

equipped with Gajon Associates, LTD. (Viking Helicopters Limited) Supplemental Type Certificate (STC) No. SH1134EA external cargo container kit (baggage pod), with or without the auxiliary fuel system, certificated in any category.

Compliance: Required within 10 days or 25 hours' time-in-service, whichever occurs first, after the effective date of this AD, unless accomplished previously.

To prevent hazardous yaw oscillations during descents, which could result in loss of control of the helicopter, accomplish the following:

(a) Install a durable placard on the instrument panel as close as is practical to the airspeed indicator and that is legible to the pilot that reads:

Baggage POD Installed

V_{ne}-90 KIAS in powered descent (>1000 fpm) or in autorotation

(b) Insert the following statement into the Operating Limitations Section of the flight manual supplement for the baggage pod:

Airspeed Limits

V_{ne} is 90 KIAS in moderate rates of powered descent (greater than 1,000 fpm) or in autorotation with baggage pod installed.

(c) Insert the following statement into the Emergency and Malfunction Procedures Section of the flight manual supplement for the baggage pod:

Engine Failure at High Cruise Speed

Note: At speeds in excess of 90 KIAS in stabilized moderate descents (greater than 1,000 fpm) or in autorotation, the lateral directional handling of the helicopter is degraded. Yaw oscillation may occur and persist, and there is a tendency for the pilot to overcontrol.

(1) Adjust collective pitch according to altitude and airspeed to maintain rotor speed between 410 and 500 RPM.

(2) Apply pedal pressure as necessary to control aircraft yaw.

(3) Adjust cyclic control as necessary to reduce airspeed to 90 KIAS or less as collective is lowered and stabilized autorotation is achieved.

Note: See basic rotorcraft flight manual for recommended minimum rate of descent and maximum glide distance power-off speeds.

(d) Compliance with Paragraphs (b) and (c) above may be accomplished by attaching a copy of the appropriate AD paragraphs to the Operating Limitations Section and Emergency Procedure Section of the flight manual supplement.

(e) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, New York Aircraft Certification Office, FAA, 181 South Franklin Avenue, room 202, Valley Stream, New York. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, New York Aircraft Certification Office.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Manager, New York Aircraft Certification Office.

(f) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the helicopter to a location where the requirements of this AD can be accomplished.

(g) This amendment becomes effective on July 6, 1993.

Issued in Fort Worth, Texas, on May 3, 1993.

James D. Erickson,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 93-13421 Filed 6-7-93; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing, Federal Housing Commissioner

24 CFR Part 203

[Docket No. R-93-1509; FR-2853-F-03]

RIN 2502-AF02

Mutual Mortgage Insurance and Rehabilitation Loans; Miscellaneous Amendments, Technical Amendment

AGENCY: Office of the Assistant Secretary for Housing, Federal Housing Commissioner, HUD.

ACTION: Technical amendment.

SUMMARY: The purpose of this technical amendment is to amend agency regulations on property condition, by adding text that was inadvertently omitted when the final rule was published in the Federal Register on October 20, 1992 (57 FR 47966).

EFFECTIVE DATE: November 19, 1992.

FOR FURTHER INFORMATION CONTACT: Joseph Bates, Director, Single Family Servicing Division, room 9178, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; (202) 708-1672 or, for hearing and speech-impaired, (202) 708-4594. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: On October 20, 1992 (57 FR 47966), the Department published in the Federal Register, a final rule that made final a proposed rule published April 25, 1991 (56 FR 19212) that described miscellaneous amendments to regulations governing actions by mortgagees with respect to insured mortgages in default. The purpose of the rule was to improve the efficiency of the Single Family Mortgage Insurance Program.

It has been recently noted that when the final rule was published in the

Federal Register, part of the text that was submitted to the Federal Register by HUD for publication for § 203.378(c)(3), was inadvertently omitted. In order to avoid further confusion, § 203.378(c)(3) will be republished in its entirety in this document.

List of Subjects in 24 CFR Part 203

Hawaiian Natives, Home improvement, Loan programs—housing and community development, Mortgage insurance, Reporting and recordkeeping requirements, Solar energy.

