reporting burden on the public, thus satisfying the requirment of the Paperwork Reduction Act of 1980.

List of Subjects in 15 CFR Part 30

Economic Statistics, Foreign Trade, Reporting and recordkeeping requirements.

Amendment to the Regulations:

The Foreign trade Statistics Regulations (15 CFR Part 30) are amended as set forth below:

PART 30—FOREIGN TRADE STATISTICS

Section 30.91(e) is hereby amended by inserting the words "or delegate" between the fifth and sixth words of the initial sentence. This sentence is further revised by removing the words "he deems" and substituting the word "deemed." Section 30.91 is amended by revising the first sentence of paragraph (e) to read as follows:

§ 30.91 Confidential information, Shipper's Export Declarations.

* * * * *

(e) *Determination by the Secretary of Commerce.* When the Secretary of Commerce or delegate determines that the withholding of information provided by an individual Shipper's Export Declaration is contrary to the national interest, the Secretary or delegate may make such information available, taking such safeguards and precautions to limit dissemination as deemed appropriate under the circumstances.

* * * * *

(Title 13, United States Code, sec. 302; and Title 5, United States Code, sec. 301; Reorg. Plan No. 5 of 1950, Department of Commerce Organization Order No. 35–2A, August 4, 1975, 40 FR 42765)

C.L. Kincannon,

Acting Director Bureau of the Census.

J. M. Walker, Jr.

Assistant Secretary, Department of the Treasury.

October 31, 1983.

[FR Doc. 83-31199 Filed 11-21-83; 8:45 am]

BILLING CODE 3510-07-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 15, 17, and 18

Large Trader Reports: Rule Amendments

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rules.

SUMMARY: The Commodity Futures Trading Commission ("Commission") has found that because of reductions in open interest and account sizes of individual traders in silver bullion futures since 1979, the Commission no longer receives a satisfactory level of large trader information at all times for adequate market surveillance. Accordingly, the Commission is amending § 15.03(a) to lower the reporting level in silver from 250 contracts in any one future on any one contract market to 100 contracts.

The Commission is also making technical amendments to §§ 15.03(a), 17.00 and 18.04. The amendments to § 15.03(a) remove reference to reporting levels for futures contracts which have not traded for an extended period of time and which are dormant within the meaning of Commission § 5.2. The amendment to § 17.00 makes clear that omnibus accounts are to be reported on a gross basis. Section 18.04 is amended to remove reference to paragraph (e) which no longer exists.

EFFECTIVE DATE: December 22, 1983.

FOR FURTHER INFORMATION CONTACT: Lamont L. Reese, Associate Director, Market Surviellance Section, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 25081, 202/254–3310.

SUPPLEMENTARY INFORMATION: On July 18, 1983, the Commission published in the **Federal Register** a proposed amendment that would lower the reporting levels in silver bullion futures from 250 contracts to 100 contracts. 48 FR 32603 (July 18, 1983). Generally, Parts 17 and 18 of the regulations require reports from members of contract markets, FCMs, foreign brokers and traders when a trader holds a reportable position.[1]

The Commission received three comment letters concerning the proposed amendments. The Chicago Board of Trade (CBT) and the Commodity Exchange Inc. (Comex), both of which are contract markets for silver bullion futures, opposed the adoption of the amendment. The Silver Users Association urged the Commission to adopt the amendment.

Both exchanges cited recent renewed growth in their silver futures contracts as evidence that reporting levels need not be reduced. One exchange believed that the Commission and the exchanges' current surveillance systems were adequate and, therefore, the added burden imposed by lowering the reporting level was not justified. In addition, one exchange objected to the fact that the new reporting level would apply equally to both contracts currently traded on the exchanges even though one contract was one-fifth the size of the other.[2] The exchange argued that reporting levels for the smaller contract should be higher, claiming that constant reporting levels for all silver futures contracts is "* * * inequitable and based on vague and unsubstantiated arguments related to surveillance."

The Silver Users Association expressed concern that overall report coverage may still not be adequate since the proposed reporting level applied to positions on only one contract market (as opposed to the combined positions of a trader on all contract markets). Nevertheless, the Association believed the change was a move in the proper direction and strongly supported the proposed amendment.

As noted by one commentator, open interest in silver on both exchanges has increased since May 31, 1983, from 54,000 contracts to about 88,000 contracts. This is still considerably below contract level on both exchanges which in the first instance prompted the Commission to raise levels to 250 contracts.

Moreover, during the period from May 1983 through September 1983, the number of traders about whom the Commission receives information has increased by only one, from 53 to 54, and the total open positions reported to the Commission has remained relatively constant. The Commission has also seen no appreciable increase in the number of reportable traders in the delivery month. This tends to highlight the Commission's current concerns wherein large scale changes in activity in the silver market, such as this increase in open interest, can occur under existing reporting rules with little or no information on this activity available from its routine reports.

With respect to higher reporting levels for smaller contracts, the Commission cannot agree with the commentator. In conducting general surveillance on a single market, a frequent concern of the Commission is the size of a trader's position or position change relative to other positions on the same market. In addition, for markets such as silver reporting levels set independent of contract size provide clear benefits to the Commission in surveillance of maturing futures. For surveillance of

[1] A trader's position is reportable when the open contracts held or controlled by the trader in any one future of a commodity on any one contract market at the close of business on any business day equal or exceed the quantities fixed by the Commission in Rule 15.03(a). 17 CFR 15.00(b) 1982.

[2] Currently, silver futures contracts traded on the CBT are in 1,000 troy ounce units while those on Comex are 5,000 troy ounce units.

maturing futures, the Commission must consider all contracts traded on the same commodity, particularly contracts that may draw upon the same deliverable supply such as the silver contracts traded on the CBT and Comex. In such instances the Commission is interested in the relative positions of a trader on both markets.[3]

The Commission has also carefully considered the increased reporting burden it may be imposing on the traders who, although relatively large, are currently not required to report. It estimates that the proposed reporting level of 100 contracts in silver futures will currently result in less than 100 traders having reportable positions. The Commission believes that this is a minimal burden on the reporting public which is consistent with Commission goals for obtaining adequate surveillance information. The Commission will, of course, review the amount of information it receives at the new reporting levels and, if necessary, adjust the levels accordingly.[4]

In view of the above, the Commission is adopting its proposed amendments to § 15.03(a) which lowers the reporting levels in silver bullion futures from 250 contracts to 100 contracts.[5] The Commission received no public comments on the technical amendments to Rules 17.00 and 18.04. In view of this, it is adopting these amendments as proposed.

[3] When two or more markets trade futures on the same underlying commodity, traders frequently carry positions on more than one of the markets. In addition to reasons stated above for constant reporting levels on all markets trading the same commodity, such levels may simplify reporting for traders and FCMs.

[4] The Commission routinely reviews the information it receives and acts to adjust reporting levels consistent with its needs. For example, effective July 25, 1983, the Commission raised reporting levels in a number of commodities thereby reducing the reporting burden on the public for large trader reports by about 20 percent. 48 FR 32554 (July 18, 1983).

[5] At this time, the Commission is also making technical amendments to Rule 15.03(a) by removing reference to contracts which have been dormant within the meaning of Commission Rule 5.2 and have not traded over an extended period of time. These include rye, barley and flaxseed. Due to the technical nature of these changes, the Commission finds that the notice and comment procedures envisioned under the Administrative Procedure Act, 5 U.S.C. 553, are not necessary. With respect to the Regulatory Flexibility Act ("RFA"), Pub. L. 96-354, 94 Stat. 1165 (5 U.S.C. 601(2)), a prior general notice of proposed rulemaking has not been published. Therefore, these technical amendments are not "rules" as that term is defined in Section 3(a) of the RFA. And even if they were subject to the requirements of the RFA, the action would have no impact on small entities since the contracts are dormant.

The Regulatory Flexibility Act

The Regulatory Flexibility Act ("RFA") [6] requires that agencies, in proposing rules, consider the impact of those rules on small business. These amendments affect large traders, futures commission merchants and other similar entities. The Commission has defined "small entities" as used by the Commission in evaluating the impact of its rule in accordance with the RFA. 47 FR 18618-18621 (April 30, 1982).

Pursuant to Section 3(a) of the RFA (5 U.S.C. 605(b)), the Chairman-Designate, on behalf of the Commission, certified in its July 18, 1983, **Federal Register** notice that this proposed rule would not have a significant economic impact on a substantial number of small entities. The Commission invited comments from any person who believed that the proposed rules would have a significant economic impact upon its operations. No comments were received.

Paperwork Reduction Act

Pursuant to the provisions of the Paperwork Reduction Act of 1980, the Ofice of Management and Budget has assigned for use through September 30, 1984, control number 3038-0009 to the regulations which appear herein, the series '01 reports and Forms 103, 40 and 102.

Interested members of the public may obtain a complete copy of the information collection relating to the rules contained herein by contacting Joseph Salazar at (202) 254-9735.

List of Subjects

17 CFR Parts 15 and 17

Brokers, Commodity futures, Reporting and recordkeeping requirements.

17 CFR Part 18

Commodity futures, Reporting and recordkeeping reqirements.

In the consideration of the foregoing and pursuant to its authority under Sections 4g, 4i, 5(b) and 8a(5) of the Commodity Exchange Act, 7 U.S.C Sections 6(g), 6(i), 7(b) and 12a(5) as amended by the Futures Trading Act of 1982, Pub. L. No. 97-444, 96 Stat. 2294 (1983), the Commission is amending Parts 15, 17 and 18 of Chapter I of Title 17 of the Code of Federal Regulations as follows:

PART 15—REPORTS—GENERAL PROVISIONS

1. Section 15.03(a) is amended by removing reference to barley, rye and flaxseed and by changing the reporting levels in silver from 250 contracts to 100 contracts. As revised, paragraph (a) of § 15.03 is set forth below.

§ 15.03 Quantities fixed for reporting.

(a) The quantities for the purpose of reports filed under Parts 17 and 18 of this chapter are as follows:

Commodity	Quantity
Wheat (bushels)	500,000
Corn (bushels)	500,000
Soybeans (bushels)	500,000
Oats (bushels)	200,000
Cotton (bales)	5,000
Soybean Oil (contracts)	100
Soybean Meal (contracts)	100
Live Cattle (contracts)	100
Hogs (contracts)	50
Sugar (contracts)	100
Copper (contracts)	100
Gold (contracts)	200
Silver Bullion (contracts)	100
Silver Coins (contracts)	50
#2 Heating Oil (contracts)	50
Long-term U.S. Treasury Bonds (contracts)	350
GNMA (contracts)	100
Three-month (13-week) U.S. Treasury Bills (contracts)	50
Long-term U.S. Treasury Notes (contracts)	50
Domestic Certificates of Deposit (contracts)	50
Three-Month Eurodollar Time Deposit Rates (contracts)	50
Foreign Currencies (contracts)	100
Standard and Poor's 500 Stock Price Index (contracts)	100
New York Stock Exchange Composite Index (contracts)	100
All Other Commodities (contracts)	25

PART 17—REPORTS BY FUTURES COMMISSION MERCHANTS, MEMBERS OF CONTRACT MARKETS AND FOREIGN BROKERS

2. Section 17.00 is amended by adding a new paragraph (e)(4) as follows. For the convenience of the reader, the introductory text of paragraph (e) is set forth below.

§ 17.00 Information to be furnished by futures commission merchants, clearing members and foreign brokers.

* * * * *

(e) Gross positions. In the following cases, the futures commission merchant, clearing member or foreign broker shall report gross long and short positions in each future of a commodity in all special accounts:

* * * * *

(4) Positions in omnibus accounts.

* * * * *

PART 18—REPORTS BY TRADERS

4. The introductory text of § 18.04 is amended by removing reference to paragraph (e) as follows. As revised, the introductory text of § 18.04 is set forth below.

[6] 5 U.S.C. 601 *et seq.*

§ 18.04 Statement of reporting trader.

Every trader who holds or controls a reportable position shall file with the Commission a "Statement of reporting trader" on Form 40. Each trader shall file an initial Form 40 at such time as the Commission directs, but not later than the tenth business day following the date the trader assumes the reportable position. Subsequent filings shall be made at the time specified in paragraph (d) of this section. In addition, every trader who holds or controls a reportable option position, as set forth in § 15.00(b)(2)(ii) of this chapter, shall within one business day after a special call upon such trader by the Commission or its designee file a "Statement of Reporting Trader" with respect to such option positions. All traders shall complete Part A of the Form 40 and, in addition, shall complete:

Part B—If the trader is an individual, a partnership or a joint tenant.

Part C—If the trader is a corporation or type of trader other then an individual, partnership, or joint tenant.

* * * * *

Issued in Washington, D.C., on November 15, 1983, by the Commission.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 83-31229 Filed 11-21-83; 8:45 am]

BILLING CODE 6351-01-M

PANAMA CANAL COMMISSION

35 CFR Part 111

Revised Shipping and Navigation Rules for the Panama Canal

AGENCY: Panama Canal Commission.

ACTION: Final rule.

SUMMARY: In an effort to standardize the rules for the prevention of collisions and in keeping with the international character of the Panama Canal, the Panama Canal Commission is today approving revisions to the Rules for the Prevention of Collisions for the Panama Canal. These revised rules use the International Regulations for Preventing Collisions at Sea as a model, supplemented by rules of particular application in the Panama Canal.

EFFECTIVE DATE: December 22, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Rhode, Jr., Secretary, Panama Canal Commission, (202) 724-0104, or Mr. John L. Haines, Jr., General Counsel, Panama Canal Commission, telephone in Balboa Heights, Republic of Panama, 52-7511.

SUPPLEMENTARY INFORMATION: On August 8, 1983, a notice of proposed rulemaking was published in the **Federal Register** (48 FR 35905) setting forth revised rules for the prevention of collisions for the Panama Canal.

