment in the community.

10. Those Actions Which Normally Require Environmental Assessments but not Necessarily Environmental Impact

Statements: *(Reference: § 1507.3(b)(2)(iii)—CEQ Regulations)* (1) Acquisition of surplus facilities for conversion to Federal correctional institution.

(2) Construction of additional facilities at an existing institution when the impact on the local environment is not seen to be significant, but when the alteration of programs or operations may be controversial.

(3) The closing of an institution or significant reduction in population of an institution when the impact on the local environment is not seen to be significant.

11. *Emergency Actions: (Reference: Part 1506.11—CEQ Regulations).* After consultation with the Council on Environmental Quality regarding alternative courses of action, the Bureau of Prisons may take action without observing the provisions of the CEQ Regulations and these Bureau of Prisons Procedures in the following cases:

(1) When the replacement of suddenly unavailable local utilities services, and/or resources, due to circumstances beyond the control of the Bureau of Prisons, is vital to the lives and safety of inmates and staff or protection of U.S. Government property.

(2) When unforeseen circumstances, such as greatly increased judicial commitments, suddenly dictate the activation of facilities to house increased numbers of Federal offenders and detainees significantly above the physical capacity of the combined Bureau of Prisons facilities in order to insure the lives and safety of inmates and staff or protection of U.S. Government property.

(3) When the sudden destruction of or damage to institutions dictates immediate replacement in order to protect the lives and safety of inmates and staff and protection of U.S. Government property.

Appendix B—Drug Enforcement Administration Procedures Relating to the Implementation of the National Environmental Policy Act

1. Applicability.
2. Typical Classes of Action Requiring Similar Treatment Under NEPA.
3. Environmental Information.

1. *Applicability.*

This part applies to all organizational elements of the Drug Enforcement Administration [DEA].

2. *Typical Classes of Action Requiring Similar Treatment Under NEPA.*

(a) Section 1507.3(c)(2) in conjunction with § 1508.4 requires agencies to establish three typical classes of action for similar treatment under NEPA. These typical classes of action are set forth below:

(1) Actions normally requiring EIS	(2) Actions normally not requiring environmental assessments or EIS (Categorical exclusions)	(3) Actions normally requiring environmental assessments but not necessarily EIS
None	Scheduling of drugs as controlled substances	Chemical eradication of plant species from which controlled substances may be extracted.
	Establishing quotas for controlled substances	
	Registration of persons authorized to handle controlled substances.	
	Storage and destruction of controlled substances	
	Manual eradication of plant species from which controlled substances may be extracted.	

(b) For the principal DEA program requiring environmental review, the following chart identifies the point at which the NEPA process begins, the point at which it ends, and the key agency officials or offices required to consider environmental documents in their decisionmaking.

Principal program	Start of NEPA process	Completion of NEPA process	Key officials or offices required to consider environmental documents
Eradication of plant species from which controlled substances may be extracted.	Prepare an environmental assessment.	Final review of environmental assessment or Environmental Impact Statement.	Office of Science and Technology.

(c) The DEA shall independently determine whether an EIS or an environmental assessment is required where:

(1) A proposal for agency action is not covered by one of the typical classes of action in (a) above; or

(2) For actions which are covered, the presence of extraordinary circumstances indicates that some other level of environmental review may be appropriate.

3. *Environmental Information*

Interested persons may contact the Office of Science and Technology for information regarding the DEA compliance with NEPA.

Appendix C—Immigration and Naturalization Service Procedures Relating to the Implementation of the National Environmental Policy Act

1. *General.* These procedures are published pursuant to the National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 et seq.), the Environmental Quality Improvement Act of 1970, as amended (42 U.S.C. 4371 et seq.). Section 309 of the Clean Air Act, as amended (42 U.S.C. 7609), and Executive Order 11514, Protection and Enhancement of Environmental Quality (March 5, 1970, as amended by Executive Order 11991, May 24, 1977).

2. *Purpose.* These procedures shall apply to efforts associated with the leasing, purchase, design, construction, and maintenance of new and existing INS facilities. All activities concerning the Immigration and Naturalization Service's compliance with NEPA shall be coordinated with Central Office Engineering staff.

3. *Agency Description.* The INS administers and enforces the immigration and nationally laws. This includes determining the admissibility of persons seeking entry into the United States and adjudicating requests for benefits and privileges under the immigration and nationality laws. The enforcement actions of INS involve the prevention of illegal entry of persons into the United States and the investigation and apprehension of aliens already in the country who because of inadmissibility at entry or misconduct committed following entry may be subject to deportation.

In carrying out its statutory enforcement responsibilities, the INS is authorized to arrest and detain aliens believed to be deportable and to effectuate removal from the U.S. of aliens found deportable after hearing.

4. *Designation of Responsible Official.* The Chief Engineer, Facilities and Engineering Branch shall be the liasion official for INS with the Council on Environmental Quality, the Environmental Protection Agency, and the other departments and agencies concerning environmental matters. Duties of the Chief Engineer include:

(a) Insuring compliance with the requirements of NEPA and that the actions with respect to the fulfillment of NEPA are coordinated;

(b) Providing for procedural and substantive training on environmental issues, policy, procedures and clearance requirements;

(c) Providing guidance in the preparation and processing of Environmental Impact Statements; and

(d) Participating in policy formulation, as necessary, in the application of the requirements of the National Environmental Policy Act of 1969.

5. *NEPA and INS Planning.* (a) INS will make available to the public proposals and feasibility studies for facilities under consideration for possible use as INS facilities.

(b) Interested parties indentified as such by the local clearinghouse (as established by the Office of Management and Budget Circular No. A-95) will be advised and informed concerning proposed plans which might involve NEPA regulations.

(c) Upon completion of the preliminary groundwork described above, INS will issue an A-95 Letter of Intent to:

(1) File an Environmental Impact Assessement (EIA);

(2) File an Environmental Impact Statement (EIS). (Reference: 1501.2—CEQ Regulations.)

6. *Public Involvement.* Information regarding the policies of INS for implementing the NEPA process can be obtained from: Immigration and Naturalization Service, Facilities and Engineering Branch, 425 I Street NW., Washington, D.C. 20536. (Reference: Part 1506.6(3)—CEQ Regulations.)

7. *Supplemental Statements.* If it is necessary to prepare a supplement to a draft or a Final Environmental Impact Statement, the supplement shall be introduced into the administrative record pertaining to the project. (Reference: Part 1502.9(c)(3)—CEQ Regulations.)

8. *INS Decisionmaking Procedure.* (a) *Policy*—(1) the Chief Engineer will consider all practical means, including the "no-action" alternative and other alternatives to the proposed action, which will enhance, protect, and preserve the quality of the environment, restore environmental quality previously lost, and minimize and mitigate unavoidable adverse effects. He will analyze and study the environment together with engineering, economic, social and other considerations to insure balanced decisionmaking in the overall public interest.