Accordingly, part 203 of title 24 of the Code of Federal Regulations, is amended to read as follows:

1. The authority citation for 24 CFR part 203 continues to read as follows:

Authority: 12 U.S.C. 1709, 1710, 1715b; 42 U.S.C. 3535(d). In addition, subpart C is also issued under 12 U.S.C. 1715(u).

2. Section 203.378 is amended by revising paragraph (c)(3) to read as follows:

§ 203.378 Property condition.

* * * * *

(c) * * *

(3) As to all mortgages insured under firm commitments issued on or after November 19, 1992, or under direct endorsement processing where the credit worksheet was signed by the mortgagee's approved underwriter on or after November 19, 1992, any damage of whatsoever nature that the property has sustained while in the possession of the mortgagee if the property is conveyed to the Secretary without notice to and approval by the Secretary as required by § 203.379 of this part.

* * * * *

Dated: June 1, 1993.

Brenda W. Gladden,

Acting Assistant General Counsel for Regulations.

[FR Doc. 93-13384 Filed 6-7-93; 8:45 am]

BILLING CODE 4210-27-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[OH7-1-5083; FRL-4664-1]

Approval and Promulgation of Air Quality Implementation Plans; Ohio

AGENCY: U.S. Environmental Protection Agency (U.S. EPA).

ACTION: Final rule.

SUMMARY: U.S. EPA is reinstating the federally promulgated sulfur dioxide (SO₂) emission limitations for the

Cleveland Electric Illuminating Company (CEI)—Eastlake and Avon Lake plants as part of the Ohio Implementation Plan.

On August 27, 1976, U.S. EPA promulgated the SO₂ implementation plan for Ohio, including emission limits of 1.43 pounds of SO₂ per million British Thermal Units (lbs/MMBTU) for the CEI Eastlake plants and 1.5 lbs/MMBTU for the CEI Avon Lake plant. On June 24, 1980, U.S. EPA promulgated revised SO₂ emission limitations for the CEI plants (Eastlake—5.64 lbs/MMBTU, Avon Lake—4.65 lbs/MMBTU). Several entities petitioned the Court of Appeals for the Sixth Circuit Court to review these revised limits.

On October 2, 1986, the Court remanded the case to U.S. EPA for further proceedings consistent with the Court's opinion (Ohio, et al. v. U.S. EPA, Case Numbers 80-3575, 3576, 3579, 3581, and 3582 and 81-3525, reported at 798 F.2d 882). In response to the Court's decision, U.S. EPA reevaluated its plan for the two CEI facilities and proposed on January 4, 1990, to reinstate its June 24, 1980, plan for these facilities. U.S. EPA is reinstating the 1980 emission limitations for these two plants.

EFFECTIVE DATE: This final rulemaking becomes effective July 8, 1993.

ADDRESSES: Copies of all information relevant to this action are available at the following address: (It is recommended that you telephone Maggie Greene, at (312) 886-6088, before visiting the Region 5 Office.) U.S. Environmental Protection Agency, Region 5, Air Enforcement Branch (AE-17), 77 West Jackson Boulevard, Chicago, Illinois 60604-3590.

Copies of all information relevant to this action are contained in the docket for this revision (5A-88-1). This docket is available for inspection at the above Regional Office and at: U.S. Environmental Protection Agency, Jerry Kurtzweg, ANR-443, 401 M Street SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Maggie Greene, Regulation Development Section, Air Enforcement Branch (AE-17), U.S. Environmental Protection Agency, Region 5, Chicago, Illinois 60604-3590, (312) 886-6088.

SUPPLEMENTARY INFORMATION: This document discusses U.S. EPA's analysis in five parts:

- I. Background Information
- II. Model Evaluation Study
- III. Stack Height Issues
- IV. Public Comments
- V. Final Action

I. Background Information

On August 27, 1976, U.S. EPA promulgated the SO₂ implementation plan for Ohio, including emission limits of 1.43 pounds of SO₂ per million British Thermal Units (lbs/MMBTU) for the CEI Eastlake plant and 1.5 lbs/MMBTU for the CEI Avon Lake plant.¹ These emission limitations were based on the use of the RAM-urban model, the appropriate U.S. EPA model for the Cleveland (urban) metropolitan area. The Eastlake plant is located in Lake County, Ohio, and the Avon Lake plant is located in Lorain County, Ohio.