Interested parties were given the opportunity to submit comments by September 19, 1983. During that time period, varous comments were received by the agency regarding apparent discrepancies in the proposed rules dealing with the lights and shapes prescribed for vessels engaged in diving operations, § 111.27(f) and §§ 111.27(e) and 111.38. These conflicts have been remedied in the final rule. Specifically, it was pointed out that § 111.27(f) differs from Rule 27(f) of the 72 COLREGS in that the proposed rule would release all vessels of less than 12 meters in length from the requirement of exhibiting the lights or shapes provided for in the rule. This problem, which occurred due to an inadvertent omission, is corrected by inserting the words "except those engaged in diving operations" into the rule, so that § 111.27(f) reads as follows: "Vessels of less than 12 meters in length, except those engaged in diving operations, shall not be required to exhibit the lights and shapes prescribed in the section."

The remaining comments received pertained to an unintentional conflict between §§ 111.27(e) and 111.38 in that both sections prescribe differing lights or signals for vessels engaged in diving operations. In order to resolve the problem, § 111.27(e) is reworded to read as follows: "Whenever the size of a vessel engaged in diving operations makes it impractical to exhibit all lights and shapes prescribed by paragraph (d) of this section, the lights and shapes prescribed by § 111.38 shall be exhibited." In addition to the foregoing changes, corrections of minor typographical errors have been made to the text. The substantive changes hereby adopted by this document are as follows:

Section 111.1 (Rule 1) is a general provision which defines the application of the rules and derives from 35 CFR 111.1. The lookout requirement contained in proposed § 111.5 (Rule 5) follows 35 CFR 111.206 which is a slight variation of the corresponding 72 COLREGS provision. Section 111.7 (Rule 7), paragraph (b) deletes the specific requirement in the 72 COLREGS for the use of long-range radar scanning and radar plotting. Section 111.9 (Rule 9), paragraphs (d) and (e) follow the Unified Inland Rules. Rule 10 in the 72 COLREGS governs traffic separation schemes. As there are no such schemes currently in effect in the Panama Canal, this rule has been reserved. Section 111.26 (Rule 26) in essence prohibits commercial fishing in the navigable waters of the Canal. Consequently, references to fishing vessels in other provisions have also been deleted. Section 111.28 (Rule 28), which in the 72 COLREGS prescribes the light signals for vessels constrained by their draft, has been reserved, following the Unified Inland Rules. Similarly, the references to vessels constrained by their draft in Rules 3, 18 and 35 of the 72 COLREGS are not incorporated in §§ 111.3, 111.18 and 111.35. The maneuvering and warning whistle signals provided in § 111.34 (Rule 34), paragraphs (a) through (g), follow essentially the corresponding Unified Inland Rules provisions which are more appropriate for channel navigation than the equivalent 72 COLREGS provisions. However, the bend signals prescribed by Rule 34(e) of the 72 COLREGS and by the Unified Inland Rules, have not been incorporated in this revision inasmuch as bend signals are not used locally and are considered unnecessary. The exemption provisions contained in Rule 38 of the 72 COLREGS have been deleted. In their place, § 111.38 (Rule 38) follows the existing 35 CFR 111.204 governing diving operations. There are other minor departures from the 72 COLREGS in the rules, such as the deletion of references to falling snow and sandstorms in § 111.3 (Rule 3), paragraph (1) and to minesweeping operations in § 111.27 (Rule 27), paragraph (b).

Rules of particular application to the Panama Canal which have been incorporated throughout the text include the following: Section 111.3 (Rule 3), paragraph (1) follows 35 CFR 111.163(b); Section 111.6 (Rule 6), paragraphs (c), (d) and (f) follow 35 CFR 111.162 (a), (b) and (c), respectively, paragraph (e) is a new provision, and paragraph (g) follows essentially 35 CFR 111.162(d) and 111.162(a); Section 111.8 (Rule 8), paragraph (f) follows essentially 35 CFR 111.145(d); Section 111.9 (Rule 9), paragraph (h) follows 35 CFR 111.146; Section 111.13 (Rule 13), paragraphs (a) and (e) follow 35 CFR 111.150 (a) and (e), respectively; Section 111.14 (Rule 14), paragraph (d) follows 35 CFR 111.151; Section 111.18 (Rule 18), paragraph (d) follows 35 CFR 111.152; Section 111.19 (Rule 19), paragraph (f) follows 35 CFR 111.161 (d) and (e); Section 111.23 (Rule 23), paragraph (d) follows 35 CFR 111.46; Section 111.30 (Rule 30), paragraph (g) follows 35 CFR 111.58(d); Section 111.34 (Rule 34), paragraph (h) follows 35 CFR 111.157; Section 111.36 (Rule 36), paragraph (b) follows 35 CFR 111.65; Section 111.38 (Rule 38) follows 35 CFR 111.203; Section 111.39 (Rule 39) follows

35 CFR 111.204; Section 111.40 (Rule 40) follows 35 CFR 111.205; and, Section 111.41 (Rule 41) follows essentially 35 CFR 111.48, except that pipelines will be marked at night with amber lights.

The Commission has determined that this rule does not constitute a major rule within the meaning of Executive Order 12291 dated February 17, 1981 (47 FR 13193). The bases for that determination are, first, that the rule, when implemented would not have an annual effect on the economy of $100 million or more per year, and secondly, that the rule would not result in a major increase in costs or prices for consumers, individual industries, local governmental agencies or geographic regions. Further, the agency has determined that implementation of the rule would not have a significant adverse effect on competition, employment, investment, productivity, innovation or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Finally, the Commission has determined that this rule is not subject to the requirements of Sections 603 and 604 of Title 5, United States Code, in that its promulgation will not have a significant impact on a substantial number of small entities, and the Administrator of the Commission so certifies pursuant to 5 U.S.C. 605(b).

List of Subjects in 35 CFR Part 111

Vessels, Anchorage grounds, Harbors, Marine safety, Maritime carriers, Navigation (Water).

Accordingly, under the authority vested in the President by Sec. 1801, Pub. L. 96-70, 93 Stat. 492 (22 U.S.C. 3811) and E.O. 12215, 45 FR 36043, it is proposed to revise 35 CFR Part 111 as follows:

PART 111—RULES FOR THE PREVENTION OF COLLISIONS

Subpart A—General

Sec.

Subpart B—Steering and Sailing Rules

Conduct of Vessels in Any Condition of Visibility

Conduct of Vessels in Sight of One Another

Sec.

Conduct of Vessels In Restricted Visibility

Subpart C—Lights and Shapes

Subpart D—Sound and Light Signals

Subpart E—Miscellaneous

Authority: Issued under authority vested in the President by § 1801, Pub. L. 96-70, 93 Stat. 492 (22 U.S.C. 3811); EO 12215, 45 FR 36043.

Subpart A—General

§ 111.1 Application (Rule 1).

The provisions of this Part incorporate most of the Rules of the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS) and the maneuvering and warning whistle signals of the Inland Navigational Rules Act of 1980, supplemented by rules of particular application in the Panama Canal and shall be applicable to vessels and seaplanes upon the navigable waters of the Canal operating areas, as the same are described in Annex A of the Agreement in Implementation of Article III of the Panama Canal Treaty of 1977, and as they are depicted on Attachment 1 to that Annex, between a line connecting the East Breakwater Light and West Breakwater Light at the Altantic Entrance to the Canal in Limon Bay and a line passing through Channel Buoys 1 and 2 extended to the Canal boundary lines at the Pacific Entrance in Panama Bay, and in the Ports of Balboa and Cristobal. Where any naval or military vessel of special construction as certified by the Secretary of the Navy or the Secretary of Transportation in the case of Coast Guard vessels operating under the Transportation Department, or by a corresponding official of a state, other than the United States, shall by virtue of statute, convention or treaty, be exempted from compliance with the International Rules (72 COLREGS), such vessel shall similarly be exempted from compliance with any corresponding requirement under the provisions of this Part.

§ 111.2 Responsibility (Rule 2).

(a) Nothing in this Part shall exonerate any vessel, or the owner, master or crew thereof, from the consequences of any neglect to comply with these Rules or of the neglect of any precaution which may be required by the ordinary practice of seamen, or by the special circumstances of the case.

(b) In construing and complying with this Part due regard shall be had to all dangers of navigation and collision and to any special circumstance, including the limitations of the vessels involved, which may make a departure from this Part necessary to avoid immediate danger.

§ 111.3 General Definitions (Rule 3).

For the purpose of this Part, except where the context otherwise requires:

(a) The word "vessel" includes every description of water craft, including nondisplacement craft and seaplanes, used or capable of being used as a means of transportation on water.

(b) The term "power-driven vessel" means any vessel propelled by machinery.

(c) The term "sailing vessel" means any vessel under sail provided that propelling machinery, if fitted, is not being used.

(d) The term "vessel engaged in fishing" means any vessel fishing with nets, lines, trawls or other fishing apparatus which restrict maneuverability, but does not include a vessel fishing with trolling lines or other fishing apparatus which do not restrict maneuverability.

(e) The word "seaplane" includes any aircraft designed to maneuver on the water.

(f) The term "vessel not under command" means a vessel which

through some exceptional circumstance is unable to maneuver as required by this Part and is therefore unable to keep out of the way of another vessel.

(g) The term "vessel restricted in her ability to maneuver" means a vessel which from the nature of her work is restricted in her ability to maneuver as required by this Part and is therefore unable to keep out of the way of another vessel. The term "vessels restricted in their ability to manuever" shall include but not be limited to:

(1) A vessel engaged in laying, servicing or picking up a navigation mark, submarine cable or pipeline;

(2) A vessel engaged in dredging, surveying or underwater operations;

(3) A vessel engaged in a towing operation such as severely restricts the towing vessel and her tow in their ability to deviate from their course.

(h) The word "under way" means that a vessel is not at anchor, or made fast to the shore, or aground.

(i) The words "length" and "breadth" of a vessel means her length overall and greatest breadth.

(j) Vessels shall be deemed to be in sight of one another only when one can be observed visually from the other.

(k) The term "restricted visibility" means any condition in which visibility is restricted by fog, mist, heavy rainstorms or any other similar causes.

(l) A "motorboat" means a power-driven vessel no more than 20 meters in length as measured from end to end over the deck.

Subpart B—Steering and Sailing Rules

Conduct of Vessels in Any Condition of Visibility

§ 111.4 Application (Rule 4).

Sections 111.5 through 111.10 apply in any condition of visibility.

§ 111.5 Lookout (Rule 5).

Every vessel shall at all times while under way in the Canal and adjacent waters maintain a proper lookout by sight and hearing as well as by all available means appropriate in the prevailing circumstances and conditions so as to make a full appraisal of the situation and of the risk of collision. The person acting as lookout shall have no other assigned duties and shall report promptly all relevant and material information to the person in charge of the navigation of the vessel.

§ 111.6 Safe Speed (Rule 6).

Every vessel shall at all times proceed at a safe speed so that she can take proper and effective action to avoid collision and be stopped within a distance appropriate to the prevailing circumstances and conditions. In determining a safe speed the following factors shall be among those taken into account:

(a) By all vessels:

(1) The state of visibility;

(2) The traffic density including concentrations of small craft or any other vessels;

(3) The maneuverability of the vessel with special reference to stopping distance and turning ability in the prevailing conditions;

(4) At night the presence of background light such as from shore lights or from back scatter of her own lights;

(5) The state of wind, sea and current, and the proximity of navigational hazards;

(6) The draft in relation to the available depth of water.

(b) Additionally, by vessels with operational radar:

(1) The characteristics, efficiency and limitations of the radar equipment;

(2) Any constraints imposed by the radar range scale in use;

(3) The effect on radar detection of the sea state, weather and other sources of interference;

(4) The possibility that small vessels and other floating objects may not be detected by radar at an adequate range;

(5) The number, location and movement of vessels detected by radar;

(6) The more exact assessment of the visibility that may be possible when radar is used to determine the range of vessel or other objects in the vicinity.

(c) A vessel shall not exceed the speeds designated below, except in an emergency:

	Knots
Atlantic entrance to Gatun Locks	12
Gatun Lake in a 1,000-ft. channel	18
Gatun Lake in a 800-ft. channel	15
Gatun Lake in a 650-ft. channel	12
When rounding Buoy No. 17 in Gatun Reach northbound	10
Gaillard Cut, in the straight reaches	8
Gamboa: When passing reserve fleet basin, concrete dock, or floating crane berth; and when entering Gaillard Cut	6
When using a tug astern	6
Miraflores Locks to Buoy No. 14	6
Buoy No. 14 to Pacific entrance	12

(d) A vessel in Panama Canal waters at locations other than those specified in paragraph (c) of this section, including Gatun Anchorage, Bohio Bend, Mamei Curve, Miraflores Lake, and in or near the locks, shall not exceed a speed that is safe under the existing circumstances and conditions, except in an emergency.

(e) Whenever a vessel is maneuvering in an area where paragraph (c) of this section limits the speed to 6 knots, and the vessel's speed at dead slow ahead exceeds 6 knots, she is permitted to proceed at the slowest speed possible required to safely maintain manueverability.

(f) The Chief, Navigation Division may authorize departures from the maximum speeds established by paragraph (c) of this section in the case of particular vessels whose handling characteristics are such as to indicate that a higher speed or speeds can be prudently allowed.

(g) Paragraph (c) of this section does not apply to motorboats or to vessels of the Panama Canal Commission. Nevertheless, motorboats and vessels of the Panama Canal Commission when underway shall proceed at a speed which is reasonable under the circumstances and conditions and which does not create a hazard to life or property.

§ 111.7 Risk of Collision (Rule 7).

(a) Every vessel shall use all available means appropriate to the prevailing circumstances and conditions to determine if risk of collision exists. If there is any doubt, such risk shall be deemed to exist.

(b) Proper use shall be made of radar equipment if fitted and operational.

(c) Assumptions shall not be made on the basis of scanty information, especially scanty radar information.

(d) In determining if risk of collision exists the following considerations shall be among those taken into account:

(1) Such risk shall be deemed to exist if the compass bearing of an approaching vessel does not appreciably change;

(2) Such risk may sometimes exist even when an appreciable bearing change is evident, particularly when approaching a very large vessel or a tow or when approaching a vessel at close range.

§ 111.8 Action to Avoid Collision (Rule 8).