(2) During INS project planning and the related decisonmaking process, environmental effects will be weighed together with the engineering, economic and social and other considerations affecting the public interest.

(b) *Preparation of the environmental impact statements.* (1) Situations where Environmental Impact Statements (EIS) are required are described in section 102(2)(C) of NEPA. EIS constitute an integral of the plan formulation process and serve as a summation and evaluation of the effects, both beneficial and adverse, that each alternative action would have on the environment, and as an explanation and objective evaluation of the plan which is finally recommended.

(2) Should the Chief Engineer determine in assessing the impact of a minor action that an environmental statement is not required, the determination to that effect will be placed in the project file. This negative determination shall be made available to the public as required in § 1506.6 of the CEQ regulations and shall include a statement of the facts and the basis for the decision.

(3) When inclusion of certain voluminous data in an EIS would prove to be impractical, INS will summarize the data and retain the original material as a part of its administrative record for the project. This material will be made available to the public in a central place to be designated in the EIS, and upon written request or court order, copies of specified material will be provided. A charge for the reproduction of records may be made in accordance with current Department of Justice guidelines. (Reference: Part 1505 CEQ Regulations.)

9. *Actions Which Normally Do Require Environmental Impact Statements:* (a) Construction of a new INS facility which would have a significant impact upon the environment.

(b) Construction of a new addition to an existing INS facility which would significantly affect the physical capacity and which would have a significant impact upon the environment. (Reference: § 1507.3(b)(2)(i)—CEQ Regulations.)

10. *Actions Which Normally Do Not Require Either An Environmental Impact Statement Or An Environmental Assessment:* (a) Construction projects for existing facilities including but not limited to: Remodeling; replacement of building systems and components; maintenance and operations repairs and general improvements when such projects do not significantly alter the intitial occupancy and program of the facility or significantly impact upon the environment.

(b) Increase or decrease in population of a facility within its physical capacity. (Reference: Part 1507.3(b)(2)(ii) and Part 1508.4—CEQ Regulations.)

11. *Actions Which Normally Require An Environmental Assessment But Not Necessarily Environmental Impact Statements:*

(a) Construction of a new addition to an existing INS facility which may affect the physical capacity and may have some impact upon the environment.

(b) Closing of an INS facility which may have some impact on the environment. (Reference: § 1507.3(b)(2)(iii)—CEQ Regulations.)

Appendix D—Office of Justice Assistance, Research, and Statistics Procedures Relating to the Implementation of the National Environmental Policy Act

1. Authority.

These procedures are issued pursuant to the National Environmental Policy Act (NEPA) of 1969, 42 U.S.C. 4321, *et seq.*, Regulations of the Council on Environmental Quality, 40 CFR Part 1500, *et seq.*, the Environmental Quality Improvement Act of 1970, as amended, 42 U.S.C. 4371, *et seq.*, Section 309 of the Clean Air Act, as amended, 42 U.S.C. 7609, and Executive Order 11514, "Protection and Enhancement of Environmental Quality," March 5, 1970, as amended by Executive Order 11991, March 24, 1977.

2. Purpose.

It is the purpose of these procedures to supplement the procedures of the Department of Justice so as to insure compliance with NEPA. These procedures supersede the regulations contained in 28 CFR Part 19.

3. Agency description.

The Office of Justice Assistance, Research, and Statistics (OJARS) assists State and local units of government in strengthening and improving law enforcement and criminal justice by providing financial assistance and funding research and statistical programs. OJARS will coordinate the activities and provide the staff support for three Department of Justice Federal financial assistance offices: the Law Enforcement Assistance Administration, the National Institute of Justice, and the Bureau of Justice Statistics. Each of the assistance offices has the authority to award grants, contracts and cooperative agreements pursuant to the Justice System Improvement Act of 1979, Pub. L. 96-157 (December 27, 1979).

Subpart B—Implementing Procedures

4. Typical classes of action undertaken.

(a) Actions which normally require an environmental impact statement.

(1) None.

(b) Actions which normally do not require either an environmental impact statement or an environmental assessment.

(1) The bulk of the funded efforts: training programs, court improvement projects, research, and gathering statistical data.

(2) Minor renovation projects or remodeling.

(c) Actions which normally require environmental assessments but not necessarily environmental impact statements.

(1) Renovations which change the basic prior use of a facility or significantly change the size.

(2) New construction.

(3) Research and technology whose anticipated and future application could be expected to have an effect on the environment.

(4) Implementation of programs involving the use of chemicals.

(5) Other actions in which it is determined by the Administrator, Law Enforcement Assistance Administration; the Director, Bureau of Justice Statistics; or the Director, National Institute of Justice, to be necessary and appropriate.

5. Agency procedures.

An environmental coordinator shall be designated in the Bureau of Justice Statistics, the Law Enforcement Assistance Administration, and in the National Institute of Justice. Duties of the environmental coordinator shall include:

(a) Insuring that adequate environmental assessments are prepared at the earliest possible time by applicants on all programs or projects that may have a significant impact on the environment. The assessments shall contain documentation from independent parties with expertise in the particular environmental matter when deemed appropriate. The coordinator shall return assessments that are found to be inadequate.

(b) Reviewing the environmental assessments and determining whether an Environmental Impact Statement is required or preparing a "Finding of No Significant Impact."

(c) Coordinating the efforts for the preparation of an Environmental Impact Statement consistent with the requirements of 40 CFR Part 1502.

(d) Cooperating and coordinating efforts with other Federal agencies.

(e) Providing for agency training on environmental matters.

6. Compliance with other environmental statutes.

To the extent possible an environmental assessment, as well as an environmental impact statement, shall include information necessary to assure compliance with the following:

Fish and Wildlife Coordination Act, 16 U.S.C. 661, *et seq.;* the National Historic Preservation Act of 1966, 16 U.S.C. 470, *et seq.;* Flood Disaster Protection Act of 1973, 42 U.S.C. 400, *et seq.;* Clean Air Act and Federal Water Pollution Control Act, 42 U.S.C. 1857, *et seq.;* 33 U.S.C. 1251, *et seq.;* Safe Drinking Water Act, 42 U.S.C. 300, *et seq.;* Wild and Scenic Rivers Act, 16 U.S.C. 1271, *et seq.;* the Coastal Zone Management Act of 1972, 16 U.S.C. 1451, *et seq.;* and other environmental review laws and executive orders.

7. Actions planned by private applicants or other non-Federal entities.

Where actions are planned by private applicants or other non-Federal entities before Federal involvement:

(a) The Policy and Management Planning Staff, Office of Criminal Justice Programs, LEAA, Room 1158B, 633 Indiana Ave., Washington, D.C. 20531, Telephone: 202/724-7659, will be available to advise potential applicants of studies or other information foreseeably required for later Federal action;

(b) OJARS will consult early with appropriate State and local agencies and with interested private persons and organizations when its own involvement is reasonably foreseeable;

(c) OJARS will commence its NEPA process at the earliest possible time (Ref. § 1501.2(d) CEQ Regulations).