On June 12, 1979, U.S. EPA proposed to revise the SO₂ emission limitations for the Eastlake and Avon Lake plants (i.e., 6.58 lbs/MMBTU for Eastlake and 6.09 lbs/MMBTU for Avon Lake). U.S. EPA chose to propose emission limits that reflect status quo emissions based on: (a) Its determination that neither the existing RAM-urban nor RAM-rural models are appropriate for setting emission limits for the two plants (i.e., air quality data demonstrate that neither model accurately predicts the impact of the plants); (b) the installation of Good Engineering Practicing stacks at both plants; and (c) current air quality data. U.S. EPA stated that "in the absence of a more appropriate modeling technique, an emission limit based on the status quo emissions represents a reasonable margin of safety (pending collection of further monitoring data)." As part of its proposed rulemaking, U.S. EPA required CEI to expand the ambient monitoring system to ensure that status quo emissions will protect the National Ambient Air Quality Standards (NAAQS) and to develop site-specific information on ground-level concentrations caused by the plants.

On February 22, 1980, U.S. EPA announced the technical design of the expanded monitoring programs at Eastlake and Avon Lake. The objective of the monitoring program identified by U.S. EPA was to: (1) Assess the attainment status in the vicinity of the CEI plants, (2) assess the expected location of maximum ground-level concentrations due to the CEI plants, (3) evaluate the influence of Lake Erie on these concentrations, (4) collect data necessary to develop control strategies adequate to protect the NAAQS, and (5) aid in the refinement or development of a site-specific model for these lakeshore plants.

¹ In the January 4, 1990, notice of proposed rulemaking, U.S. EPA stated that Centor Energy Corporation was the owner of the Eastlake and Avon Lake plants. We are correcting this to reference that Cleveland Electric Illuminating is the owner of both plants.

On June 24, 1980, U.S. EPA promulgated revised SO₂ emission limitations for the CEI plants (Eastlake—5.64 lbs/MMBTU, Avon Lake—4.65 lbs/MMBTU). The revised limits were based on the use of the CRSTER (rural) model and a new taller (merged) stack at each plant. U.S. EPA determined that because the immediate vicinity of each plant was rural, the use of CRSTER (the benchmark model for non-urban areas) was appropriate. In addition, screening analysis with a state-of-the-art shoreline fumigation technique (Lyons-Cole model) suggested that in most cases high concentrations associated with lakeshore fumigation would not be any greater for these plants than the high concentrations calculated by CRSTER for Class A stability conditions. Thus, U.S. EPA concluded that the emission limitations based on CRSTER would be adequate to ensure attainment and maintenance of the SO₂ NAAQS.

In August 1980, CEI, the North American Coal Corporation (NACCO), the NACCO Mining Company, and the Northern Ohio Lung Association (NOLA) filed petitions for reconsideration. The petitioners stated that they had no opportunity to comment on the use of the CRSTER model and Class A stability meteorological conditions and on a revision to U.S. EPA's Stack Height policy (which was proposed at the same time U.S. EPA promulgated the revised emission limitations). On January 27, 1981, U.S. EPA granted the petitions for reconsideration and, consequently, solicited further comments from interested parties. On July 22, 1981, after consideration of all public comments, U.S. EPA reaffirmed the new emission limitation.

The States of Ohio and Massachusetts, CEI, NACCO, NACCO Mining Company, and NOLA subsequently filed suit in the U.S. Court of Appeals for the Sixth Circuit. The States of Pennsylvania, New York, and New Hampshire; the Ohio Mining and Reclamation Association (OMRA); and the Youghiogheny and Ohio (Y&O) Coal Company were allowed to intervene.

On February 26, 1986, the Court ruled that U.S. EPA acted arbitrarily using the CRSTER model to set emission limitations "without adequately validating, monitoring, or testing its reliability or its trustworthiness in forecasting pollution in the vicinity of these plants," and ordered further action to test and validate the model as an adequate forecasting technique for these plants, given the specific meteorological and geographic problems present at the plant sites. The Court noted that it had no information about

"what effect Lake Erie has on the diffusion of sulfur dioxide from these plants built along the shoreline." Claiming that Agency "changing of course by rescinding rule" requires closer judicial scrutiny, the Court cited U.S. EPA's change of modeling techniques, and the resulting 400 percent increase in allowable SO₂ emissions, without evaluation, validation or empirical testing as the basis for its decision. The Court did note, however, that it was not insisting that all models be validated at all sites.