(a) Any action taken to avoid collision shall, if the circumstances of the case admit, be positive, made in ample time and with due regard to the observance of good seamanship.

(b) Any alteration of course or speed to avoid collision shall, if the circumstances of the case admit, be large enough to be readily apparent to another vessel observing visually or by radar; a succession of small alterations of course or speed should be avoided.

(c) If there is sufficient sea room, alteration of course alone may be the most effective action to avoid a close-quarters situation provided that it is made in good time, is substantial and

does not result in another close-quarters situation.

(d) Action taken to avoid collision with another vessel shall be such as to result in passing at a safe distance. The effectiveness of the action shall be carefully checked until the other vessel is finally past and clear.

(e) If necessary to avoid collision or allow more time to assess the situation, a vessel shall slacken her speed or take all way off by stopping or reversing her means of propulsion.

(f) When two vessels are proceeding in such directions as to involve risk of collision, a power-driven vessel or sailing vessel or motorboat that is entering or preparing to enter the main channel of the Canal from either side shall not cross the bow of a vessel proceeding in either direction along the Canal axis and shall keep clear until the vessel proceeding along the Canal axis has passed.

§ 111.9 Narrow Channels (Rule 9).

(a) A vessel proceeding along the course of a narrow channel or fairway shall keep as near to the outer limit of the channel or fairway which lies on her starboard side as is safe and practicable.

(b) A vessel of less than 20 meters in length or a sailing vessel shall not impede the passage of a vessel which can safely navigate only within a narrow channel or fairway.

(c) A vessel engaged in fishing shall not impede the passage of any other vessel navigating within a narrow channel or fairway.

(d) A vessel shall not cross a narrow channel or fairway if such crossing impedes the passage of a vessel which can safely navigate only within such channel or fairway. The latter vessel shall use the danger signal prescribed in § 111.34(d) (Rule 34(d)) if in doubt as to the intention of the crossing vessel.

(e) (1) In a narrow channel or fairway when overtaking, the vessel intending to overtake shall indicate her intention by sounding the appropriate signal prescribed in § 111.34(c) (Rule 34(c)). The overtaken vessel, if in agreement, shall sound the same signal. If in doubt she shall sound the danger signal prescribed in § 111.34(d) (Rule 34(d)).

(2) This section does not relieve the overtaking vessel of her obligation under § 111.13 (Rule 13).

(f) A vessel nearing a bend or an area of a narrow channel or fairway where other vessels may be obscured by an intervening obstruction shall navigate with particular alertness and caution.

(g) Any vessel shall, if the circumstances of the case admit, avoid anchoring in a narrow channel.

(h) When two power-driven vessels are meeting end on, or nearly end on, in the Canal in the vicinity of an obstruction, e.g., a dredge, drill barge, slide, etc., the vessel whose side of the Canal is clear shall have the right-of-way and the other vessel shall hold back and keep out of the way until the privileged vessel is clear.

§ 111.10 [Reserved] (Rule 10).

Conduct of Vessels in Sight of One Another

§ 111.11 Application (Rule 11).

Sections 111.12 through 111.18 apply to vessels in sight of one another.

§ 111.12 Sailing Vessels (Rule 12).

(a) When two sailing vessels are approaching one another, so as to involve risk of collision, one of them shall keep out of the way of the other as follows:

(1) When each has the wind on a different side, the vessel which has the wind on the port side shall keep out of the way of the other;

(2) When both have the wind on the same side, the vessel which is to windward shall keep out of the way of the vessel which is to leeward;

(3) If a vessel with the wind on the port side sees a vessel to windward and cannot determine with certainty whether the other vessel has the wind on the port or on the starboard side, she shall keep out of the way of the other.

(b) For the purpose of this section the windward side shall be deemed to be the side opposite to that on which the mainsail is carried or, in the case of a square-rigged vessel, the side opposite to that on which the largest fore-and-aft sail is carried.

§ 111.13 Overtaking (Rule 13).

(a) Notwithstanding anything contained in sections 111.4 through 111.18, any vessel overtaking any other shall keep out of the way of the overtaken vessel, except that within the Canal channel all pleasure vessels and craft, even though they are an overtaken vessel, shall keep out of the way of transiting vessels and Panama Canal Commission floating equipment.

(b) A vessel shall be deemed to be overtaking when coming up with another vessel from a direction more than 22.5 degrees abaft her beam, that is, in such a position with reference to the vessel she is overtaking, that at night she would be able to see only the sternlight of that vessel but neither of her sidelights.

(c) When a vessel is in any doubt as to whether she is overtaking another, she shall assume that this is the case and act accordingly.

(d) Any subsequent alteration of the bearing between the two vessels shall not make the overtaking vessel a crossing vessel within the meaning of this Part or relieve her of the duty of keeping clear of the overtaken vessel until she is finally past and clear.

(e) Except as specially authorized by the Chief, Navigation Division or his designee, an overtaking power-driven vessel shall not overtake and pass another power-driven vessel in Gaillard Cut, Mamei Curve or Bohio Bend between buoys 38 and 40: *Provided, however,* That this paragraph shall not apply where either the overtaking or the overtaken vessel is less than 150 feet in length or is a Panama Canal Commission power-driven vessel or a U.S. Army or U.S. Navy local tug, with or without a tow.

§ 111.14 Head-on Situation (Rule 14).

(a) When two power-driven vessels are meeting on reciprocal or nearly reciprocal courses so as to involve risk of collision each shall alter her course to starboard so that each shall pass on the port side of the other.

(b) Such a situation shall be deemed to exist when a vessel sees the other ahead or nearly ahead and by night she could see the masthead lights of the other in a line or nearly in a line or both sidelights and by day she observes the corresponding aspect of the other vessel.

(c) When a vessel is in any doubt as to whether such a situation exists she shall assume that it does exist and act accordingly.

(d) In the Canal channel every power-driven vessel encountering another vessel while proceeding along the line of the channel, shall keep to that side of the fairway or mid-channel which lies on its starboard side. When two such vessels so proceeding are bound in opposite directions, they shall, when it is safe and practicable, be governed by paragraph (a) of this section even when, by reason of an intervening bend in the channel, their headings are not substantially opposite when they first sight each other; and neither of them shall alter course to port across the course of the other. Tugs and motorboats shall, whenever practicable, keep well over to that side of the Canal which is to their starboard when large vessels are passing.

§ 111.15 Crossing Situation (Rule 15).

When two power-driven vessels are crossing so as to involve risk of collision, the vessel which has the other on her own starboard side shall keep

out of the way and shall, if the circumstances of the case admit, avoid crossing ahead of the other vessel.

§ 111.16 Action by Give-way Vessel (Rule 16).

Every vessel which is directed to keep out of the way of another vessel shall, so far as possible, take early and substantial action to keep well clear.

§ 111.17 Action by Stand-on Vessel (Rule 17).

(a) (1) Where one of two vessels is to keep out of the way the other shall keep her course and speed.

(2) The latter vessel may however take action to avoid collision by her maneuver alone, as soon as it becomes apparent to her that the vessel required to keep out of the way is not taking appropriate action in compliance with this Part.

(b) When, from any cause, the vessel required to keep her course and speed finds herself so close that collision cannot be avoided by the action of the give-way vessel alone, she shall take such action as will best aid to avoid collision.

(c) A power-driven vessel which takes action in a crossing situation in accordance with paragraph (a)(2) of this section to avoid collision with another power-driven vessel shall, if the circumstances of the case admit, not alter course to port for a vessel on her own port side.

(d) This section does not relieve the give-way vessel of her obligation to keep out of the way.

§ 111.18 Responsibilities Between Vessels (Rule 18).

Except where §§ 111.9 and 111.13 (Rules 9 and 13) otherwise require:

(a) A power-driven vessel underway shall keep out of the way of:

(1) A vessel not under command;

(2) A vessel restricted in her ability to maneuver.

(b) A sailing vessel underway shall keep out of the way of:

(1) A vessel not under command;

(2) A vessel restricted in her ability to maneuver;

(3) A power driven vessel, except a motorboat.

(c) A seaplane on the water shall, in general, keep well clear of all vessels and avoid impeding their navigation. In circumstances, however, where risk of collision exists, she shall comply with the §§ 111.4 through 111.18 of this Subpart.

(d) Panama Canal floating equipment at work in a stationary position shall have a privileged right to such position, and no passing vessel shall foul such equipment or its moorings, or pass at such speed as to create a dangerous wash or wake. Floating equipment of the Canal from which divers are working, and floating equipment so moored, and vessels under repair and in such condition, that a high wash might cause swampage or be hazardous to the workmen, shall be passed by all vessels at a speed sufficiently slow as not to create a dangerous wash or wake.

Conduct of Vessels in Restricted Visibility

§ 111.19 Conduct of Vessels in Restricted Visibility (Rule 19).

(a) This section applies to vessels not in sight of one another when navigating in or near an area of restricted visibility.

(b) Every vessel shall proceed at a safe speed adapted to the prevailing circumstances and conditions of restricted visibility. A power-driven vessel shall have her engines ready for immediate maneuver.

(c) Every vessel shall have due regard to the prevailing circumstances and conditions of restricted visibility when complying with the §§ 111.4 through 111.9 (Rules 4 through 9) of this Subpart.

(d) A vessel which detects by radar alone the presence of another vessel shall determine if a close-quarters situation is developing or risk of collision exists. If so, she shall take avoiding action in ample time, provided that when such action consists of an alteration of course, so far as possible the following shall be avoided:

(1) An alteration of course to port for a vessel forward of the beam, other than for a vessel being overtaken; and

(2) An alteration of course towards a vessel abeam or abaft the beam.

(e) Except where it has been determined that a risk of collision does not exist, every vessel which hears apparently forward of her beam the fog signal of another vessel, or which cannot avoid a close quarters situation with another vessel forward of her beam, shall reduce her speed to the minimum at which she can be kept on her course. She shall if necessary take all her way off and in any event navigate with extreme caution until danger of collision is over.

(f) Except as provided in paragraph (g) of this section, vessels moored or at anchor shall not get underway when, because of atmospheric conditions, visibility is less than 1,000 feet and vessels underway in such conditions shall anchor or moor as soon as practicable and report immediately to the Chief, Navigation Division, or his designee by radio or other available means.

(g) Vessels specially equipped to navigate under conditions restricting visibility and which have a pilot aboard, and vessels which have a pilot aboard and which are assisted by Panama Canal Commission vessels which are specially equipped to navigate under such conditions, may, at the discretion of the Chief, Navigation Division or his designee, be navigated when visibility is less than 1,000 feet.

Subpart C—Lights and Shapes

§ 111.20 Application (Rule 20).

(a) Sections 111.20 through 111.31 (Rules 20–31) in this Subpart shall be complied with in all weathers.

(b) The regulations concerning lights shall be complied with from sunset to sunrise, and during such times no other lights shall be exhibited, except such lights as cannot be mistaken for the lights specified in this Part or do not impair their visibility or distinctive character, or interfere with the keeping of a proper lookout.

(c) The lights prescribed by this Part shall, if carried, also be exhibited from sunrise to sunset in restricted visibility and may be exhibited in all other circumstances when it is deemed necessary.

(d) The regulations concerning shapes shall be complied with by day.

(e) The lights and shapes specified in this Part shall comply with the provisions of Annex I to the 72 COLREGS.

§ 111.21 Definitions (Rule 21).

(a) "Masthead light" means a white light placed over the fore and aft centerline of the vessel showing an unbroken light over an arc of the horizon of 225 degrees and so fixed as to show the light from right ahead to 22.5 degrees abaft the beam on either side of the vessel.

(b) "Sidelights" means a green light on the starboard side and a red light on the port side each showing an unbroken light over an arc of the horizon of 112.5 degrees and so fixed as to show the light from right ahead to 22.5 degrees abaft the beam on its respective side. In a vessel of less than 20 meters in length the sidelights may be combined in one lantern carried on the fore and aft centerline of the vessel.

(c) "Sternlight" means a white light placed as nearly as practicable at the stern showing an unbroken light over an arc of the horizon of 135 degrees and so fixed as to show the light 67.5 degrees from right aft on each side of the vessel.

(d) "Towing light" means a yellow light having the same characteristics as the "sternlight" defined in paragraph (c) of this section.

(e) "All-round light" means a light showing an unbroken light over an arc of the horizon of 360 degrees.

(f) "Flashing light" means a light flashing at regular intervals at a frequency of 120 flashes or more per minute.

§ 111.22 Visibility of Lights (Rule 22).

The lights prescribed in this Part shall have an intensity as specified in Section 8 of Annex I to 72 COLREGS so as to be visible at the following minimum ranges:

(a) In vessels of 50 meters or more in length:

(1) A masthead light, 6 miles;

(2) A sidelight, 3 miles;

(3) A sternlight, 3 miles;

(4) A towing light, 3 miles;

(5) A white, red, green or yelow all-round light, 3 miles.

(b) In vessels of 12 meters or more in length but less than 50 meters in length:

(1) A masthead light, 5 miles; except that where the length of the vessel is less than 20 meters, 3 miles;

(2) A sidelight, 2 miles.

(3) A sternlight, 2 miles;

(4) A towing light, 2 miles;

(5) A white, red, green or yellow all-round light, 2 miles.

(c) In vessels of less than 12 meters in length:

(1) A masthead light, 2 miles;

(2) A sidelight, 1 mile;

(3) A sternlight, 2 miles;

(4) A towing light, 2 miles;

(5) A white, red, green or yellow all-round light, 2 miles.

(d) In inconspicuous, party submerged vessels or objects being towed:

(1) A white all-round light, 3 miles.

(2) [Reserved].

§ 111.23 Power-driven Vessels Under Way (Rule 23).

(a) A power-driven vessel under way shall exhibit:

(1) A masthead light forward;

(2) A second masthead light abaft of and higher than the foward one; except that a vessel of less than 50 meters in length shall not be obliged to exhibit such light but may do so;

(3) Sidelights; and

(4) A sternlight.