8. Supplementing an EIS.

If it is necessary to prepare a supplement to a draft or a final EIS, the supplement shall be introduced into the administrative record pertaining to the project. (Ref. § 1502.9(c)(3) CEQ Regulations).

9. Availability of information.

Information regarding status reports on EIS's and other elements of the NEPA process and policies of the agencies can be obtained from: Policy and Management Planning Staff, Office of Criminal Justice Programs, LEAA, Room 1158B, 633 Indiana Avenue, Washington, D.C. 20531, Telephone: 202/724-7659.

Dated: January 15, 1981.

Benjamin R. Civiletti,

Attorney General.

[FR Doc. 81-2451 Filed 1-23-81; 8:45 am]

BILLING CODE 4410-01-M

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Parts 2603 and 2607

Amendment To Change Name and Address Regarding Freedom of Information Act and Privacy Act Requests

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: In this document, the Pension Benefit Guaranty Corporation ("PBGC") indicates a change of name and address in the implementing regulations regarding the Freedom of Information Act and the Privacy Act. The change is necessary because of an internal reorganization in PBGC. The effect of this action is to notify the public of the new name and address they should use when making a request or an appeal under either of the above-mentioned acts.

EFFECTIVE DATE: January 26, 1981.

FOR FURTHER INFORMATION CONTACT: Ms. Nina R. Hawes, Staff Attorney, Office of the General Counsel, Pension Benefit Guaranty Corporation, 2020 K Street, N.W., Washington, D.C. 20006, 202-254-3010.

SUPPLEMENTARY INFORMATION: As a result of an internal reorganization of the PBGC, the position of Director, Office of Communications, no longer exists. Accordingly, the disclosure officer, who has authority for administering requests under the Freedom of Information Act and the Privacy Act, was changed from the Director, Office of Communications to a designated person in the Office of the Executive Director. There also is a change in the address to which requests and appeals are to be made.

The PBGC's implementing regulations for the Freedom of Information Act published June 3, 1975 (29 CFR Part 2603) and for the Privacy Act published October 3, 1975 (29 CFR Part 2607) contain numerous references to the Office of Communications and Director, Office of Communications. Wherever these titles appear, they should be changed to Office of the Executive Director and Disclosure Officer, Office of the Executive Director. The address for requests and appeals under these regulations should be changed to 2020 K Street, N.W., Washington D.C. 20006.

Because this amendment pertains solely to a procedural matter and because of the need to provide immediate guidance to the public with respect to the location where members of the public may examine records of the PBGC and make requests pursuant to the Freedom of Information Act and the Privacy Act, the PBGC finds that the relevant provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, opportunity for public participation, and delay of effective date are inapplicable.

Accordingly, Chapter XXVI of Title 29 of the Code of Federal Regulations is amended as follows:

PART 2603—EXAMINATION AND COPYING OF PENSION BENEFIT GUARANTY CORPORATION RECORDS

29 CFR Part 2603 is amended as follows:

1. The authority citation for Part 2603 reads as follows:

Authority: 5 U.S.C. 552, as amended by Pub. L. 93–502, 88 Stat. 1561; Pub. L. 93–406, 88 Stat. 829.

§ 2603.2 [Amended]

2. 29 CFR 2603.2(c) is amended by removing the words "Director of the Office of Communications" and inserting, in their place, "designated official in the Office of the Executive Director."

§ 2603.32 [Amended]

3. 29 CFR 2603.32(a) is amended by removing the words, "Director, Office of Communications" and inserting, in their place, "Disclosure Officer, Office of the Executive Director."

§§ 2603.32 and 2603.39 [Amended]

4. 29 CFR Part 2603 is amended by removing the words, "P.O. Box 7119, Washington, D.C. 20044" and inserting, in their place, the words "2020 K Street, N.W., Washington, D.C. 20006" in the following places:

(a) 29 CFR 2603.32(a); and
(b) 29 CFR 2603.39.

PART 2607—DISCLOSURE AND AMENDMENT OF RECORDS UNDER THE PRIVACY ACT

29 CFR 2607 is amended as follows:

1. The authority citation for Part 2607 reads as follows:

Authority: 5 U.S.C. 552a; Pub. L. 93–406, 88 Stat. 829.

§ 2607.2 [Amended]

2. 29 CFR 2607.2(a) is amended by removing the words "Director of the Office of Communications" and inserting, in their place, "designated official in the Office of the Executive Director."

§§ 2607.3, 2607.4, 2607.6, and 2607.8 [Amended]

3. 29 CFR Part 2607 is amended by removing the words, "Director, Office of Communications" and inserting, in their place, "Disclosure Officer, Office of the Executive Director" in the following places:

(a) 29 CFR 2607.3(a);
(b) 29 CFR 2607.4(a);
(c) 29 CFR 2607.6(a); and
(d) 29 CFR 2607.8(c).

§§ 2607.3, 2607.4, and 2607.5 [Amended]

4. 29 CFR Part 2607 is amended by removing the words, "Office of Communications" and inserting, in their place, "Office of the Executive Director" in the following places:

(a) 29 CFR 2607.3(a);
(b) 29 CFR 2607.4(a);
(c) 29 CFR 2607.5(a); and
(d) 29 CFR 2607.6(a).

§§ 2607.3, 2607.4, 2607.6, 2607.7, and 2607.8 [Amended]

5. 29 CFR Part 2607 is amended by removing the words, "P.O. Box 7119, Washington, D.C. 20044" and inserting, in their place, the words "2020 K Street, N.W., Washington, D.C. 20006" in the following places:

(a) 29 CFR 2607.3(a);
(b) 29 CFR 2607.4(a);
(c) 29 CFR 2607.6(a) and (c);
(d) 29 CFR 2607.7(c); and
(e) 29 CFR 2607.8(a) and (c).

EFFECTIVE DATE: These amendments become effective January 26, 1981.

Issued in Washington, D.C., this 16th day of January, 1980.

Robert E. Nagle,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 81–2351 Filed 1–23–81; 8:45 am]

BILLING CODE 7708-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 162

[CGD 79–151]

Inland Waterways Navigation Regulations—Great Lakes

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is revising certain Inland Waterways Navigation Regulations applicable to the Great Lakes region. Certain applicability provisions have been changed, substituting vessel length for tonnage. Additional changes, primarily editorial, have been made to delete redundant and archaic requirements. The changes enable the regulations to be more clearly understood and more easily enforced.

EFFECTIVE DATE: These regulations are effective on February 25, 1981.

FOR FURTHER INFORMATION CONTACT: Ensign Edward G. LeBlanc, Office of Marine Environment and Systems (G–WWM–2), Room 1608, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, D.C. 20593, (202) 426–4958 between 7:30 a.m. and 4:30 p.m. Monday through Thursday, except holidays.