On October 2, 1986, the Court issued its judgment entry and order of remand. The Court reversed U.S. EPA's use of the CRSTER Model for these plants and remanded the case to U.S. EPA for further proceedings consistent with the Court's opinion. Additionally, the Court established interim SO₂ emission limitations as set by the Ohio Administrative Code Rules for the Avon Lake and Eastlake plants.

II. Model Evaluation Study

CEI performed a model evaluation study entitled "Evaluation of the Use of the CRSTER Model at the Eastlake and Avon Lake Plants." The purpose of the study was to evaluate the performance of the CRSTER model against actual monitored concentration of SO₂ in the vicinity of the Eastlake and Avon Lake plants. The study involved the evaluation of CRSTER (UNAMAP Version 5), MPTER (UNAMAP Version 5); and Lyons-Cole.² A more detailed discussion of the model evaluation procedures used in this analysis is contained in the study mentioned above, U.S. EPA's March 3, 1988, technical support document, and U.S. EPA's January 4, 1990, proposed rulemaking (55 FR 311-314).

Results of the Evaluation

A. Eastlake

CRSTER and MPTER both overestimated the maximum 1-hour concentration at Eastlake, but slightly underestimated the maximum 3-hour and 24-hour concentrations. The final scores suggest MPTER is a slightly more accurate model than CRSTER for Eastlake. This result was found for the

² U.S. EPA's "Guideline on Air Quality Models (Revised)", July 1986 and "Supplement A to the Guideline on Air Quality Models (Revised)", July 1987 recommend air quality modeling techniques that should be applied to SIP revisions for existing sources. In rural areas with multiple sources (e.g., single plant with separated stacks), the recommended model is MPTER. In rural areas with single sources (e.g., single plant with co-located stacks), the recommended model is CRSTER. (The Lyons-Cole model was identified in a previous version of the guideline as a possible technique applicable to lake/sea breeze.)

highest 25 concentrations. Since the two stacks at Eastlake are within approximately 160 meters and the effective stack heights are similar, the similarity in results is not unexpected.

B. Avon Lake

CRSTER and MPTER both overestimated the maximum 1-hour, 3-hour, and 24-hour concentrations at Avon Lake. This result of overestimating concentrations for all three averaging times was also found for the 25 highest concentrations. The final scores suggest that MPTER is a more accurate model than CRSTER for Avon Lake. This result is not unexpected because of the variation in effective stack heights and stack locations at the plant.

C. Lakeshore Fumigation

A comparison of Lyons-Cole, CRSTER, and monitored data was done for the hours satisfying the lakeshore fumigation criteria (approximately 350 hours for each plant). The results show that the Lyons-Cole model overpredicted the highest and 25 highest 1-hour concentrations at both plants and, thus, may be a conservative tool for this situation. Further, CRSTER yielded even greater 1-hour concentrations; thus, substantiating U.S. EPA's finding in 1980 that concentrations associated with lakeshore fumigation would not be higher here than the non-lakeshore fumigation concentrations calculated by CRSTER. This evaluation satisfies the instructions in the remand from the Sixth Circuit Court of Appeals to consider the "specific meteorological and geographic problems present at these sites," most notably the "lakeshore effects on the dispersion of SO₂."

III. Stack Height Issues

The State of Ohio has reviewed both plants relative to U.S. EPA's Stack Height Regulations.³ The previous modeling assumed credit for taller merged stacks at Eastlake and Avon Lake. At Eastlake, the four 91.4 meter stacks serving boilers 1-4 were replaced with one 164.6 meter stack in 1978. At Avon Lake, the two 89.9 meter stacks serving Boilers 9 and 10 were replaced with one 152.4 meter stack in 1977. Physical stack height and merged stack credits have been determined to be acceptable.