(b) An air-cushion vessel when operating in the non-displacement mode shall, in addition to the lights prescibed in paragraph (a) of this section, exhibit an all-round flashing yellow light.

(c) (1) A power-driven vessel of less than 12 meters in length may in lieu of the lights prescribed in paragraph (a) of this section exhibit an all-round white light and sidelights;

(2) A power-driven vessel of less than 7 meters in length and whose maximum speed does not exceed 7 knots may, in lieu of the lights prescribed in paragraph (a) of this section, exhibit an all-round white light, and shall, if practicable, also exhibit sidelights;

(3) The masthead light or all-round white light on a power-driven vessel of less than 12 meters in length may be displaced from the fore and aft centerline of the vessel if centerline fitting is not practicable, provided that the sidelights are combined in one lantern which shall be carried on the fore and aft centerline of the vessel or located as nearly as practicable in the same fore and aft line as the masthead light or the all-round white light.

(d) A vessel employed in the transportation or transfer of flammable, explosive, or otherwise dangerous commodities shall carry, in addition to her appropriate mooring, anchor, or navigation lights, where it can best be seen, a red light of such a character as to be visible all around the horizon at a distance of at least 2 miles. By day she shall display, where it can best be seen, a red flag.

§ 111.24 Towing and Pushing (Rule 24).

(a) A power-driven vessel when towing shall exhibit:

(1) Instead of the light prescribed in § 111.23(a)(1) or § 111.23(a)(2), two masthead lights in a vertical line. When the length of the tow, measuring from the stern of the towing vessel to the after end of the tow exceeds 200 meters; three such lights in a vertical line;

(2) Sidelights;

(3) A sternlight;

(4) A towing light in a vertical line above the sternlight; and

(5) When the length of the tow exceeds 200 meters, a diamond shape where it can best be seen.

(b) When a pushing vessel and a vessel being pushed ahead are rigidly connected in a composite unit they shall be regarded as a power-driven vessel and exhibit the lights prescribed in § 111.23 (Rule 23).

(c) A power-driven vessel when pushing ahead or towing alongside, except in the case of a composite unit, shall exhibit:

(1) Instead of the light prescribed in § 111.23(a)(1) or § 111.23(a)(2) (Rule 23(a)(1) or (a)(2), two masthead lights in a vertical line;

(2) Sidelights; and

(3) A sternlight.

(d) A power-driven vessel to which paragraphs (a) or (c) of this section apply shall also comply with § 111.23(a)(2) (Rule 23(a)(2)).

(e) A vessel or object being towed, other than those mentioned in paragraph (g) of this section, shall exhibit:

(1) Sidelights;

(2) A sternlight; and

(3) When the length of the two exceeds 200 meters, a diamond shape where it can best be seen.

(f) Provided that any number of vessels being towed alongside or pushed in a group shall be lighted as one vessel;

(1) A vessel being pushed ahead, not being part of a composite unit, shall exhibit at the forward end, sidelights;

(2) A vessel being towed alongside shall exhibit a sternlight and at the forward end, sidelights.

(g) An inconspicuous, partly submerged vessel or object, or combination of such vessels or objects being towed, shall exhibit:

(1) If it is less than 25 meters in breadth, one all-round white light at or near the forward end and one at or near the after end except that dracones need not exhibit a light at or near the forward end;

(2) If it is 25 meters or more in breadth, two additional all-round white lights at or near the extremities of its breadth;

(3) If it exceeds 100 meters in length, additional all-round white lights between the lights prescribed in paragraphs (g)(1) and (2) of this section so that the distance between the lights shall not exceed 100 meters;

(4) A diamond shape at or near the aftermost extremity of the last vessel or object being towed and if the length of the tow exceeds 200 meters an additional diamond shape where it can best be seen and located as far forward as is practicable.

(h) Where from any sufficient cause it is impracticable for a vessel or object being towed to exhibit the lights or shapes prescribed in paragraph (e) or (g) of this section, all possible measures shall be taken to light the vessel or object towed or at least to indicate the presence of the unlighted vessel or object.

(i) Where from any sufficient cause it is impracticable for a vessel not normally engaged in towing operations to display the lights prescribed in paragraph (a) or (c) of this section, such vessel shall not be required to exhibit those lights when engaged in towing another vessel in distress or otherwise in need of assistance. All possible measures shall be taken to indicate the nature of the relationship between the towing vessel and the vessel being towed as authorized by § 111.36 (Rule 36), in particular by illuminating the towline.

§ 111.25 Sailing Vessels Under way and Vessels Under Oars (Rule 25).

(a) A sailing vessel under way shall exhibit:

(1) Sidelights; and

(2) A sternlight.

(b) In a sailing vessel of less than 20 meters in length the lights prescribed in paragraph (a) of this section may be combined in one lantern carried at or near the top of the mast where it can best be seen.

(c) A sailing vessel under way may, in addition to the lights prescribed in paragraph (a) of this section, exhibit at or near the top of the mast, where they can best be seen, two all-round lights in a vertical line, the upper being red and the lower green, but these lights shall not be exhibited in conjunction with the combined lantern permitted by paragraph (b) of this section.

(d) (1) A sailing vessel of less than 7 meters in length shall, if practicable, exhibit the lights prescribed in paragraph (a) or (b) of this section, but if she does not, she shall have ready at hand an electric torch or lighted lantern showing a white light which shall be exhibited in sufficient time to prevent collision.

(2) A vessel under oars may exhibit the lights prescribed in this section for sailing vessels, but if she does not, she shall have ready at hand an electric torch or lighted lantern showing a white light which shall be exhibited in sufficient time to prevent collision.

(e) A vessel proceeding under sail when also being propelled by machinery shall exhibit forward were it can best be seen a conical shape, apex downwards.

§ 111.26 Fishing Vessels (Rule 26).

Vessels engaged in fishing, as defined in § 111.3 (d) (Rule 3 (d)) of this Part, shall stay well clear of the navigable waters of the Canal Operating Areas.

§ 111.27 Vessels Not Under Command or Restricted in their Ability to Maneuver (Rule 27).

(a) A vessel not under command shall exhibit:

(1) Two all-round red lights in a vertical line where they can best be seen;

(2) Two balls or similar shapes in a vertical line where they can best be seen;

(3) When making way through the water, in addition to the lights prescribed in this paragraph, sidelights and a sternlight.

(b) A vessel restricted in her ability to maneuver shall exhibit:

(1) Three all-round lights in a vertical line where they can best be seen. The highest and lowest of these lights shall be red and the middle light shall be white;

(2) Three shapes in a vertical line where they can best be seen. The highest and lowest of these shapes shall be balls and the middle one a diamond;

(3) When making way through the water, masthead light or lights, sidelights and a sternlight, in addition to the lights prescribed in paragraph (b)(1) of this section;

(4) When at anchor, in addition to the lights or shapes prescribed in paragraphs (b)(1) and (2) of this section, the lights or shapes prescribed in § 111.30 (Rule 30).

(c) A vessel engaged in a towing operation such as severely restricts the towing vessel and her tow in their ability to deviate from her course shall, in addition to the lights or shapes prescribed in § 111.24 (a) (Rule 24 (a)), exhibit the lights or shape prescribed in paragraphs (b)(1) and (2) of this section.

(d) A vessel engaged in dredging or underwater operations, when restricted in her ability to maneuver, shall exhibit the lights and shapes prescribed in paragraphs (b)(1), (2) and (3) of this section and shall in addition, when an obstruction exists, exhibit:

(1) Two all-round red lights or two balls in a vertical line to indicate the side on which the obstruction exists;

(2) Two all-round green lights or two diamonds on a vertical line to indicate the side in which another vessel may pass;

(3) When at anchor, the lights or shapes prescribed in this paragraph instead of the lights or shape prescribed in § 111.30 (Rule 30).

(e) Whenever the size of a vessel engaged in diving operations makes it impracticable to exhibit all lights and shapes prescribed by paragraph (d) of this section, the lights and shapes prescribed by § 111.38 shall be exhibited:

(1) Three all-round lights in a vertical line where they can best be seen. The highest and lowest of these lights shall be red and the middle light shall be white;

(2) A rigid replica of the International Code flag "A" not less than 1 meter in height. Measures shall be taken to ensure all-round visibility.

(f) Vessels of less than 12 meters in length, except those engaged in diving operations, shall not be required to exhibit the lights or shapes prescribed in this section.

(g) The signals prescribed in this section are not signals of vessels in distress and requiring assistance. Such signals are contained in § 111.37 (Rule 37).

§ 111.28 [Reserved] (Rule 28).

§ 111.29 Pilot Vessels (Rule 29).

(a) A vessel engaged on pilotage duty shall exhibit:

(1) At or near the masthead, two all-round lights in a vertical line, the upper being white and the lower red;

(2) When under way, in addition, sidelights and a sternlight;

(3) When at anchor, in addition to the lights prescribed in paragraph (a)(1) of this section, the light, lights or shape prescribed in § 111.30 (Rule 30) for vessels at anchor.

(b) A pilot vessel when not engaged on pilotage duty shall exhibit the lights or shapes prescribed for a similar vessel of her length.

§ 111.30 Anchored Vessels and Vessels Aground (Rule 30).

(a) A vessel at anchor shall exhibit where it can best be seen:

(1) In the fore part, an all-round white light or one ball;

(2) At or near the stern and at a lower level than the light prescribed in paragraph (a)(1) of this section, an all-round white light.

(b) A vessel of less than 50 meters in length may exhibit an all-round white light where it can best be seen instead of the lights prescribed in paragraph (a) of this section.

(c) A vessel at anchor may, and a vessel of 100 meters and more in length shall, also use the available working or equivalent lights to illuminate her decks.

(d) A vessel aground shall exhibit the lights prescribed in paragraph (a) or (b) of this section and in addition, where they can best be seen:

(1) Two all-round red lights in a vertical line; and

(2) Three balls in a vertical line.

(e) A vessel of less than 7 meters in length, when at anchor, not in or near a narrow channel, fairway or anchorage, or where other vessels normally navigate, shall not be required to exhibit the lights or shape prescribed in paragraphs (a) and (b) of this section.

(f) A vessel of less than 20 meters in length, when aground, shall not be required to exhibit the lights or shapes prescribed in paragraphs (d)(1) and (2) of this section.

(g) Vessels not more than 20 meters in length, when at anchor in any special anchorage designated by the Commission for such vessels, shall not be required to carry or exhibit the lights or shape specified in paragraph (a) of this section.

§ 111.31 Seaplanes (Rule 31).

Where it is impracticable for a seaplane to exhibit lights and shapes of

the characteristics or in the positions prescribed in the sections of this Subpart she shall exhibit lights and shapes as closely similar in characteristics and position as is possible.

Subpart D—Sound and Light Signals

§ 111.32 Definitions (Rule 32).

(a) The word "whistle" means any sound signaling appliance capable of producing the prescribed blasts and which complies with the specifications in Annex III to the 72 COLREGS.

(b) The term "short blast" means a blast of about one second's duration.

(c) The term "prolonged blast" means a blast of from four to six seconds' duration.

§ 111.33 Equipment for Sound Signals (Rule 33).

(a) A vessel of 12 meters or more in length shall be provided with a whisle and a bell and a vessel of 100 meters or more in length shall, in addition, be provided with a gong, the tone and sound of which cannot be confused with that of the bell. The whistle, bell and gong shall comply with the specifications in Annex III to the 72 COLREGS. The bell or gong or both may be replaced by other equipment having the same respective sound characteristics, provided that manual sounding of the prescribed signals shall always be possible.

(b) A vessel of less than 12 meters in length shall not be obliged to carry the sound signaling appliances prescribed in paragraph (a) of this section but if she does not, she shall be provided with some other means of making an efficient sound signal.

§ 111.34 Maneuvering and Warning Signals (Rule 34).

(a) When power-driven vessels are in sight of one another and meeting or crossing at a distance within half a mile of each other, each vessel under way, when maneuvering as authorized or required by this Part:

(1) Shall indicate that manuever by the following signals on her whistle: one short blast to mean "I intend to leave you on my port side"; two short blasts to mean "I intend to leave you on my starboard side"; and three short blasts to mean "I am operating astern propulsion";

(2) Upon hearing the one or two blast signal of the other shall, if in agreement, sound the same whistle signal and take the steps necessary to effect a safe passing. If, however, from any cause, the vessel doubts the safety of the proposed maneuver, she shall sound the danger signal specified in paragraph (d) of this section and each vessel shall take appropriate precautionary action until a safe passing agreement is made.

(b) A vessel may supplement the whistle signals prescribed in paragraph (a) of this section by light signals:

(1) These signals shall have the following significance: one flash to mean "I intend to leave you on my port side"; two flashes to mean "I intend to leave you on my starboard side"; three flashes to mean "I am operating astern propulsion";

(2) The duration of each flash shall be about one second, the interval between flashes shall be about one second, and the interval between successive signals shall be not less than ten seconds;

(3) The light used for this signal shall, if fitted, be an all-round white light, visible at a minimum range of 5 miles, and shall comply with the provisions of Annex I of the 72 COLREGS.

(c) When in sight of one another:

(1) A power-driven vessel intending to overtake another power-driven vessel shall indicate her intention by the following signals on her whistle: one short blast to mean "I intend to overtake you on your starboard side"; two short blasts to mean "I intend to overtake you on your port side"; and

(2) The power-driven vessel about to be overtaken shall, if in agreement, sound a similar sound signal. If in doubt she shall sound the danger signal prescribed in paragraph (d).

(d) When vessels in sight of one another are approaching each other and from any cause either vessel fails to understand the intentions or actions of the other, or is in doubt whether sufficient action is being taken by the other to avoid collision, the vessel in doubt shall immediately indicate such doubt by giving at least five short and rapid blasts on the whistle. This signal may be supplemented by a light signal of at least five short and rapid flashes.

(e) If whistles are fitted on a vessel at a distance apart of more than 100 meters, one whistle only shall be used for giving maneuvering and warning signals.

(f) When a power-driven vessel is leaving a dock or berth, she shall sound one prolonged blast.