SUPPLEMENTARY INFORMATION: On August 25, 1980, the Coast Guard published a proposed rule (45 FR 56365) concerning these revisions. Interested persons were given until October 9, 1980, to submit comments. Four persons commented on the proposed rule. No public hearing was held.

Drafting Information

The principal persons involved in the drafting of these regulations are: Ensign Edward G. LeBlanc, Project Manager, Office of Marine Environment and Systems, and Lieutenant Collin Lau, Project Counsel, Office of the Chief Counsel.

Discussion of the Comments

Two comments concerned § 162.110 *Duluth-Superior Harbor, Minnesota and Wisconsin.* One comment expressed concern for anchorage and speed provisions in Duluth-Superior Harbor. The provisions in 33 U.S.C. 286 and 409 provide adequate guidance in this area. The other comment suggested that § 162.110(b)(1) be changed to prohibit meeting or overtaking of vessels in Duluth-Superior Harbor only when both vessels are greater than 150 feet. The final rule has been revised to reflect this suggestion.

Three comments concerned § 162.125 *Sturgeon Bay and the Sturgeon Bay Ship Canal, Wisconsin.* One comment suggested editorial name changes to the leading and subsequent paragraphs to conform with the U.S. Board for Geographic Names. The name Lake Michigan Ship Canal has been changed to Sturgeon Bay Ship Canal. The other two comments objected to the requirement in § 162.125(b) that all laden vessels be towed through the canal. This inadvertent error has been corrected.

The remaining comment covered § 162.130, anchorage restriction in Waukegan Harbor, Illinois which was deleted. This section was deleted because 33 U.S.C. 409 already prohibits anchoring which obstructs general navigation. The regulation added nothing to the statutory restriction.

Evaluation

The proposed regulations have been evaluated under the Department of Transportation Order 2100.5, "Policies and Procedures for Simplification, Analysis, and Review of Regulations," dated May 22, 1980 and have been determined to be nonsignificant. An evaluation is not warranted because the expected impact of the regulations is so minimal. This final rule causes no substantial change to the regulations.

In consideration of the foregoing, Part 162 and Part 165 of Title 33 of the Code of Federal Regulations are amended as follows:

PART 162—INLAND WATERWAYS NAVIGATION REGULATIONS

1. By revising § 162.110 to read:

§ 162.110 Duluth-Superior Harbor, Minnesota and Wisconsin.

(a) No vessel greater than 100 feet in length may exceed 8 miles per hour in Duluth-Superior Harbor.

(b) In the Duluth Ship Canal:

(1) No vessel may meet or overtake another vessel if each vessel is greater than 150 feet in length (including tug and tow combinations).

(2) An inbound vessel has the right of way over an outbound vessel.

2. By revising § 162.115 to read as follows:

§ 162.115 Keweenaw Waterway, Michigan.

(a) No vessel greater than 40 feet in length may exceed 8 miles per hour between Lily Pond and Pilgrim Point.

(b) No vessel may use either the Portage River harbor of refuge or the Lily Pond harbor of refuge longer than 24 hours unless given permission to do so by the Captain of the Port.

3. By revising § 162.120 to read as follows:

§ 162.120 Harbors on Lake Michigan.

(a) No vessel greater than 40 feet in length may exceed 8 miles per hour in the harbors of Michigan City, Indiana; St. Joseph, South Haven, Saugatuck, Holland (Lake Macatawa), Grand Haven, Muskegon, White Lake, Pentwater, Ludington, Manistee, Portage Lake (Manistee County), Frankfort, Charlevois, and Petroskey, Michigan.

(b) No vessel greater than 40 feet in length may exceed 4 miles per hour in the harbors of Menominee, Michigan and Wisconsin; Algoma, Kewaunee, Two Rivers, Manitowac, Sheboygan, Port Washington, Milwaukee, Racine, Kenosha and Green Bay, Wisconsin; and Waukegan, Illinois.

4. By revising § 162.125 to read as follows:

§ 162.125 Sturgeon Bay and the Sturgeon Bay Ship Canal, Wisconsin.

(a) In the Sturgeon Bay Ship Canal:

(1) No vessel may exceed 5 miles per hour.

(2) No vessel greater than 150 feet in length (including tug and tow combinations) may come about.

(3) No vessel 65 feet or greater in length (including tug and tow combinations) may either:

(i) Enter or pass through the canal two or more abreast; or

(ii) Overtake another vessel.

(4) No vessel may anchor or moor unless given permission to do so by the Captain of the Port.

(5) Each vessel must keep to the center, except when meeting or overtaking another vessel.

(b) In Sturgeon Bay and the Sturgeon Bay Ship Canal:

(1) Each laden vessel under tow must be towed with at least two towlines. Each towline must be shortened to the extent necessary to provide maximum control of the tow.

(2) Each unladen vessel may be towed with one towline.

(3) No towline may exceed 100 feet in length.

(4) No vessel may tow another vessel alongside.

(5) No vessel may tow a raft greater than 50 feet in width.

Note.—The Corps of Engineers also has regulations dealing with these areas in 33 CFR Part 207.

§ 162.130 [Removed]

5. By removing § 162.130.

6. By revising § 162.145 to read as follows:

§ 162.145 Monroe Harbor, Michigan.

(a) In the lake channel, no vessel greater than 40 feet in length may exceed 10 miles per hour.

(b) In the river channel:

(1) No vessel greater than 40 feet in length may exceed 6 miles per hour.

(2) No vessel may use a towline exceeding 200 feet in length.

7. By revising § 162.150 to read as follows:

§ 162.150 Maumee Bay and River, Ohio.

(a) In Maumee Bay (lakeward of Maumee River Lighted Buoy 49(L/L No. 770)), no vessel greater than 100 feet in length may exceed 12 miles per hour.

(b) In Maumee River (inward of Maumee River Lighted Buoy 49(L/L No. 770)):

(1) No vessel greater than 40 feet in length may exceed 6 miles per hour.

(2) No vessel greater than 100 feet in length (including tug and tow combinations) may overtake another vessel.

8. By revising § 162.155 to read as follows:

§ 162.155 Sandusky and Huron Harbors, Ohio.

(a) In Sandusky Harbor, no vessel greater than 40 feet in length may exceed 10 miles per hour.

(b) In Huron Harbor, no vessel greater than 40 feet in length may exceed 6 miles per hour, except in the outer harbor where no vessel greater than 40 feet in length may exceed 10 miles per hour.

Note.—The Corps of Engineers also has regulations dealing with these areas in 33 CFR Part 207.

9. By revising § 162.160 to read as follows:

§ 162.160 Vermilion, Lorain, Cleveland, Fairport, Ashtabula, and Conneaut Harbors, Ohio.

(a) In Vermilion Harbor, no vessel may exceed 6 miles per hour.

(b) In Lorain, Cleveland, Fairport, Ashtabula, and Conneaut Harbors, no vessel may exceed 6 miles per hour, except in the outer harbors, where no vessel may exceed 10 miles per hour.