IV. Public Comments

On January 4, 1990, U.S. EPA proposed its findings and proposed to

³ U.S. EPA promulgated stack height regulations implementing section 123 of the Clean Air Act on July 8, 1985, 50 FR 27892.

reinstate its 1980 emission limits at CEI Eastlake and Avon Lake. On February 2, 1990, CEI and Centor submitted comments on U.S. EPA's proposed reinstatement of the SO₂ emission limitations. The comments and U.S. EPA's responses are as follows:

Comment

The Cleveland Electric Illuminating Company is the legal owner of the Eastlake and Avon Lake Plants.

Response

U.S. EPA has made the necessary changes to reflect the above statement.

Comment

The Companies submitted additional evidence to address all of the "Information Deficiencies" cited by the Sixth Circuit in the remand of the emission limitations.

Response

This additional information has been reviewed and is available to the public at the U.S. EPA Region 5 offices.

Comment

The technical support document contains minor errors that do not affect the overall conclusion of the document.

Response

U.S. EPA has prepared an addendum to the technical support document to address these minor errors. Note, these errors do not change the decision in this notice of final rulemaking.

Comment

The present record demonstrates that these emission limitations are overly stringent. If remodeling were done to reflect sources that have been shut down, the MPTER model, and appropriate stack heights, less stringent emission limits would be necessary. Additionally, in 1985 CEI submitted data that showed that emission limits could be averaged over 30 days.

Response

If CEI believes that the emission limits in the plan are overly stringent, it may perform modeling analysis, using current guideline techniques, which predict appropriate emission limits for the facilities. These analyses then could be submitted to the State of Ohio. The State may then, if it wishes, adopt these limits and submit the limits and the analyses to U.S. EPA as site specific revisions to the Ohio implementation plan. If the State's plan demonstrates attainment and maintenance of the SO₂ NAAQS, U.S. EPA can approve the revised plan.

As to CEI's submission of an analysis purporting to demonstrate that the emission limits in the plan, when averaged over 30 days, will protect the SO₂ NAAQS, U.S. EPA notified the State of Ohio on July 15, 1986, that CEI's January 1986 analysis was flawed, because it inappropriately assumed a dependence between emissions and meteorology. Further, although U.S. EPA has evaluated various other techniques that are designed to develop emission limits, which, when averaged over 30 days, still protect the short term SO₂ NAAQS, U.S. EPA has not approved any of them at this time for the purpose of setting emission limits.

V. Final Action

Since review of the CEI and Centerior public comments did not change the proposed decision by U.S. EPA, U.S. EPA is reinstating the following emission limitations:

- Eastlake—Stack 6 (Boilers 1–4): 5.64 lbs/MMBTU
 —Stack 5 (Boiler 5): 5.64 lbs/MMBTU
 Avon Lake—Stack 1 (Boilers 1,2): 0.32 lbs/MMBTU
 —Stack 2 (Boilers 3,4): 0.32 lbs/MMBTU
 —Stack 3 (Boilers 5,6): 0.32 lbs/MMBTU
 —Stack 4 (Boilers 7,8): 0.32 lbs/MMBTU
 —Stack 9 (Boilers 9,10): 4.65 lbs/MMBTU
 —Stack 7 (Boiler 11): 4.65 lbs/MMBTU
 —Stack 8 (Boiler 12): 4.65 lbs/MMBTU

The compliance test method and procedures used for determining compliance for the Eastlake and Avon Lake plants is stack gas sampling as specified at 40 CFR 60.46. Compliance tests shall be conducted under such conditions as the Administrator shall specify based on representative performance of the affected facility. Notification and recordkeeping procedures shall be those prescribed in 40 CFR 60.7. The owner or operator shall make available to the Administrator such records as may be necessary to determine the conditions of the performance tests. See 40 CFR 52.1881(b)(2).

Titles I, IV, and V of the 1990 Clean Air Act Amendments will effect changes in the implementation of the SO₂ NAAQS program. In order for all three titles to be carried out as efficiently as possible, U.S. EPA is requiring States nationwide to correct existing enforceability deficiencies in the SIPs. In June 1991, U.S. EPA released the "Yellow Book," which discussed

various types of enforcement deficiencies. Also, the "General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990," 57 FR 13498–13570 (April 16, 1992) and 57 FR 18070–18077 (April 28, 1992), provided guidance on requirements for continuous compliance monitoring. Notwithstanding this guidance, U.S. EPA is not today changing the compliance method for the emissions limits being reinstated, based on several considerations: (1) Today's action simply reinstates emissions limits for the two affected CEI plants, (2) U.S. EPA proposed no modifications to the compliance method, and (3) the compliance method is consistent with the compliance method used for other sources subject to the Federal SO₂ plan for Ohio. Nevertheless, Ohio has stated its intention to review the rules that apply to SO₂ sources in the State and correct the enforceability deficiencies that these rules are judged to contain. U.S. EPA believes that it is appropriate to address the application of the General Preamble guidance to CEI's plants at that time.