(g) A vessel that reaches agreement with another vessel in a meeting, crossing or overtaking situation by using radiotelephone on the customary frequencies is not obliged to sound whistel signals prescribed by this section, but may do so. If agreement is not reached, then whistle signals shall be exchanged in a timely manner and shall prevail.

(h) When a power-driven vessel or motorboat is approaching a pipeline obstrucing the channel, and desires to pass through the gate, she shall give a signal of two blasts, namely, one polonged blast followed by a short blast, which signal shall be promptly answered by the gate tender with the same signal if she is ready to have the approaching vessel pass or by the danger signal if it is not safe for her to pass. In no case shall the approaching vessel attempt to pass until the gate tender signifies by a signal of one prolonged and one short blast that the channel is open. The gate tender shall so signify as soon as practicable, and the approaching vessel shall answer with a similar signal.

§ 111.35 Sound Signals in Restricted Visibility (Rule 35).

In or near an area of restricted visibility, whether by day or night, the signals prescribed in this section shall be used as follows:

(a) A power-driven vessel making way through the water shall sound at intervals of not more than 2 minutes one prolonged blast.

(b) A power-driven vessel under way but stopped and making no way through the water shall sound at intervals of not more than 2 minutes two prolonged blasts in succession with an interval of about 2 seconds between them.

(c) A vessel not under command, a vessel restricted in her ability to maneuver, a sailing vessel and a vessel engaged in towing or pushing another vessel shall, instead of the signals prescribed in paragraphs (a) or (b) of this section, sound at intervals of not more than 2 minutes three blasts in succession, namely one prolonged followed by two short blasts.

(d) A vessel restricted in her ability to maneuver when carring out her work at anchor, shall instead of the signals prescribed in paragraph (g) of this section sound the signal prescribed in paragraph (c) of this section.

(e) A vessel towed or if more than one vessel is towed the last vessel of the tow, if manned, shall at intervals of not more than 2 minutes sound four blasts in succession, namely one prolonged followed by three short blasts. When practicable, this signal shall be made immediately after the signal made by the towing vessel.

(f) When a pushing vessel and a vessel being pushed ahead are rigidly connected in a composite unit they shall be regarded as a power-driven vessel and shall give the signals prescribed in paragraphs (a) or (b) of this section.

(g) A vessel at anchor shall at intervals of not more than one minute ring the bell rapidly for about 5 seconds.

In a vessel of 100 meters or more in length the bell shall be sounded in the forepart of the vessel and immediately after the ringing of the bell the gong shall be sounded rapidly for about 5 seconds in the after part of the vessel. A vessel at anchor may in addition sound three blasts in succession, namely one short, one prolonged and one short blast, to give warning of her position and of the possibility of collision to an approaching vessel.

(h) A vessel aground shall give the bell signal and if required the gong signal prescribed in paragraph (g) of this section and shall, in addition, give three separate and distinct strokes on the bell immediately before and after the rapid ringing of the bell. A vessel aground may in addition sound an appropriate whistle signal.

(i) A vessel of less than 12 meters in length shall not be obliged to give the above-mentioned signals, but, if she does not, shall make some other efficient sound signal at intervals of not more than 2 minutes.

(j) A pilot vessel when engaged on pilotage duty may in addition to the signals prescribed in paragraphs (a), (b) or (g) of this section sound an identity signal consisting of four short blasts.

§ 111.36 Signals to attract Attention (Rule 36).

(a) If necessary to attract the attention of another vessel, any vessel may make light or sound signals that cannot be mistaken for any signal authorized elsewhere in this Part, or may direct the beam of her searchlight in the direction of the danger, in such a way as not to embarrass any vessel. Any light to attract attention of another vessel shall be such that it cannot be mistaken for any aid to navigation. For the purpose of this section the use of high intensity intermittent or revolving lights, such as strobe lights, shall be avoided.

(b) Under no circumstances shall the rays of a searchlight or any other type of blinding light be directed into the pilot house, or in any other manner or direction which would interfere with the navigation of another vessel.

§ 111.37 Distress Signals (Rule 37).

(a) Need of assistance. The following signals used or exhibited either together or separately, indicate distress and need of assistance:

(1) A gun or other explosive signal fired at intervals of about a minute;

(2) A continuous sounding with any fog-signaling apparatus;

(3) Rockets or shells, throwing red stars fired one at a time at short intervals;

(4) A signal made by radiotelegraphy or by any other signaling method consisting of the group . . --- . . (SOS) in the Morse Code;

(5) A signal sent by radiotelephony consisting of the spoken word "mayday";

(6) The International Code Signal of distress indicated by N.C.;

(7) A signal consisting of a square flag having above or below it a ball or anything resembling a ball;

(8) Flames on the vessel (as from a burning tar barrel, oil barrel, etc.);

(9) A rocket parachute flare or a hand flare showing a red light;

(10) A smoke signal giving off orange-colored smoke;

(11) Slowly and repeatedly raising and lowering arms outstretched to each side;

(12) The radiotelegraph alarm signal;

(13) The radiotelephone alarm signal;

(14) Signals transmitted by emergency position-indicating radio beacons.

(b) The use of exhibition of any of the foregoing signals except for the purpose of indicating distress and need of assistance and the use of other signals which may be confused with any of the above signals is prohibited.

(c) Attention is drawn to the relevant sections of the International Code of Signals, the Merchant Ship Search and Rescue Manual and the following signals:

(1) A piece of orange-colored canvas with either a black square and circle or other appropriate symbol (for identification from the air);

(2) A dye marker.

Subpart E—Miscellaneous

§ 111.38 Diving Operations (Rule 38).

(a) When industrial or commercial diving operations are under way in the Canal, or waters adjacent thereto, a revolving red light shall be displayed in all weathers from sunset to sunrise from the diving barge or other craft serving the diver. The light shall be so mounted and of sufficient intensity as to be visible for not less than 1 mile. A flag of the type described in paragraph (b) of this section shall be displayed from such craft from sunrise to sunset. Vessels approaching or passing an area where diving operations are under way shall reduce speed sufficiently to avoid creating a dangerous wash or wake.

(b) Recreational skin diving in waters of the Canal, including Gaillard Cut and the channel through Gatun and Miraflores Lakes and in the waters of all ships' anchorages is prohibited unless authorized in writing by the Chief, Navigation Division or his designee. Authorization shall not be given for skin diving at night. When recreational skin diving activities are under way in the Canal, or waters adjacent thereto, a flag with a hoist or height of not less than 12 inches and a fly or length of not less than 18 inches and having a red background and a 3½ inch diagonal white stripe, running from the upper corner of the staff end of the flag to the lower corner of the outside end of the flag, shall be displayed from the mast of the craft serving the skin-diver. Flags larger than the foregoing minimum dimensions shall preserve the same proportions. Vessels approaching an area where such skin diving activities are under way shall reduce speed sufficiently to avoid creating a dangerous wash or wake.

§ 111.39 Water Skiing Prohibited (Rule 39).

No person shall operate a motorboat or other vessel in or across the navigable channels or merchant vessel anchorages while towing a person or persons on water skis, or aquaplane or similar device at any time.

§ 111.40 Operation of small craft and recreational vessels in the Canal waters (Rule 40).

(a) For the purpose of this section, a small craft is defined as any vessel for recreational purposes which is not required to have the assistance of locomotives when transiting the locks.

(b) A small craft shall not be operated by any person who is intoxicated or who is a habitual user, or under the influence of any narcotic drug or who is under the influence of any other drug to a degree which renders him incapable of safely operating the craft or vessel. The fact that one lawfully is or has been using any drug shall not constitute a defense against a charge of violating this section.

(c) No person shall operate a small craft so close to a transiting or other vessel so as to hamper the safe operation of either vessel; nor shall any person operate a small craft in a negligent manner so as to endanger life or property.

(d) No person shall operate a small craft in the navigation channels of the Canal except when such operation is incidental to movement between points on either side of the navigation channel.

§ 111.41 Lights; Marking of Pipeline Laid in Navigable Waters (Rule 41).

Whenever a pipeline is laid in navigable waters, it shall be marked at night by amber lights at intervals of 200 feet. The lights marking the limits of the gate shall be a vertical display of a white and a red light, the white light to be at least 4 feet above the red light. These lights shall be so constructed as

to show all around the horizon and be visible from a distance of at least 1 mile.

Dated: October 21, 1983.

D. P. McAuliffe,

Administrator

[FR Doc. 83-31205 Filed 11-21-83; 8:45 am]

BILLING CODE 3640-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-9-FRL 2470-3]

Approval and Promulgation of State Implementation Plans; California State Implementation Plan Revision for the Yolo-Solano Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: In today's notice EPA is finalizing action on rule revisions of the Yolo-Solano Air Pollution Control District (APCD) proposed for approval on June 24, 1983 (48 FR 29012). The rule revisions were initially approved on June 18, 1983 (47 FR 26379) in a direct to final rulemaking. However, because of comments received the approval was withdrawn (48 FR 28988) and approval proposed on June 24, 1983. EPA reviewed this rule with respect to the Clean Air Act and determined that it should be approved.

EFFECTIVE DATE: This action is effective December 22, 1983.

ADDRESSES: Copies of the revisions are available for public inspection during normal business hours at the EPA Region 9 office and the following locations:

Public Information Reference Unit, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460

The Office of the Federal Register, 1100 L Street NW., Room 3401, Washington, D.C. 20460

California Air Resources Board, 1102 Q Street, P.O. Box 2815, Sacramento, CA 95812

Yolo-Solano Air Pollution Control District, P.O. Box 1006, Woodland, CA 95695.

FOR FURTHER INFORMATION CONTACT: Douglas Grano, Chief, State Implementation Plan Section, Air Management Division, Environmental Protection Agency, Region 9, 215 Fremont Street, San Francisco, CA 94105, (415) 454-8213.

SUPPLEMENTARY INFORMATION:

Background

The California Air Resources Board (ARB) submitted rule revisions for the Yolo-Solano APCD which cover New Source Review on February 25, 1980. They were evaluated with respect to Section 110 of the Clean Air Act and it was determined by EPA that they should be approved. This was done in a direct to final rulemaking which was published on June 18, 1982 (47 FR 26379). However, because EPA received a request for opportunity for public comment, the earlier approval was withdrawn on June 24, 1983 (48 FR 28988) and approval formally proposed, also on June 24, 1983 (48 FR 29012).

The proposal provided a 30 day review and comment period. During this time EPA received two comment letters from James Koslow, Air Pollution Control Officer of the Yolo-Solano Air Pollution Control District (APCD) dated July 18 and 19, 1983.

Public Comments

The first letter dated July 18, 1983 reiterated many of the comments which were discussed in the notice of proposed rulemaking of June 24, 1983.

Comment 1

ARB adoption and subsequent submittal to EPA of Rules 3.4.1, "Standards for Granting Applications" and 3.4.2, "Conditional Approval" is opposed by Mr. Koslow because he feels they are not as effective as the original rules adopted by the District. In addition, Mr. Koslow opposes the deletion of two District provisions of "long standing".

EPA Response to Comment 1

This is a matter of difference between the Yolo-Solano APCD and the ARB which cannot be resolved by the EPA. EPA approves ARB submittals if they are in accordance with the Clean Air Act. In this case, Rules 3.4.1 and 3.4.2 meet all the necessary criteria for EPA approval.

Comment 2

Mr. Koslow is of the opinion that the ARB indexing system conflicts with the indexing system which was initially established by the District.

EPA Response to Comment 2

Here again, a change was made by the ARB which does not conflict with EPA's standards of approvability for the rules.

Comment 3

Mr. Koslow feels that "public interest and local prerogative would best be served by disapproving the rules based on no improvement to regulatory requirement." It is recommended that the rules be withdrawn by ARB.

EPA Response to Comment 3

The ARB has not withdrawn the rules. Also, what Mr. Koslow perceives as no improvement to the regulatory requirement is interpreted as being such by the ARB.

The letter dated July 19, 1983 also reflects similar points raised previously

Comment 1

Mr. Koslow questions the validity of a statement which appears in the **Federal Register** notice of June 24, 1983 (48 FR 29012). It concerns the differing versions of the disputed rules which resulted after ARB review and subsequent submittal to EPA.

EPA Response to Comment 1

This statement is true when taken in context with the rest of the paragraph. The rules were initially adopted by the District, then submitted to EPA by the ARB. What the ARB submitted to EPA can as a matter of course differ from the District adopted rules.

Comment 2

Mr. Koslow reiterates his concern that the ARB changes involve not only indexing, but also wording and substance, which does "not benefit the control framework."

EPA Response to Comment 2

Although the substance of the rules might have been altered, the rules are still approvable and meet EPA standards.

Comment 3

Mr. Koslow questions the need for "technical corrections" of the rules by the ARB and disputes whether any of the technical aspects of the rules were improved. He also questions the validity of ARB's reasoning for amending District rules in order to improve consistency with other APCD's in the State.

EPA Response to Comment 3

Technical corrections or changes can result in various degrees of improvement or no improvement. If however, the resultant rule is evaluated using established EPA standards and the criteria are met, then the rule is approvable.

Comment 4

Mr. Koslow proposes that since EPA has approved the previous District rules and because they were used in the new rules, the District rules should be

retained and the ARB submit only minor revisions.

EPA Response to Comment 4

Normal procedure dictates that EPA approve the latest submittal for incorporation into the SIP.

Comment 5

Mr. Koslow suggests disapproving the ARB adopted rules because of a lack of improvement to existing regulatory provisions.

EPA Response to Comment 5

EPA has no valid reason for disapproving these rules because they meet all applicable criteria.

Final Action

Because no substantive deficiencies were found in the ARB rules and because these rules are consistent with the requirements of Section 110 of the Clean Air Act and 40 CFR Part 51 EPA, in accordance with the procedure described above, EPA is approving Yolo-Solano Rules 3.4.1 and 3.4.2.

Under 5 U.S.C. 605(b), the Administrator has certified that SIP actions do not have a significant economic impact on a substantial number of small entities. The Office of Management and Budget has exempted this action from the requirements of Section 3 of Executive Order 12291.