Note.—The Corps of Engineers also has regulations dealing with these areas in 33 CFR Part 207.

10. By revising § 162.165 to read as follows:

§ 162.165 Buffalo and Rochester Harbors, New York

In Buffalo and Rochester Harbors, no vessel may exceed 6 miles per hour, except in the outer harbors where no vessel may exceed 10 miles per hour.

Note.—The Corps of Engineers also has regulations dealing with these areas in 33 CFR Part 207.

§ 162.170 [Removed]

11. By removing § 162.170

12. By revising § 162.175 to read as follows:

§ 162.175 Black Rock Canal and Lock at Buffalo, New York.

In the Black Rock Canal and Lock, no vessel may exceed 6 miles per hour.

Note.—The Corps of Engineers also has regulations dealing with these areas in 33 CFR Part 207.

§§ 162.180, 162.185, and 162.190 [Removed]

13. By removing § 162.180.

14. By removing § 162.185.

15. By removing § 162.190.

PART 165—SAFETY ZONES

16. By adding a new § 165.902 to read as follows:

§ 165.902 Niagara River at Niagara Falls, New York.

(a) The following is a Safety Zone—The United States waters of the Niagara River from the crests of the American and Horseshoe Falls, Niagara Falls, New York to a line drawn across the Niagara River from the downstream side of the mouth of Gill Creek to the upstream end of the breakwater at the mouth of the Welland River.

(33 U.S.C. 1221, 33 U.S.C. 1223, 33 U.S.C. 1231; 49 CFR 1.46)

Dated: January 13, 1981.

W. E. Caldwell,

Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and Systems.

[FR Doc. 81-2473 Filed 1-23-81; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 55

[A-2; FRL 1731-2]

State and Federal Administrative Enforcement of Implementation Plan Requirements After Statutory Deadlines; Delayed Compliance Order for Atlantic City Electric Company, Pennsville, New Jersey

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: EPA hereby issues an Order under Section 113(d)(5) of the Clean Air Act, 42 U.S.C. § 7401 *et seq.* ("the Act"), allowing the Atlantic City Electric Company ("Atlantic Electric") to burn coal in Deepwater Generating Station Unit Number 8 in Pennsville, New Jersey and requiring compliance with air pollution requirements under the New Jersey State Implementation Plan by October 1, 1983. This Order is a part of the federally-approved New Jersey Implementation Plan. Compliance by Atlantic Electric with the Order will insulate it from further federal enforcement action under Section 113 of the Act and from citizen enforcement action under Section 304 of the Act for violations of the regulation covered by the Order during the period the Order is in effect.

DATES: This rule takes effect on January 26, 1981.

ADDRESSES: The Administrative Order and supporting materials are available for public inspection and copying (for appropriate charges) during normal business hours at: U.S. Environmental Protection Agency, Region II, General Enforcement Branch, Room 437, 26 Federal Plaza, New York, New York 10278.

FOR FURTHER INFORMATION CONTACT: Samuel P. Moulthrop, Esq., Enforcement Division, U.S. Environmental Protection Agency, Region II, 26 Federal Plaza, New York, New York 10278, (212) 264-1196.

SUPPLEMENTARY INFORMATION: On Thursday, November 6, 1980 the Regional Administrator of EPA's Region II published in the **Federal Register**, 45 FR 73699, a notice setting forth the provisions of a proposed administrative Order to the Atlantic City Electric Company ("Atlantic Electric") pursuant to Section 113(d)(5) of the Act. The notice solicited public comment and offered the opportunity to request a public hearing on the proposed Order.

Atlantic Electric owns and operates an electric generating station in Pennsville, New Jersey, known as the Deepwater Generating Station. The Order addresses particulate and smoke emissions from Unit Number 8 at the Deepwater Generating Station, which are subject to N.J.A.C. 7:27-3.1 *et seq.* and 7:27-4.1 *et seq.* The Order limits the emissions of particulate matter and the opacity of smoke emissions and is part of the federally-approved State Implementation Plan. The Order requires final compliance with the above-cited regulations by October 1, 1983 and the source has consented to its terms.

This Order will allow Atlantic Electric to convert Deepwater Unit Number 8 to the use of coal while it is installing air pollution control equipment which is capable of complying with the opacity and particulate emission limitations in the above-cited regulations. The Order contains interim emission reduction requirements, specifies emission limitations and coal pollutant characteristics, and requires monitoring and reporting of air quality and air pollutant emissions data. The Order satisfies the requirements of Section 113(d)(5) of the Act.

Section III, E of the Order establishes a limitation on the opacity of emissions from Deepwater Unit 8. Prior to proposal of the Order by EPA the New Jersey Department of Environmental Protection ("NJDEP") requested that this Order limit the opacity of emissions, as well as establish other emission and operating limitations, as a condition of issuing the Order to Atlantic Electric. EPA considered the NJDEP request to be appropriate and included an opacity provision. Section III, E, as proposed on November 6, 1980, has been modified by the addition of a new paragraph. The addition allows EPA to establish a more stringent opacity limitation in the event it determines, upon observation of actual operating conditions, that a more stringent limitation can be met and that it is reasonable and practicable to do so. Section III, E reflects the practical difficulty of establishing an opacity limitation for this unit prior to the conversion to coal by permitting some flexibility to modify the opacity limitation after the Order is issued. Other language, clarifying the procedures for altering the opacity limitation, has also been added to this Section. Both Atlantic Electric and the NJDEP have consented to Section III, E.

Comments were received from the South Jersey Gas Company and the Township of Pennsville, New Jersey. The South Jersey Gas Company commented that natural gas in sufficient quantities was available to Atlantic Electric in the event it did not burn coal at Deepwater Unit 8. However, this commentor did not argue that the DCO should not be issued. Section 113(d)(5) of the Act is intended to permit a source to convert to coal burning from the use of oil or natural gas. It does not contemplate denial of a DCO where an energy source other than coal is available. Such an interpretation would directly contradict the purpose of Section 113(d)(5). Consequently, EPA does not believe the availability of natural gas to be a relevant criteria to base approval or denial of this DCO.

The Township of Pennsville, New Jersey expressed concern about the increase in particulate emissions resulting from the coal conversion. EPA believes that the DCO adequately addresses particulate emissions and the impact of particulate emissions on ambient air quality. First, it should be noted that the increase in particulate emissions over present levels allowed by the State Implementation Plan ("SIP") will be temporary. Air pollution control equipment, required to be installed under the DCO, will be operational and in compliance with the SIP by October 1, 1983. In addition, interim requirements impose stringent conditions on the operation of Deepwater Unit 8. These interim requirements for particulate emissions, ash and sulfur content of coal, and maintenance will assure that particulate emission increases will be minimized. Furthermore, existing ambient air quality data and dispersion modelling analysis demonstrate that no national primary ambient air quality standard will be violated in the air quality control region in which the source is located. EPA finds that the requirements of Section 113(d)(5) have been satisfied.