Under Executive Order 12291, this action is not "Major." It has been submitted to the Office of Management and Budget (OMB) for review.

The Agency has reviewed this action for conformance with the provisions of the 1990 Amendments enacted on November 15, 1990. The Agency has determined that this action conforms with those requirements.

Under Section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 9, 1993. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see Section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Air pollution control, Environmental protection, Intergovernmental relations, Reporting and recordkeeping requirements, Sulfur dioxide.

Dated: May 28, 1993.

Carol M. Browner,
Administrator.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF AIR QUALITY IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

2. Section 52.1881 is amended by revising paragraphs (b)(35)(vi) and (b)(38)(iii) to read as follows:

§ 52.1881 Control strategy: Sulfur oxides (sulfur dioxide).

* * * * *

(b) * * *
(35) * * *

(vi) The Cleveland Electric Illuminating Company, or any subsequent owner or operator of the Eastlake Plant in Lake County, Ohio, shall not cause or permit the emission of sulfur dioxide from any stack at the Eastlake Plant in excess of 5.64 pounds of sulfur dioxide per million BTU actual heat input. Recordkeeping and reporting requirements and compliance test methods are those found at paragraph (b)(2) of this section.

* * * * *

(38) * * *

(iii) The Cleveland Electric Illuminating Company, or any subsequent owner, or operator of the Avon Lake Plant in Lorain County, Ohio, shall not cause or permit the emission of sulfur dioxide in pounds per million BTU actual heat input from any stack at the Avon Lake Plant in excess of the rates specified below:

Stack No. Boiler identification and Emission Limit (lbs/MMBTU)

- Stack 1 (Boilers 1,2)=0.32
 Stack 2 (Boilers 3,4)=0.32
 Stack 3 (Boilers 5,6)=0.32
 Stack 4 (Boilers 7,8)=0.32
 Stack 9 (Boilers 9,10)=4.65
 Stack 7 (Boiler 11)=4.65
 Stack 8 (Boiler 12)=4.65

Recordkeeping and reporting requirements and compliance test method are those found at paragraph (b)(2) of this section.

* * * * *

[FR Doc. 93–13427 Filed 6–7–93; 8:45 am]
BILLING CODE 5560–50–P

40 CFR Part 761

[OPPTS–66016A; FRL–4626–6]

Polychlorinated Biphenyls (PCBs); Use of Waste Oil; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correction.

SUMMARY: In the Federal Register of March 23, 1993, EPA issued a final rule to amend the provisions of 40 CFR 761.20(e) (58 FR 15435). This document corrects the omission of a citation found in paragraph (4) of the definition for a "qualified incinerator" at § 761.3. The reference to industrial furnaces and boilers which are identified in 40 CFR 266.41(b) should have been changed to read 40 CFR 279.61(a)(1) and (2).

EFFECTIVE DATE: March 23, 1993.

FOR FURTHER INFORMATION CONTACT:

Susan B. Hazen, Director, Environmental Assistance Division (TS-799), Office of Pollution Prevention and Toxics, Environmental Protection Agency, rm. E543B, 401 M St., SW., Washington, DC 20460, (202) 554-1404, TDD: (202) 554-0551.

SUPPLEMENTARY INFORMATION: In the March 23, 1993, issue of the Federal Register, published at 58 FR 15435, EPA issued, under the Toxic Substances Control Act (TSCA), a final rule which amended the provisions which are found at § 761.20(e) of the Polychlorinated Biphenyl (PCB) regulations for the marketing and burning of used oil containing quantifiable levels of PCBs (i.e., >2-49 ppm). A reference to the Resource Conservation and Recovery Act (RCRA) marketing and burning requirements found in the definitions at § 761.3 for a "qualified incinerator" was overlooked. Paragraph (4) of the definition for "qualified incinerator" should have been changed to read "(4) Industrial furnaces and boilers which are identified in 40 CFR 260.10 and 40 CFR 279.61(a)(1) and (2) when operating at their normal operating temperatures (this prohibits feeding fluids, above the level of detection, during either startup or shutdown operations)." Paragraph (4) of the definition for "qualified incinerator" is corrected below.