Under Section 307(b)(1) of the Clean Air Act judicial review of this action is available only by filing a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations, Incorporation by reference.

Authority: Section 110(a) and 301(a), Clean Air Act, as amended (42 U.S.C. 7410(a) and 7601(a)).

Dated: November 7, 1983.

William D. Ruckelshaus,

Administrator.

Part 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

Subpart F—California

1. In § 52.220, paragraph (c)(54)(iv)(C) is revised to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(54) * * *

(iv) * * *

(C) New or amended Rule 3.13.

* * * * *

[FR Doc. 83-31373 Filed 11-21-83; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 52

[FL-002; AD-FRL-2466-2]

Approval and Promulgation of Implementation Plans Florida; Prevention of Significant Deterioration

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: On August 7, 1980 (45 FR 52676), EPA promulgated revised regulations for Prevention of Significant Air Quality Deterioration (PSD) and requirements for States to develop and submit revised regulations for PSD. The State of Florida developed and on December 23, 1981, submitted to EPA regulations substantially meeting all of EPA's requirements except one. In certain situations, the procedure which Florida uses to calculate increment consumption for the short-term standards can lead to lower estimates of increment consumption than the procedure which is used by EPA. Accordingly, EPA is today conditionally approving the PSD plan submitted by Florida to allow the State to demonstrate that its increment consumption determinations are consistent with PSD requirements.

DATE: This action is effective December 22, 1983.

ADDRESSES: Copies of the materials submitted by the State may be examined during normal business hours at the following locations:

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460

Air Management Branch, EPA, Region IV, 345 Courtland Street, NE., Atlanta, Georgia 30365

Library, Office of the Federal Register, 1100 L Street, NW., Room 8401, Washington, D.C. 20005.

Florida Department of Environmental Regulation, Bureau of Air Quality Management, Twin Towers Office Building, 2600 Blair Stone Road, Tallahassee, Florida 32301.

FOR FURTHER INFORMATION CONTACT: Mr. Barry Gilbert, Air Management Branch, EPA Region IV at the above address and telephone number 404/881-3286 or FTS 257-3286.

SUPPLEMENTARY INFORMATION: On December 5, 1974, EPA published regulations for PSD under the 1970 version of the Clean Air Act. These regulations established a program for protecting areas with air quality cleaner than the national ambient air quality standards (NAAQS). The Clean Air Act Amendments of 1977 changed the 1970 act and EPA's regulations in many respects, particularly with regard to PSD. In addition to mandating certain immediately effective changes to EPA's PSD regulations, the new Clean Air Act, in sections 160-169, contains comprehensive new PSD requirements. These new requirements are to be incorporated by States into their implementation plans.

On June 19, 1978 (43 FR 26380), EPA promulgated regulations setting forth minimum requirements for SIP approval of State PSD regulations. On August 7, 1980 (45 FR 52676), EPA promulgated amended regulations containing such requirements.

The State of Florida, to comply with these requirements, adopted PSD regulations on June 10 and October 28, 1981. On December 23, 1981, the Florida Department of Environmental Regulation (FDER) submitted the following sections of 17-2, Florida Administrative Code (FAC): 100, 210, 220, 260, 270, 310, 400, 420, 430, 440, 450, 500, 520, and 630. On December 14, 1982 (47 FR 55964), EPA proposed to conditionally approve the Florida PSD plan. A thirty-day comment period was provided to the public.

Several provisions of the Florida submittal which had been identified as areas of concern by EPA have now been sufficiently clarified by FDER. Section 17-2.210(3) exempts certain sources from PSD permitting provision. Florida has assured EPA that all of the exempt sources are minor sources. EPA proposed to approve and is approving the exemption provisions based upon the State's assurance that the exemption will not allow major stationary sources to escape PSD review.

Section 17-2.100(39) stated in part, "'Commence Construction'—As applied to the construction or modification of a facility, means that the owner has all preconstruction permits and approvals required under Federal air pollution control laws and regulations which are part of the SIP or which are part of Chapter 17-2 to the extent that the provisions of this chapter specify conditions or requirements for obtaining a state constuction permit for an air

pollution source * * *." As written, the definition discusses permits required under Federal laws *in* the SIP but not permits required under Federal laws *not in* the SIP. The phrase "* * * and those air pollution control laws and regulations" was inadvertently omitted after "regulations". The definition should and now does read, " 'Commence Constuction'—As applied to the construction or modification of a facility, means that the owner has all preconstruction permits and approvals required under federal air pollution control laws and regulations *and those air pollution control laws and regulations* which are part of the State Implementation Plan (SIP) or which are part of Chapter 17–2 to the extent that the provisions of this chapter specify conditions or requirements for obtaining a state construction permit for an air pollution source * * *." FDER submitted an SIP revision on December 23, 1982, which made this correction.

In the revision of December 23, 1982, FDER also changed Rule 17–2.500, Table 500–3, PSD, De Minimis Ambient Impacts, to correct a technical error in the existing rule. This change makes it clear that the de minimis impact for nitrogen dioxide is based on an annual average concentration, rather than a 24-hour average as originally indicated in the table.

Florida's PSD program does not apply to sources locating on Indian lands or to permits previously issued by EPA. EPA will retain jurisdiction to issue PSD permits for sources locating on Indian lands and to enforce its previously issued permits.

The remaining area of concern is Section 17–2.100(18) of the Florida submittal which provides for FDER to establish both a baseline concentration and a total concentration by modelling, and then use the difference as the PSD increment consumption. For short-term averages, the baseline concentration is defined as the second-highest value predicted to occur at a point as a result of baseline sources; the difference between the second-highest concentration predicted to occur at the point as a result of all sources and the baseline concentration is defined as the increment consumption. EPA's procedure is to model all sources to verify maintenance of the standard, and model only increment-consuming sources to determine the increment consumption (43 FR 26400, June 19, 1978). Under present EPA policy, Florida's method of determining increment consumption is not consistent with the Clean Air Act and 40 CFR 51.24 with respect to determining consumption of the short-term increments. This is due to the fact that under certain conditions, the predicted concentrations from increment-consuming sources can be higher than the differences between the concentration attributable to baseline sources alone and the one attributable to all sources. Florida believes that although this situation can occur, their approach is consistent with the Clean Air Act and EPA regulations (40 CFR 51.24).

Three comments were received during the comment period regarding the relationship between EPA and Florida's method of determining increment consumption. One commenter (Environmental Science and Engineering) first provides five example cases of how EPA and Florida methods would calculate increment. In four of the cases, EPA's method results in a higher value for increment consumption. In the other (first) case, the results are identical. The commenter then presents four conclusions drawn from the examples.

EPA agrees with the analysis of how increment is calculated in the five examples, but disagrees with the conclusions.

First, EPA does not ignore the existence of the baseline concentration, nor does it not use the baseline as a starting point. EPA's method recognizes and uses the baseline concentration just as does Florida's method. In order to use EPA's method, one must fix the baseline concentration in time by describing which emissions contribute to the baseline. Without this fixing of the baseline concentration, EPA's method could not be used.

Second, there is no reason to believe that EPA's method results in significantly different values for the majority of cases, as the commenter contends. Significantly different results occur only when a baseline source is located close to a PSD source. Further, as the emission points get very close together, such as two points in the same plant, the difference subsides. Therefore, only in a limited set of circumstances would the difference be signficant.

In its third conclusion, the commenter states that the EPA method will often not account for increment expansion occuring after the baseline date (i.e., emission decreases). This is true only for cases where the emission decrease does not mitigate the effect of the emission increase with respect to air quality at a receptor under a given set of meteorological conditions. In these cases, it is not consistent with EPA's present policy to give such credit.

The last conclusion is that EPA's approach leads inevitably to a more stringent emission limit than Florida's approach. In fact, EPA's approach leads to an *equal or* more stringent limit. Usually, the limits would be identical.

The commenter then discusses the legislative and regulatory history of the definition of baseline concentration and increment consumption. As the commenter points out, the Preamble to the June 1978 PSD regulations stated: "The regulations promulgated today no longer suggest that the baseline concentration be formally established. The Administrator feels that increment consumption can best be tracked by tallying changes in the emissions due to new sources."

The August 1980 PSD regulations mention no changes to this procedure. The EPA PSD Workshop Manual, which was issued in October 1981 to assist in implementing the 1980 rules, confirms that the baseline concentration need not be established. Thus Florida's method of calculating increment consumption is not in accordance with present EPA policy. The remainder of this comment addresses previous EPA rules and proposals and the question of whether EPA's policy and rules are consistent with the Act. However, EPA's position is that present policy and regulations on this issue are consistent with the Act. EPA will reconsider these comments along with the DER's submittal to demonstrate compliance of its procedure with the Act. In the current approval, however, present EPA policy is not being changed. Since the Florida method is not consistent with EPA's present policy, Florida's approach can only be conditionally approved at this time.

Next, the commenter states that only two sources of guidance exist for calculating increment consumption—the PSD Workshop Manual and the Guideline on Air Quality Models. The commenter states that these two documents are vague, and do not clearly answer the question of whether the EPA or Florida method is correct.

The commenter failed to include the Preamble to the 1978 regulations. As discussed earlier, the Preamble clearly outlines EPA's method, which is inconsistent with Florida's method.

Since it is impossible to use Florida's procedure without knowing the baseline concentration, Florida's procedure is at variance with the guidance. Further, in the example described in the Workbook, it is clear that EPA's method is used.

With respect to the Guideline on Air Quality Models, the commenter describes how the Guideline would be followed if Florida's method of

calculating baseline is used. However, since EPA's method does not calculate the baseline, this discussion does not demonstrate whether Florida's method is correct.

Lastly, the commenter asserts that Florida's method more closely resembles measuring increment consumption through monitoring, which the commenter states is the ideal situation as intended by the Act. EPA's method is equally consistent with this ideal as Florida's method. If each receptor point could be monitored, either method could be used to calculate increment consumption. The measurement of the difference between two absolute values which vary with time and space (increments) is a different concept than the measurement of a single absolute value (NAAQS).

Another commenter (Florida Coordination Group) agrees with EPA's approval of the plan, but disagrees with the conditional approval. This commenter contends there is no basis for EPA's opinion that Florida's method of calculating increment is inconsistent with the Act or EPA regulations, and the requirement for dual permitting in the interim period is unduly burdensome. He asks EPA to unconditionally approve Florida's PSD rules.

The basis for EPA's concern about the consistency of Florida's approach with PSD requirements is set forth above. As noted, the conditional approval provides the State with the opportunity to allay this concern. As for the extra burden on applicants during this interim period, the situations requiring two permits are expected to be rare, as the commenter recognizes in his letter. In most cases EPA's and Florida's methods will give equal results.

Where multiple source interaction of plumes is occurring, dual modeling analyses could be required. The dual modeling would be required, in fact, to demonstrate that an EPA permit is not needed. EPA recognizes that this could be an extra burden on applicants; therefore, FDER has agreed to accept modeling using EPA's procedures in lieu of FDER's procedures. Until the FDER demonstrates that the Florida rule is consistent with the Act and EPA regulations, EPA cannot unconditionally approve the rule.

The commenter also points out that, where a new PSD source is being proposed in conjunction with a decrease at a baseline source, the Florida method would recognize an increment expansion, where EPA's method would not. This statement can be misleading. The situation described is treated no differently than any other source interaction. The EPA method does recognize increment expansion. The only time the expanded increment would not help the new source to be accommodated is when the new source impacts a receptor on critical days when the existing source does not. EPA does not recognize this as increment expansion because the receptor does not benefit from the reduced emissions for the worst of the short term periods.

One commenter (National Park Service) asked EPA to confirm that the Florida rule employed a statewide baseline area, which the commenter supports in order to protect air quality in Everglades National Park. The Florida rule does essentially employ a statewide baseline area. The baseline date for the Everglades National Park is December 27, 1977, the same as the remainder of the attainment and unclassifiable areas in Florida.

Action. Based on the foregoing, EPA hereby conditionally approves the Florida submittal as satisfying the requirements of an acceptable plan for implementing PSD. EPA is retaining authority to issue PSD permits for sources on Indian lands and to enforce its previously issued PSD permits. The State has agreed to prepare and submit to EPA a report by December 14, 1983, showing why its approach for determining increment consumption is consistent with the law and regulations. After submission of the report to EPA, and after consideration of any additional comments regarding this matter, EPA will reexamine whether the Florida approach is consistent with the law and regulations. If the approach is deemed consistent, EPA will then fully approve their plan. If not, the DER has agreed to propose a change to its regulation to implement EPA's approach. In the interim, EPA conditionally approves the Florida PSD rules upon the condition that if a PSD source can be approved under Florida's rules, but would not be approved under EPA's rules, the source must obtain a PSD permit from EPA before beginning construction. This condition applies only to sources which would be disapproved by EPA solely because of the different methods of calculating increment consumption.

Although EPA is conditionally approving the Florida revision, it should be noted that certain portions of the revisions would require inclusion of vessel emissions in the review of certain stationary sources. In connection with EPA's recent amendments to SIP new source review requirements, 47 FR 27554, 27555–27556 (June 25, 1982), several members of the maritime industry raised the claim that states are implicitly preempted from requiring such reviews by the Ports and Waterways Safety Act, as amended, 46 U.S.C. 391(a) *et seq.* EPA is currently considering these claims. Accordingly, a final decision on whether to approve the vessel emission provisions of the revised regulations is deferred until this issue is resolved. It should be noted, however, that any EPA decision on whether to approve these revisions, insofar as they apply to vessel emissions, will not affect the applicability of the rules for purposes of State law.

The definitions contained in Florida regulation 17–2.100 apply under State law to both Florida's PSD program and Florida's new source review program for nonattainment areas. EPA is conditionally approving regulation 17–2.100 only under Part C, Subpart 1, of Title I of the Clean Air Act as providing adequate definitions for an acceptable PSD plan. EPA is taking no action on the definitions under Part D of Title I of the Act. Although regulation 17–2.100 will be applicable to Florida's nonattainment new source review program under State law, the definitions will not be approved by EPA as satisfying the requirements of Part D. EPA is taking no action at this time on any of the recent amendments to Florida's nonattainment program. The new source review regulations approved by EPA on March 18, 1980 (45 FR 17140), will continue to be the approved Part D SIP for Florida.