Compliance by Atlantic Electric will preclude further federal enforcement action under Section 113 of the Act for violations of the regulations covered by the Order during the period the Order is in effect. Enforcement against the source under the citizen suit provisions of the Act (Section 304) will be similarly precluded.

In consideration of the foregoing, 40 CFR Chapter 1, is amended as follows:

1. By adding the following entry to the table in 40 CFR § 55.650:

Source	Location	Order No.	Date of FEDERAL REGISTER proposal	SIP regulation involved	Final compliance date
Atlantic City Electric Co.	Pennsville, N.J.	00109	Nov. 6, 1980	N.J.A.C. 7:27-3.1, *et seq.*; 7:27-4.1, *et seq.*	Oct. 1, 1983.

Dated: January 16, 1981.

Douglas M. Costle,

Administrator, Environmental Protection Agency.

The text of the order is set forth below. The order will not appear in the Code of Federal Regulations.

United States Environmental Protection Agency, Region II

Order

Index No. 00109.

In the Matter of Atlantic City Electric Company (Deepwater Unit 8).

Delayed Compliance Order

This order is issued pursuant to Subsection 113(d)(5) of the Clean Air Act (the "Act"), as amended, 42 U.S.C. § 7413(d). The order contains a schedule for compliance, interim requirements, monitoring and reporting requirements, and satisfies the other requirements of this Subsection of the Act. Public notice has been provided in accordance with Subsection 113(d)(1) of the Act, and a copy of this order has been provided to the Governor of the State of New Jersey.

Findings

The Atlantic City Electric Company ("the Company") owns and operates an electrical generating station, known as the Deepwater Station, located in Pennsville, New Jersey. The Station contains six generating units. On December 21, 1979, the Economic Regulatory Administration of the United States Department of Energy issued to the Company a proposed prohibition order affecting Unit 8 at the Deepwater Station ("Deepwater Unit 8"). See 45 FR 72–73 (January 2, 1980). This proposed prohibition order was issued pursuant to authority granted the Secretary of Energy under Subsection 301(b) of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8341(b), and regulations promulgated thereunder. When made final, this prohibition order will prohibit the Company from burning natural gas or petroleum as a primary energy source in Deepwater Unit 8.

If Deepwater Unit 8 were converted to burn coal before additional pollution abatement equipment is installed, it would no longer be in compliance with the following requirements in Chapter 27 of Title 7 of the New Jersey Administrative Code ("N.J.A.C."): (1) Subchapter 3, Control and Prohibition of Smoke from Combustion of Fuel, (N.J.A.C. 7:27–3.1 *et seq.*), and (2) Subchapter 4, Control and Prohibition of Solid Particles from Combustion of Fuel, (N.J.A.C. 7:27–4.1 *et seq.*), both as last amended on October 12, 1977. These requirements are part of the federally-approved New Jersey State Implementation Plan (the "New Jersey SIP").

On March 17, 1980, the Company formally requested that EPA issue on order permitting delayed compliance with the above-cited New Jersey SIP requirements by Deepwater Unit 8. Such an order would permit the Company to burn coal in Deepwater Unit 8 during the period in which new pollution control equipment is being installed on that unit without being subject to civil or criminal enforcement proceedings under the Act. Deepwater Unit 8 is located in the Metropolitan Philadelphia Interstate Air Quality Control Region. This air quality control region includes portions of the States of Delaware and New Jersey and portions of the Commonwealth of Pennsylvania. The national primary ambient air quality standard for particulate matter is not being exceeded in this air quality control region.

After a thorough investigation of the information obtained from all sources, including public comment, the Administrator of EPA has determined that the emission limitations, coal characteristics, and other enforceable measures contained in the order below satisfy the requirements of Subsection 113(d)(5)(B) of the Act. Further pursuant to Subsection 113(d)(5)(B), the Administrator has determined that compliance with the requirements of this order will assure that during the period of the order before final compliance is achieved, the burning of coal in Deepwater Unit 8 will not result in emissions that will cause or contribute to concentrations of any air pollutant in excess of any national primary ambient air quality standard for such pollutant.

Pursuant to Subsection 113(d)(6) of the Act, the Administrator has determined that the schedule for compliance set forth below is as expeditious as practicable.

Finally, pursuant to Subsection 113(d)(7) of the Act, the order provides that Deepwater Unit 8 shall use the best practicable system of continuous emissions reduction as determined by the Administrator taking into account the requirements with which the unit must ultimately comply, during the period of said order. In addition, the order provides that Deepwater Unit 8 shall comply with such interim requirements as the Administrator has determined are reasonable and practicable, including (1) such measures as are necessary for the unit to comply with the requirements of the New Jersey SIP insofar as it is able to do so, and (2) such measures as are necessary for the avoidance of imminent and substantial endangerment to health of persons. The Administrator has determined that Deepwater Unit 8 cannot achieve final compliance with the requirements of N.J.A.C. 7:27–3.1 *et seq.* and 7:27–4.1 *et seq.* prior to December 31, 1980 and consequently, pursuant to Subsection 113(d)(5)(A) of the Act, issues this order, which provides an additional period as specified by the terms of this order for the Company to come into compliance.

Order

Therefore, it is hereby ordered that:

I. The Company shall comply with the following schedule in order to bring emissions from Deepwater Unit 8 into compliance with N.J.A.C. 7:27–3.1 *et seq.* and 7:27–4.1 *et seq.*:

A. Not later than September 1, 1980 the Company shall enter into a contract with an architect and/or engineer for the design and installation of a new continuous particulate emission control system;

B. Not later than March 1, 1981 the Company shall enter into a contract for the acquisition of a new particulate control device;

C. Not later than November 1, 1981 the Company shall begin on-site construction or installation of such continuous particulate emission control system;

D. Not later than July 1, 1983 the Company shall complete on-site construction or installation of such system;

E. Not later than October 1, 1983 emissions from Deepwater Unit 8 shall be in full compliance with N.J.A.C. 7:27–3.1 *et seq.*, 7:27–4.1 *et seq.*, and 7:27–8.1 *et seq.*; and

F. Not later than October 1, 1983 the Company shall perform emission tests in accordance with the applicable testing method set for in N.J.A.C. 7:27B–1.1 *et seq.* (Air Test Method I), and submit reports of said tests to EPA.

II. With respect to the schedule increments set out in paragraph I, hereinabove, the Company shall notify the Director, Enforcement Division, EPA Region II within ten (10) days after each incremental requirement has been satisfied, or within ten (10) days after the final date set for achieving each such requirement if such requirement has not been achieved.