List of Subjects in 40 CFR Part 761

Environmental protection, Hazardous substances, Labeling, Polychlorinated biphenyls, Reporting and recordkeeping requirements.

Dated: May 27, 1993.

John W. Melone,

Director, Chemical Management Division, Office of Pollution Prevention and Toxics.

Therefore, 40 CFR part 761 is amended as follows:

PART 761 — [AMENDED]

1. The authority citation for part 761 continues to read as follows:

Authority: 15 U.S.C. 2605, 2607, 2611, 2614 and 2616.

§ 761.3 — [Amended]

2. In § 761.3, the definition for "qualified incinerator," paragraph (4) is amended by replacing the citation "40 CFR 266.41(b)" with "40 CFR 279.61(a)(1) and (2)."

[FR Doc. 93-13452 Filed 6-7-93; 8:45 am]

BILLING CODE 6560-50-F

DEPARTMENT OF DEFENSE

48 CFR Parts 207 and 210

Defense Federal Acquisition Regulation Supplement; Elimination of Ozone-Depleting Substances

AGENCY: Department of Defense (DoD).

ACTION: Interim rule with request for comments.

SUMMARY: The Director of Defense Procurement has issued an interim rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to address procedures for the elimination of ozone-depleting substances in DoD contract requirements.

DATES: Effective date: May 21, 1993.

Comment date: Comments on the interim rule should be submitted in writing to the address shown below on or before July 8, 1993, to be considered in the formulation of the final rule.

ADDRESSES: Interested parties should submit written comments to: Defense Acquisition Regulations Council, Attn: Ms. Michele Peterson, OUSD(A), 3062 Defense Pentagon, Washington, DC 20301-3062. Telefax number (703) 697-9845. Please cite DFARS Case 92-D354 in all correspondence related to this issue.

FOR FURTHER INFORMATION CONTACT: Ms. Michele Peterson, (703) 697-7266.

SUPPLEMENTARY INFORMATION:

A. Background

Section 326 of the Fiscal Year 1993 Defense Authorization Act (Pub. L. 102-484) places restrictions on the award and modification of contracts requiring the use of ozone-depleting substances. The Director of Defense Procurement issued an interim rule on May 21, 1993, by Departmental Letter 93-005, to implement the requirements of Section 326.

B. Regulatory Flexibility Act

The interim rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*,

because any additional expenses to contractors resulting from this rule will be reimbursable expenses under the applicable contracts. An initial regulatory flexibility analysis has therefore not been performed. Comments are invited from small businesses and other interested parties. Comments from small entities concerning the affected DFARS subparts will also be considered in accordance with Section 610 of the Act. Such comments must be submitted separately and cite DFARS Case 93-610 in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the interim rule does not impose any information collection requirements which require the approval of OMB under 44 U.S.C. 3501, *et seq.*

D. Determination To Issue an Interim Rule

A determination has been made under the authority of the Secretary of Defense to issue this regulation as an interim rule. Urgent and compelling reasons exist to promulgate this rule before affording the public an opportunity to comment in order to meet the statutory implementation date of June 1, 1993. However, pursuant to Public Law 98-577 and FAR 1.501, public comments received in response to this interim rule will be considered in formulating the final rule.

List of Subjects in 48 CFR Parts 207 and 210

Government procurement.

Claudia L. Naugle,

Deputy Director, Defense Acquisition Regulations Council.

Therefore, CFR parts 207 and 210 are amended as follows:

1. The authority citation for 48 CFR parts 207 and 210 continues to read as follows:

Authority: 5 U.S.C. 301, 10 U.S.C. 2202, DoD Directive 5000.35 FAR subpart 1.3.

PART 207—ACQUISITION PLANNING

2. Section 207.105 is amended by adding paragraph (b)(15) to read as follows:

207.105 Contents of written acquisition plans.

* * * * *

(b) Plan of action.