This action is effective December 22, 1983.

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [60 days from today]. This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

Under Executive Order 12291, today's action is not "Major". It has been submitted to the Office of Management and Budget (OMB) for review. Any comments from OMB to EPA and any response are available for public inspection at the EPA Region IV office (see address above).

Note.—Incorporation by reference of the State Implementation Plan for the State of Florida was approved by the Director of the Federal Register on July 1, 1982.

List of Subjects in 40 CFR Part 52

Air pollution control, Intergovernmental relations, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

(Secs. 110 and 161 of the Clean Air Act (42 U.S.C. 7410 and 7471))

Dated: November 7, 1983.

William D. Ruckelshaus,

Administrator.

PART 52—[AMENDED]

Part 52 of Chapter I, Title 40, Code of Federal Regulations, is amended as follows:

Subpart L—Florida

1. In § 52.520, paragraph (c) is amended by adding paragraph (51) as follows:

§ 52.520 Identification of plan.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified.

* * * * *

(51) Regulations for Prevention of Significant Deterioration, submitted on December 23, 1981, and December 23, 1982, by the Florida Department of Environmental Regulation. (No action is taken on the provisions for review involving vessel emissions or nonattainment areas.)

2. Section 52.530 is amended by revising paragraphs (a) and (b) and adding paragraph (d) to read as follows:

§ 52.530 Significant deterioration of air quality.

(a) EPA approves the Florida Prevention of Significant Deterioration (PSD) rule on condition that the State submit to EPA by December 14, 1983, a demonstration that its method of calculating increment consumption is consistent with Federal law and regulations. After receipt of the submittal and consideration of additional comments, EPA will, if it finds the State's method to be consistent, fully approve the Florida plan. If not, the State will change its regulation to implement EPA's approach.

(b) Pending final full approval of the State's PSD plan by EPA, if a source's application can be approved under Florida's rules, but not under EPA's rules, solely because of the different methods of calculating increment consumption, the source must obtain a PSD permit from EPA before beginning construction.

* * * * *

(d) The requirements of Sections 160 through 165 of the CAA are not met since the Florida plan, as submitted, does not apply to certain sources. Therefore, the provisions of § 52.21(b) through (w) are hereby incorporated by reference and made a part of the Florida plan for:

(1) Sources proposing to locate on Indian reservations in Florida; and

(2) Permits issued by EPA prior to approval of the Florida PSD rule.

[FR Doc. 83-31353 Filed 11-21-83; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 52

[EPA Docket No. (AWO34bPA) (AD-FRL 2474-3)]

Commonwealth of Pennsylvania; Proposed Revision of the Pennsylvania State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Commonwealth of Pennsylvania has submitted a revision to its State Implementation Plan (SIP) to incorporate an alternative emission reduction plan or "bubble". Pennsylvania has requested that the plan be approved by EPA for the Fairless Works of the United States Steel Corporation (USSC) in Fairless Hills, Bucks County, Pennsylvania. This plan consists of a bubble permit and regulations which apply to sulfur dioxide emissions from the power boilers, coke oven batteries, open hearth furnaces, soaking pits, annealing furnaces, and other miscellaneous heat treating furnaces. The plan allows sulfur dioxide emissions from the coke ovens to exceed the currently applicable Pennsylvania SIP limitation. These higher sulfur dioxide emissions will be offset by burning low sulfur oil and natural gas in the other sources listed above. In support of this bubble, an air quality analysis was conducted in accordance with EPA's Emissions Trading Policy of April 7, 1982 (47 FR 15076). EPA has reviewed this analysis and has concluded that no significant air quality impacts will occur on an annual or short-term (24-hour) basis when this bubble is implemented. This bubble plan was proposed in the **Federal Register** on May 2, 1983 (48 FR 19748).

EFFECTIVE DATE: November 22, 1983.

ADDRESSES: Copies of the SIP revision and the accompanying support documents are available for inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency, Air Management Branch, 6th & Walnut Streets, Curtis Building, Philadelphia, PA 19106, ATTN: Mr. David L. Arnold

Pennsylvania Department of Environmental Resources, Bureau of Air Quality Control, 200 North 3rd Street, Harrisburg, PA 17120, ATTN: Mr. Gary L. Triplett

Public Information Reference Unit, Room 2922, EPA Library, U.S. Environmental Protection Agency, 401 M Street, SW. (Waterside Mall), Washington, D.C. 20460

Office of the Federal Register, 1100 L Street, NW., Room 8401, Washington, D.C. 20408

FOR FURTHER INFORMATION CONTACT: Mr. David L. Arnold at the above address, or at (215) 597-7936.

SUPPLEMENTARY INFORMATION: The changes to the Pennsylvania State Implementation Plan (SIP) were submitted by the Pennsylvania Department of Environmental Resources (PaDER) on July 7, 1983 and were proposed in the **Federal Register** on May 2, 1983 (48 FR 19748). The changes will allow the implementation of an alternative emission reduction plan (bubble) in accordance with EPA's Emission Trading Policy of April 7, 1982 (47 FR 15076). EPA and the PaDER processed this proposal concurrently. All written comments received by EPA during the 30-day comment period were considered in today's action.

The bubble being approved involves 96 sulfur dioxide (SO_2) emission sources at the Fairless Works of the United States Steel Corporation (USSC). This plan consists of a bubble permit and regulations which apply to SO_2 emissions from five boilers, two coke oven batteries, nine open hearth furnaces, thirty-six soaking pit furnaces, thirty-one annealing furnaces, and thirteen miscellaneous heat treating furnaces. The plan will allow sulfur dioxide emissions from the coke ovens to exceed the currently applicable Pennsylvania SIP limitation. These higher sulfur dioxide emissions will be offset by burning low sulfur oil and natural gas in the other sources listed above. The Company estimates its savings in capital pollution control costs to be approximately $15,000,000 as a result of implementing this plan.

The current Pennsylvania SIP (25 PA. Code Section 123.21, 123.22(e)(3), and 123.23(b)) prohibits the combustion of coke oven gas that contains hydrogen sulfide in concentrations greater than 50 grains per 100 dry standard cubic feet; requires control of the boilers to a level of 0.6 pounds SO_2 per million Btu and the remaining sources in the bubble to a level of 500 ppm (vol) of SO_2. The bubble regulations establish a short term plant emission limit of 0.8 pounds SO_2 per million Btu applied on a weekly basis. To restrict extreme variations in daily emission levels, the emission limit

is calculated using a rolling average. Using the rolling average method, one day's emissions are included in the calculation for compliance seven times instead of once. This technique is also applied to the long term emission limit which is set at 0.6 pounds SO_2 per million Btu (52 week rolling average). In addition, to prevent daily emission levels from increasing because of production increases, a maximum overall limit of 54,000 pounds SO_2 per day is also contained in the State regulation. This emission limit is 46% lower than the facility's maximum actual emissions and 75% lower than the facility's allowable emissions.

The PaDER has also established separate emission limits for the plant during times of economic slowdown or lower production. Based upon historical operating data, a total facility heat demand of less than 400 billion Btu per week has been used to define low production activity. During these periods, the PaDER established an emission limit of 0.9 pounds SO_2 per million Btu based on a seven-day rolling average. To prevent daily emission levels from increasing during low production, a maximum overall limit of 36,000 pounds SO_2 per day is also listed in the regulations. This limit is 18,000 lbs./day less than what is allowed to be emitted during normal operations.

Table 1 below lists the sources involved in the emissions trade and summarizes the hourly SO_2 emission rates for each under the base case and the alternate case. The base case emission rates were developed using historical operating data and represent the facility's maximum actual emissions of sulfur dioxide. (Exception: the emission rates listed in Table 1 for the boilers and coke batteries reflect SIP allowable rates since actual emissions were greater than allowable emissions). The alternate case emission rates were derived from the daily pounds of SO_2 limitation (54000 lbs./day) and represent the worse case emissions configuration at the facility.

TABLE I.—SULFUR DIOXIDE EMISSIONS FROM USSC—FAIRLESS WORKS IN POUNDS PER HOUR

Facility (No. of Units)	Base case	Alternate case
Boilers (5)	1,125	442
Coke Batteries (2)	125	780
Open Hearth Shop (9)	539	308
No. 1 Soaking Pits (20)	372	112
No. 2 Soaking Pits (16)	220	67
80" Reheat (4)	978	350
40" Reheat (2)	125	83
10" Reheat (1)	84	25
Batch Anneal Furnaces (30)	175	53
Skelp Reheat (1)	140	49
Weld Furnaces (2)	300	91
Galvanize Furnace (1)	12	4
Total	4,195	2,344

In accordance with EPA's Emissions Trading Policy and modeling guidelines, a Level II air quality analysis was conducted by USSC to support the bubble plan. A Level II analysis is required when the proposed emissions trade will result in no net increase in baseline emissions and the relevant sources are *not* in the same immediate vicinity. Air dispersion modeling analyses were conducted using the bubble emission rates and the base case emission rates (Table 1). The Company used the PTMAX model to establish appropriate grid boundaries. The ISC long term and short term models were then used to evaluate ambient in the surrounding area of the plant. The predicted highest 24-hour concentration of SO_2 due entirely to emissions from the coke-battery stacks (increasing sources) was 13.1 micrograms per cubic meter. When considering the effect of the decreasing sources in the emissions trade, the highest predicted 24-hour concentration was reduced to 7.9 micrograms per cubic meter. An evaluation of annual concentrations was also conducted. An improvement in air quality was found at every receptor point. Based upon the results of the above analyses, EPA has concluded that no significant increase in air quality impact will occur on either an annual or short-term (24-hour) basis. In addition, EPA has concluded that the PSD increment for SO_2 will not be violated as a result of this action.

The regulation implementing this plan will become Section 128.15 of the PaDER Air Resources Regulations. Subsection (a) of the Section identifies the sources affected by this plan.

Subsection (b) and (c) prohibits sulfur dioxide emissions from the identified sources in the bubble in excess of the specified emission limits. Subsection (d) prohibits the use of residual fuel oil which contains sulfur in excess of 0.5% (wt). Subsection (e) prohibits the charging of the coke ovens with blended coal containing sulfur in excess of 1.0% (wt). Subsection (f) relieves USSC from compliance with Section 123.21, 123.22 and 123.23 when in compliance with this Section. Subsection (g) voids the bubble if one or more of the sources identified in subsection (a) is permanently shut down. Finally, subsection (h) renders Section 128.15 null and void on December 31, 1985, unless reenacted.

In order for the PaDER to determine compliance with these regulations, monitoring, recordkeeping and reporting requirements have been developed as conditions in the operating permit. USSC will be required to monitor and record all natural gas, fuel oil and coke oven gas usage on a daily basis. In addition, the company must analyze all fuel oils for sulfur and heat content; blended coal for sulfur content; and coke oven gas for hydrogen sulfide content on a daily basis. The above analyses must be conducted in accordance with approved State/EPA methods. All daily and weekly sulfur dioxide emission calculations must be performed in accordance with the instructions prescribed in the State operating permit.

Two changes were made to this bubble plan during the comment period. The list of sources contained in subsection (a) of § 128.15 was shortened. Rather than listing each individual furnace and number, similar furnaces have been grouped together under descriptions such as annealing furnaces; weld furnaces; etc. The individual listing of all emission points did not provide any additional enforcement capability and only resulted in a cumbersome regulation. The second change was the addition of subsection (h), which renders Section 128.15 null and void on December 31, 1985, unless reenacted. EPA has reviewed the above changes and has determined that they do not affect the approvability of this bubble.

Public Comments

The bubble plan being approved today was proposed in the **Federal Register** on May 2, 1983 (48 FR 19748). During the 30-day public comment period followed, one written comment from Conoco, Inc. was received supporting this action. EPA also received a written comment from the State of New Jersey. New Jersey's comments and EPA's responses follow:

Comment: A lower average emission level would be attained using a 0.5% sulfur in fuel limit rather than a 0.6 lb./MMBtu emission limit.

Response: The bubble regulations do impose a 0.5% sulfur in fuel limitation under Section 128.15(d). This is a requirement that was not contained in the previously applicable Pennsylvania SIP regulations (see paragraph no. 3 under Supplementary Information).

Comment: The yearly average emissions could be as high as 0.9 lb./MMBtu if the plant operates at a reduced level.

Response: EPA agrees with the above comment. However, during times of low production, overall emissions will be limited to 36000 lbs./day. Thus, during periods of low production, overall emissions will be 33% lower than during normal operations.

Comment: The PaDER has stated the actual three year emission average for the plant was 0.568 lb./MMBtu. Therefore, there may be no decrease in SO_2 levels if the 0.6 lb./MMBtu limit is adopted.

Response: EPA agrees that the production based limit of 0.6 lb./MMBtu is essentially equivalent to the three year average emission rate. However, by also imposing a daily pounds of SO_2 limitation, this will result in a decrease in SO_2 compared to the facility's maximum actual emissions.

Comment: Emission reduction credit is obtained by burning 0.5% sulfur fuel in the power plant instead of 2.5% sulfur fuel. Since 0.5% sulfur oil is the emission standard, there should be no credit for burning such fuel. 2.5% sulfur oil is not permitted.

Response: The 0.5% sulfur in fuel limitation contained in the existing Pennsylvania regulations does not apply to the power boilers. The boilers are exempt from this rule because they fire non-commercial fuels such as coke oven gas or blast furnace gas (in addition to oil) whose heat value exceeds 50% of the heat input. In this case, 25 PA. Code Section 123.22(e)(3) established a limitation of 0.6 lb./MMBtu. Historically, the power boilers could burn a fuel oil of 2.5% sulfur and comply with the 0.6 lb. SO_2/MMBtu emission standard. Therefore, burning 0.5% sulfur oil will result in reducing SO_2 emissions.