III. During the time period the ORDER is in effect, the Company's Deepwater Unit 8 shall comply with the following interim requirements:

A. The Company shall not commence burning of coal at Deepwater Unit 8 until such time as the existing dust collector on Deepwater Unit 8 is refurbished as designed to meet the interim particulate emission limitation as set forth in subparagraph C, *infra*, and such equipment, as refurbished, is operational;

B. Deepwater Unit 8 shall not burn coal with a monthly average ash content exceeding five and six-tenths (5.6) pounds of ash per million British Thermal Units (BTU);

C. Deepwater Unit 8 shall not emit in excess of 0.96 pounds of particulate matter per one million BTU gross heat input; compliance with this interim emission limitation will be determined by emissions tests conducted in accordance with Appendix A to 40 CFR Part 60 (1979);

D. The company shall comply with the limitation on the sulfur content of coal set forth in N.J.A.C. 7:27-10.2(c)(2) and shall not seek or obtain any variance, authorization, or other approval to burn coal with a higher sulfur content.

E. The Company shall comply with the following requirements concerning the opacity of emissions from Deepwater Unit 8:

1. Except for a period of six minutes in any consecutive thirty-minute period, the opacity of emissions from Deepwater Unit 8 shall not exceed 40%; provided, however, that this interim opacity limitation shall not become effective during the first seventy (70) days (exclusive of those days in which the unit is out of operation or does not burn coal) after Deepwater Unit 8 is converted to coal and returned to full power operation. If the Company determines that the Deepwater Unit 8 is unable to comply with this interim opacity limitation while burning coal, the Company may request EPA Region II to approve an interim opacity limitation greater than that provided herein. Should the Company make such a request, no enforcement action under the Act shall be brought against the Company or its officers, directors, or employees for any violation of this interim opacity limitation that occurs during the period after the date such request is submitted to EPA and before EPA takes final action in approving or denying such request by publishing appropriate notice in the **Federal Register**. EPA's action in approving or denying any such request shall be subject to review pursuant to § 307 of the Act.

2. In the event EPA Region II determines, after taking into account the opacity of emissions from Deepwater Unit 8 [as observed during representative meteorological and operating conditions] and other relevant factors, (1) that Deepwater Unit 8 is able to comply with an opacity limitation more stringent than the interim opacity limitation set forth in subparagraph E.1. while burning coal and (2) that it would be reasonable and practicable for Deepwater Unit 8 to comply with such more stringent interim opacity limitation, EPA Region II may establish such more stringent opacity limitation, which shall thereafter apply to Deepwater Unit 8 for so long as this ORDER remains in effect. Before establishing any new interim opacity limitation, however, EPA Region II shall notify the Company in writing of this proposed determination and shall provide the Company with an opportunity to submit written comments on that proposed determination. Any new interim opacity limitation established pursuant to this subparagraph shall become effective upon publication in the **Federal Register**. EPA's action in establishing any such new opacity limitation shall be subject to review pursuant to § 307 of the Act.

3. Notwithstanding the requirements of subparagraph E.1, if EPA Region II determines that meteorological conditions are such that the opacity of emissions from Deepwater Unit 8 interferes with vehicular traffic on the Delaware Memorial Bridge, or causes or contributes to a safety hazard on said Bridge, and EPA so notifies the Company, the Company shall reduce the opacity of emissions from Deepwater Unit 8 for so long as necessary to alleviate the interference or hazard.

F. The Company shall implement the following maintenance plan:

1. At least once per eight-hour shift, the Company shall (a) inspect the ash valves and valve actuators on the dust collector to see if they function properly and (b) inspect the fly ash hoppers for leakage. Should any such malfunction or leakage significantly impair the effectiveness of the air pollution control device, action to correct such malfunction or leakage shall be initiated within twenty-four (24) hours. The Company shall maintain records of inspections and of any corrective action taken.

2. During each boiler outage extending more than six (6) days, the Company shall inspect all cyclones, inlet vanes, tricones, and ash vacuum lines for structural integrity. Those components which exhibit excessive wear shall be replaced during the same boiler outage, if spare parts are available. If spare parts are not available, said components which exhibit excessive wear shall be replaced as soon thereafter as is practicable. In the event that spare components are not available, a report shall be filed with EPA Region II identifying those components which will be replaced and the scheduled replacement date. The Company shall maintain records of inspections and of any corrective action taken.

IV. The Company is not relieved by this ORDER from compliance with any requirement imposed by EPA, and/or the courts pursuant to Section 303 of the Act.

V. The period of effectiveness of this ORDER shall not include any period of time in which (1) a national ambient air quality standard for particulate matter is being exceeded in the Metropolitan Philadelphia Air Quality Control Region and (2) the EPA finds that the requirements of Section 113(d)(5)(D) (i) through (iii) are not satisfied. During such periods of time, if any, full compliance with standards and limitations of the New Jersey SIP (excluding this ORDER) shall be required by the Company and violations of said SIP shall be subject to enforcement action under Section 113 of the Act.

VI. The Company shall comply with the following monitoring, recordkeeping, and reporting requirements on or before the dates specified below.

A. Ambient Air Quality Monitoring

1. Within thirty (30) days after the effective date of the ORDER, the Company shall submit to EPA Region II a proposal which is satisfactory to EPA Region II for an ambient air quality monitoring network in the vicinity of Deepwater Unit 8 from which the Company will collect ambient air quality data. Said network shall include monitors capable of measuring total suspended particulate concentrations. The monitors must meet all EPA siting criteria and reference methods. The proposal shall specify sampling procedures.

2. Within one-hundred and twenty (120) days after the effective date of the order or thirty (30) days after Deepwater Unit 8 commences coal-fired operation, whichever date is later, the Company shall begin collecting data from the EPA approved network.

B. Emissions Testing

1. Within sixty (60) days (exclusive of those days during which Deepwater Unit 8 is out of operation or does not burn coal) after Deepwater Unit 8 is converted to coal and returned to full power operation, the Company shall perform tests of particulate emissions from Deepwater Unit 8. The Company shall provide written notice to EPA Region II at least twenty-five (25) days prior to the scheduled test date. The Company shall schedule a meeting to discuss testing protocol to be held at least thirty (30) days prior to the test. The Company shall provide EPA Region II with a summary of the test results within thirty (30) days after completion of such tests and a complete test report containing all information pertinent to the performance and results of said tests within sixty (60) days after completion of such tests.

2. No later than April 1, 1982 the Company shall perform additional tests of particulate emissions from Deepwater Unit 8. The Company shall provide EPA Region II with a summary of the test results within thirty (30) days after completion of such tests and a complete test report containing all information pertinent to the performance and results of such tests within sixty (60) days after completion of such tests.

3. EPA may require additional particulate emissions tests at such other times as it deems appropriate.

4. Interim emission tests and emission rate calculations required to be performed pursuant to this subparagraph shall be performed in accordance with Appendix A to 40 CFR Part 60.

C. Opacity Monitor

Within ninety (90) days after the effective date of this order the Company shall install and commence operation of an instrument which conforms with Performance Specification I in Appendix B to 40 CFR Part 60 (1979) and which continuously monitors the opacity of emissions from Deepwater Unit 8. Said monitor shall be operated during the period in which this order remains in effect.