Comment: Allowing the emission rate to increase with reduced production levels without defining "permanent shutdown" which would make the bubble null and void appears to give bubble credit for shutdowns.

Response: Pennsylvania defines "permanent shutdown" as a source which has been out of operation or production for a period of one year or more. Reactivation of such a source is prohibited unless the company receives approval by the PaDER and is issued a permit to operate. This requirement is contained in 25 PA. Code Section 127.11. In addition, the bubble regulation includes a sunset date of December, 1985. At this time, the PaDER must review the bubble regulation to assess its effectiveness and impact on air quality.

EPA Action

EPA is today approving this bubble plan as a SIP revision since it has met the requirements of the April 7, 1982 Emissions Trading Policy (47 FR 15076). In addition, 40 CFR 52.2020 (Identification of Plan) is amended to reflect the inclusion of this bubble plan in the State Implementation plan for Pennsylvania.

The Office of Management and Budget has exempted this rule from requirements of Section 3 of Executive Order 12291.

Under 5 U.S.C. 605(b) the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. See 46 FR 8709 (January 27, 1981).

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by (60 days from today). This action may not be challenged later in proceeding to enforce its requirements. (See 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.

Authority: 42 U.S.C. 7401–7642.

Dated: November 15, 1983.

William D. Ruckelshaus,

Administrator.

Note.—Incorporation by reference of the State Implementation Plan for the State of Pennsylvania was approved by the Director of the Federal Register on July 1, 1982.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

Subpart NN—Pennsylvania

§ 52.2020 [Amended]

In § 52.2020 *Identification of plan,* (c)(55) is added to read as follows:

(c) The plan revision listed below was submitted on the date specified * * *

(55) Regulations and supporting documents implementing an SO_2 bubble plan for U.S. Steel Corporation's Fairless Works in Fairless Hills, PA was submitted by the Secretary of the Pennsylvania Department of Environmental Resources on July 7, 1983.

[FR Doc. 83-31238 Filed 11-21-83; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 265

[SW-FRL 2448-2]

Hazardous Waste Management System: Interim Status Standards for Owners and Operators of Hazardous Waste, Treatment, Storage and Disposal Facilities

AGENCY: Environmental Protection Agency.

ACTION: Final amendment.

SUMMARY: The Environmental Protection Agency (EPA) is today amending the regulations for hazardous waste management under the Resource Conservation and Recovery Act to clarify the scope and applicability of the interim status standards to hazardous waste management facilities. It is amending the provision that explains who is subject to the interim status regulations to clarify that these regulations apply to all hazardous waste management facilities in existence on November 19, 1980, including those facilities which have failed to qualify fully for interim status.

EFFECTIVE DATE: December 22, 1983.

FOR FURTHER INFORMATION CONTACT: The RCRA Hotline at (800) 424–9346, or in Washington, D.C., 382–3000; or Deborah Wolpe, Office of Solid Waste, U.S. Environmental Protection Agency, Washington, D.C. 20460, (202) 382–2222.

SUPPLEMENTARY INFORMATION:

I. Introduction

EPA has promulgated regulations implementing Subtitle C of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (RCRA), 42 U.S.C. 6901 *et seq.*, establishing a comprehensive program for the handling and management of hazardous waste (40 CFR Parts 260–265, 270, 271, 124). The regulations, among other things, require facilities which treat, store, or dispose of hazardous waste to obtain a permit from EPA or an authorized state [1] and require that hazardous wastes be designated for, delivered to, and treated, stored, or disposed or only in these permitted facilities.

Recognizing that EPA would be able to issue permits to all hazardous waste management (HWM) facilities at once, Section 3005(e) of RCRA provides that a hazardous waste management facility

[1] Section 3006 of RCRA provides that the Administrator of EPA shall authorize state hazardous waste management programs which meet minimum EPA guidelines to operate in their states in lieu of the Federal program. See 40 CFR Part 271, Subpart A and B.

that meets certain requirements will be treated as having been issued a permit until final administrative action is taken on its permit application. This statutory authorization to operate a HWM facility between the effective date of the Subtitle C program (November 19, 1980) and the issuance or denial of a final permit is known as "interim status". Facilities operating under interim status are subject only to the operating standards in 40 CFR Part 265, which are known as the "interim status standards". These standards do not contain the full set of technical design and operating standards contained in 40 CFR Part 264, the standards to be used when issuing permits to such facilities.

Interim status is conferred directly by Section 3005(e) upon a person who:

(1) Owns or operates a facility which is required to have a permit under Section 3005 and is in existence on November 19, 1980;

(2) Has complied with the requirements of Section 3010(a) of RCRA, regarding notification of hazardous waste activity; and,

(3) Has made an application for a permit, under Section 3005 of RCRA.

Interim status cannot be granted or conferred by EPA. Therefore, if an owner or operator of a facility failed to meet one or more of the statutory requirements for interim status, EPA cannot, under a literal construction of Section 3005(e) consider the facility as having achieved interim status. Any person treating, storing or disposing of hazardous waste without a permit or without having achieved interim status may be ordered by the Agency to cease that operation and may be subject to civil penalties and/or subject to fine and imprisonment.

As EPA indicated in a **Federal Register** notice on November 19, 1980 (45 FR 76630), such a literal construction of Section 3005(e) may have the effect of preventing owners or operators of certain well-managed facilities from qualifying for interim status and require that they cease operations until such time as they receive a RCRA permit. Accordingly, the Agency has adopted a policy that allows certain facilities in existence on November 19, 1980, that have failed to achieve interim status to continue operation if continued operation is in the public interest, and the facility owner or operator complies with the appropriate RCRA performance standards. See 45 FR 76630–36 (November 19, 1980). Under this policy, EPA may, by compliance order issued under Section 3008 of RCRA, extend the date by which the owner or operator of an existing facility may submit Part A of its permit application, thereby allowing the facility to obtain interim status, if that is the only requirement for interim status that the facility fails to meet. See 40 CFR 270.10(e)(3). An existing facility which has failed to notify as required by Section 3010(a) of RCRA, however, can never achieve interim status but may be allowed to continue operation through the issuance of either a compliance order under Section 3008 or an Interim Status Compliance Letter (ISCL). See 45 FR 76630–36 (November 19, 1980). As a part of this enforcement policy EPA will require facilities operating under compliance orders or ISCL's to comply with appropriate management practices as a condition of continued operation. It has been EPA policy that existing facilities operating without interim status or a permit should, at a minimum, comply with the Part 265 interim status standards.

II. Amendment to and Clarification of Application of Interim Status Regulations

Section 3004 of RCRA requires EPA to promulgate performance standards which apply to owners and operators of facilities that treat, store, or dispose of hazardous wastes. These Section 3004 standards are independently enforceable national standards which are separable from the Section 3005 permitting requirements. See 45 FR 33158 (May 19, 1980).

EPA promulgated both the Part 264 general permitting standards and the Part 265 interim status standards under the authority of Section 3004. EPA has, by regulation, limited the requirements for facilities with interim status to those found in 40 CFR Part 265. See 40 CFR 270.71(b). The language of 40 CFR 265.1(b), which defines the general application of the interim status standards provides that "[t]he standards in this Part apply to owners and operators of facilities which treat, store, or dispose of hazardous waste who have fully complied with the requirements for interim status . . .". This regulatory language has created some uncertainty as to whether the Part 265 standards apply to existing facilities which have failed to qualify for interim status. EPA believes that this language does not preclude application of the interim status standards to non-interim status facilities given that § 265.1(b) does not expressly limit the application of the Part 265 standards to only interim status facilities. Therefore, EPA has both the statutory and regulatory authority to apply either the Part 264 general permitting standards or the Part 265 interim status standards to existing facilities which have failed to qualify for interim status.

As indicated above, EPA has announced its intent to exercise prosecutorial discretion where appropriate to allow continued operation of existing facilities that did not qualify for interim status if such facilities complied with applicable EPA Part 265 regulations.

The interim status regulations, for the most part, consist of general administrative and non-technical operating standards. These standards were designed to be self-implementing, without need for substantial interpretation by, or negotiation with, EPA. These same considerations suggest that the Part 265 regulations are the most appropriate standards to apply to all existing unpermitted facilities, including those facilities which have failed to qualify for interim status. EPA also believes that, in order to ensure consistent application of the RCRA regulations, the Agency should apply the same set of RCRA performance standards to all existing unpermitted facilities.

As stated above, EPA believes that it has authority to apply the Part 265 standards to these facilities that have not fully qualified for interim status. However, to avoid any possible confusion on this point, EPA is today amending 40 CFR 265.1(b) in order to provide clear notice to owners or operators of existing facilities without interim status or a permit that they must comply with the Part 265 regulations until such time as final administrative disposition of their permit application is made.

III. Comments

The Agency received five comments on the proposed amendment which was published in the **Federal Register** on January 19, 1983, at 48 FR 2514. Two of the comments favored the proposed amendment; two opposed the change and one suggested conditions for the change.

The comments opposing the proposed amendment focussed on the language in the preamble that certain existing facilities not meeting the technical requirements of interim status be allowed to continue operation "if continued operation is in the public interest". The commenters are objecting to the potential broad application of this policy. One comment suggested limiting the policy to facilities which could demonstrate certain findings, such as good cause for failure to provide timely notification.

These comments are directed to EPA's exercise of its enforcement policy, and not at the regulatory changes

promulgated today. Today's amendments simply explain that those facilities without interim status can be sued for violation of Part 264 or 265. EPA intends to exercise its enforcement policy of allowing facilities to continue if continued operation is in the public interest very carefully. Although the policy appears to have broad implications, it will be administered quite narrowly. Certainly EPA will consider such factors as good cause for failure to notify in deciding whether to apply the policy to particular facilities.

EPA proposed the amendment promulgated today to clarify that HWM facilities failing to achieve interim status do not thereby escape liability under Part 265. The Agency may still enforce against facilities which are operating improperly by ordering them either administratively or judicially, to cease operations.

IV. Regulatory Impacts

A. Executive Order 12291

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis (RIA). A major rule is one which results in (1) an annual effect on the economy of $100 million or more; (2) a major increase in costs or prices to industry, consumers, Federal, State or local government agencies or geographic regions; or (3) causes significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. The Agency does not anticipate that today's amendment will have any of the effects which characterize a rule as "major" under the Executive Order. It merely clarifies how the existing regulations apply to existing facilities which have failed to achieve interim status.

This amendment was submitted to the Office of Management and Budget as required by Executive Order 12291. Any comments from OMB and any EPA response to those comments are available at the Office of Solid Waste Docket, Room S-212, U.S. EPA, Washington, D.C. 20460.

B. Paperwork Reduction Act

Under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, Federal agencies must estimate the paperwork burden created by any information collection requests in a proposed or final rule. Because there would be no information collection activities created by this amendment, the requirements of the Paperwork Reduction Act do not apply.

C. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, whenever an agency is required to publish general notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis which describes the impact of the proposed or final rule on small entities (i.e., small businesses, small organizations, and small governmental entities). The Administrator may certify, however, that the rule will not have a significant impact on a substantial number of small entities.

This amendment will generally have no economic impact on small entities. It merely clarifies already existing responsibilities. Accordingly, I hereby certify that this regulation would not have a significant economic impact on a substantial number of small entities. This regulation therefore does not require a regulatory flexibility analysis.

V. List of Subjects in 40 CFR Part 265

Hazardous materials, Packaging and and containers, Reporting and recordkeeping requirements, Security measures, Surety bonds, Waste treatment and disposal, Water supply.

Dated: November 15, 1983.

William D. Ruckelshaus,

Administrator.

PART 265—[AMENDED]

Title 40 of the Code of Federal Regulations is amended as follows:

1. The Authority for Part 265 reads as follows:

Authority: Secs. 1006, 2002(a), and 3004 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (RCRA), as amended (42 U.S.C. 6905, 6912, and 6924).

2. Section 265.1(b) is revised to read as follows:

§ 265.1 Purpose, scope and applicability.

* * * * *

(b) The standards in this Part apply to owners and operators of facilities which treat, store, or dispose of hazardous waste who have fully complied with the requirements for interim status under Section 3005(e) of RCRA and § 270.10 of this Chapter, until final administrative disposition of their permit application is made, and to those owners and operators of facilities in existence on November 19, 1980, who have failed to provide timely notification as required by Section 3010(a) of RCRA, and/or failed to file Part A of the Permit Application as required by 40 CFR § 270.10 (e) and (g). These standards apply to all treatment, storage, or disposal of hazardous waste at these facilities after the effective date of these regulations, except as specifically provided otherwise in this Part or Part 261 of this Chapter. [*Comment:* As stated in Section 3005(a) of RCRA, after the effective date of regulations under that Section, *i.e.*, Parts 270 and 124 of this Chapter, the treatment, storage, or disposal of hazardous waste is prohibited except in accordance with a permit. Section 3005(e) of RCRA provides for the continued operation of an existing facility which meets certain conditions until final administrative disposition of the owner's and operator's permit application is made.]

* * * * *

[FR Doc. 83-31352 Filed 11-21-83; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 271

[SW-3-FRL 2475-2]

District of Columbia; Phase I and II, Components A and B, Interim Authorization of the State Hazardous Waste Management program

AGENCY: Environmental Protection Agency.

ACTION: Approval of State Program.

SUMMARY: Pursuant to the Resource Conservation and Recovery Act of 1976 (RCRA) provisions, the District of Columbia has applied for Interim Authorization Phase I and Phase II, Components A and B. The Environmental Protection Agency (EPA) has reviewed the District's application for Phases I and II, Components A and B, Interim Authorization, and has determined that the District's hazardous waste program is substantially equivalent to the Federal program covered by Phases I and II, Components A and B.

The District of Columbia is hereby granted Interim Authorization for Phases I and II, Components A and B to operate the District's hazardous waste program in lieu of the Federal program.

EFFECTIVE DATE: November 22, 1983.

FOR FURTHER INFORMATION CONTACT: Anthony J. Donatoni, Chief, State Programs Section, Waste Management Branch, U.S. EPA Region III, 6th and Walnut Streets, Philadelphia, PA 19106 (215) 597-7937.