D. Recordkeeping and Reporting

1. The Company shall keep monthly records both of air quality monitoring data from the EPA-approved monitoring network

and of particulate emissions from Deepwater Unit 8. The Company shall submit copies of these records to EPA Region II within twenty (20) days of the end of each calendar month.

2. The records of emissions shall detail daily emissions from Deepwater Unit 8 and shall at a minimum include:

a. An estimate of the amount of fuel consumed for each day of the preceding month;

b. An analysis of representative shipments of fuel to include sulfur content, high heating value and ash content;

c. Calculated daily particular emissions from Deepwater Unit 8 derived by use of emission test results adjusted for variations in fuel consumption and fuel analysis.

3. The strip chart recordings of the opacity readings from the monitor described in subparagraph VI.C., *supra*, shall be kept on file at the Deepwater Generating Station during the period this order is in effect and shall be available for inspection by EPA Region II during this period.

4. If the air quality monitoring data collected by the Company pursuant to subparagraph VI.A., *supra*, indicate that a national primary ambient air quality standard for particulates is being exceeded in the area, the Company shall notify the Director, Enforcement Division, EPA, Region II of such occurrence by telephone or letter or other means, within five (5) working days of the collection of such data.

5. Within ninety (90) days of the effective date of this order, the Company shall submit to EPA Region II for approval the methods, procedures, and devices by which the Company intends to obtain, record, and report the information required by subparagraph VI.D.2., *supra*.

VII. Force Majeure

A. If any event occurs which causes or may cause delays in the achievement of any provision of this order, the Company shall within twenty (20) days of the occurrence of such event, notify EPA Region II in writing of the delay or anticipated delay, as appropriate, describing the anticipated length of the delay, the precise cause or causes of the delay, the measures taken or to be taken to prevent or minimize the delay. The Company shall adopt all reasonable measures to prevent or minimize any such delay. Failure by the Company to comply with the notice requirements of this subparagraph shall render this paragraph void and of no effect as to the particular event involved.

B. If the Company is unable to comply with any deadline or time limit set forth in Paragraph I. or Subparagraphs VI.A., VI.B., or VI.C., *supra*, and such failure has been or will be caused by fire, flood, riot, strike, or other circumstances beyond the control of the Company, then said deadline or time limit shall be extended for a period no longer than the delay resulting from such circumstances.

C. The burden of proving that any delay is caused by circumstances beyond the control of the Company and the length of the delay attributable to such circumstances shall rest with the Company. Increased costs or expenses associated with the implementation of actions called for by this order shall not be considered circumstances beyond the control of the Company for purposes of this Paragraph. Delay in achievement of one deadline or time limit under this order shall not necessarily justify or excuse delay in achievement of subsequent deadlines or time limits under this order.

VIII. Nothing herein shall affect the responsibility of the Company to comply with state, local, or other federal law or regulations.

IX. The Company is hereby notified that its failure to achieve final compliance at Deepwater Unit 8 with N.J.A.C. 7:27–3.1 *et seq.*, 7:27–4.1 *et seq.*, and 7:27–8.1 *et seq.* by October 1, 1983, may result in a requirement to pay a noncompliance penalty under Section 120 of the Act. Such requirement may be imposed at an earlier date, as provided by Subsection 113(d) and Section 120 of the Act, either in the event that this order is terminated as provided in Paragraph X, *infra*, or in the event that any requirement of this order is violated as provided in Paragraph XI, *infra*. In any event, the Company will be formally notified of its noncompliance pursuant to Subsection 120(b)(3) and any regulations promulgated thereunder.

X. This order shall be terminated in accordance with Subsection 113(d)(8) of the Act if the Administrator or his designee determines on the record, after notice and hearing, that an inability of Deepwater Unit 8 to burn coal and comply with the N.J.A.C. 7:27–3.1 *et seq.* and 7:27–4.1 *et seq.* no longer exists.

XI. Violation of any requirement of this order may result in one or more of the following actions:

A. Enforcement of such requirement pursuant to Subsection 113 (a), (b), or (c) of the Act;

B. Revocation of this order, after notice and opportunity for a public hearing, and subsequent enforcement of the New Jersey SIP in accordance with the preceding subparagraph; or

C. Notice of noncompliance and subsequent action pursuant to Section 120 of the Act.

XII. This order is effective upon publication of final approval in the **Federal Register**.

Dated: January 16, 1981.

Douglas M. Costle,

Administrator, U.S. Environmental Protection Agency.

Consent

The undersigned, having full authority to represent the Atlantic City Electric Company, has read the foregoing order, and consents to both its issuance and its terms.

Dated: January 2, 1981.

E. H. Huggard,

Senior Vice President of Operations for Atlantic City Electric Company.

[FR Doc. 81–2838 Filed 1–23–81; 8:45 am]

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40 CFR Part 123

[FRL 1724–7]

Interim Authorization of State Hazardous Waste Programs

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of the content of components A and B of phase II interim authorization for State hazardous waste programs under RCRA.

SUMMARY: Elsewhere in today's Federal Register, EPA is promulgating amended regulations for granting Phase II Interim Authorization to State hazardous waste programs under Section 3006(c) of the Resource Conservation and Recovery Act (RCRA), as amended. These regulations are contained in 40 CFR 123 Subpart F. In these amended regulations EPA indicates that it will separately announce the effective date and content of each of the components of Phase II of interim authorization. This notice explains the content and effective date of the first and second components of Phase II Interim Authorization. The first component (Component A) corresponds to the Federal regulations for permitting the storage and treatment of hazardous waste in tanks, surface impoundments, and waste piles, and for permitting the use and management of containers of hazardous waste. The second component (Component B) corresponds to Federal regulations for permitting the treatment of hazardous waste in incinerators. States may commence the Phase II Component A and B Interim Authorization application process with this announcement.

FOR FURTHER INFORMATION CONTACT: Dr. John Skinner, Director, State Programs and Resource Recovery Division, 401 M St. SW., Washington, DC 20460 (202) 755–9107.

FOR FURTHER INFORMATION ON IMPLEMENTATION CONTACT: Region I, Dennis Huebner, Chief, Radiation, Waste Management Branch, John F. Kennedy Building, Boston, Massachusetts 02203 (617) 223–5777.

Region II, Dr. Ernest Regna, Chief, Solid Waste Branch, 26 Federal Plaza, New York, N.Y. 10007 (212) 264–0504/5

Region III, Robert L. Allen, Chief, Hazardous Materials Branch, 6th and Walnut Streets, Philadelphia, Pennsylvania 19106 (215) 597–0980

Region IV, James Scarbrough, Chief, Residuals Management Branch, 345 Courtland Street, N.E., Atlanta, Georgia 30365 (404) 881–3016

Region V, Karl J. Klepitsch, Jr., Chief, Waste Management Branch, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886–6148