* * * * *

(15) Environmental considerations.

Discuss actions taken to ensure either elimination of or authorization to use

class I ozone-depleting chemicals and substances (see 210.002-71).

PART 210—SPECIFICATIONS, STANDARDS, AND OTHER PURCHASE DESCRIPTIONS

3. Section 210.002-71 is added to read as follows:

210.002-71 Elimination of use of class I ozone-depleting substances.

(a) Contracts awarded on or after June 1, 1993.

No DoD contract awarded on or after June 1, 1993, may include a specification or standard that requires the use of a class I ozone-depleting substance or that can be met only through the use of such a substance unless the inclusion of the specification or standard is specifically authorized at a level no lower than a general or flag officer or member of the Senior Executive Service of the requiring activity in accordance with Section 326 of the Fiscal Year 1993 Defense Authorization Act (Pub. L. 102-484).

(b) Contracts modified on or after June 1, 1993.

(1) Contracts with a value in excess of \$10 million, awarded before June 1, 1993, that are modified or extended (including option exercise) on or after June 1, 1993, and, as a result, will expire more than one year after the effective date of the modification or extension, must be evaluated in accordance with agency procedures for the elimination of ozone-depleting substances.

(i) The evaluation must be carried out within 60 days after the first modification or extension.

(ii) No further modification or extension may be made to the contract until the evaluation is complete.

(2) If, as a result of this evaluation, it is determined that an economically feasible substitute substance or alternative technology is available, the contracting officer shall modify the contract to require the use of the substitute substance or alternative technology.

(3) If a substitute substance or alternative technology is not available, a written determination shall be made to that effect at a level no lower than a general or flag officer or member of the Senior Executive Service of the requiring activity.

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48 CFR Parts 215 and 252

Defense Federal Acquisition Regulation Supplement; Industrial Modernization Incentive Program

AGENCY: Department of Defense (DOD).

ACTION: Final rule.

SUMMARY: The Director of Defense Procurement has issued a final rule that deletes Defense Federal Acquisition Regulation Supplement language on the Industrial Modernization Incentives Program since the program has been cancelled.

EFFECTIVE DATE: January 14, 1993.

FOR FURTHER INFORMATION CONTACT: Mr. Eric Mens (703) 697-7266. Please cite DFARS Case 92-D041.

SUPPLEMENTARY INFORMATION:

A. Background

The Deputy Secretary of Defense on September 18, 1992, cancelled the DoD Industrial Modernization Incentive Program (IMIP). Subsequently, governing DoD Directive 5000.44 and DoD guide 5000.44-G were cancelled. DFARS 215.870 and the clause at 252.215-7003 are removed from the DFARS to reflect cancellation of the IMIP.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act does not apply because this final rule is not a significant revision within the meaning of Public Law 98-577. This revision, which removes DFARS 215.870 and the clause at 252.215-7003, is necessary because the Deputy Secretary of Defense on September 18, 1992, cancelled the IMIP and subsequently, governing DoD Directive 5000.44 and DoD Guide 5000.44-G were also cancelled. Comments from small entities will be considered in accordance with section 610 of the Act. Such comments must be submitted separately. Please cite DFARS Case 92-D041 in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act applies. The Office of Management and Budget (OMB) approved the information collection for the IMIP on March 2, 1992, under clearance number 0704-0232, through March 31, 1995. DoD has submitted a request for clearance to OMB to reduce the total burden hours approved for DFARS Part 215.

List of Subjects in 48 CFR Parts 215 and 252

Government procurement.
Claudia L. Naugle,
Deputy Director, Defense Acquisition
Regulations Directorate.

Therefore, 48 CFR parts 215 and 252 are amended as follows:

1. The authority citation for 48 CFR parts 215 and 252 continues to read as follows:

Authority: 5 U.S.C. 301, 10 U.S.C. 2202, DoD Directive 5000.35, FAR subpart 1.3.

PART 215—CONTRACTING BY NEGOTIATION

215.870 [Removed and reserved]

2. Sections 215.870 through 215.870-6 is removed and section 215.870 is reserved.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

252.215-7003 [Removed]

3. Section 252.215-7003 is removed.

[FR Doc. 93-13320 Filed 6-7-93; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 651

[Docket No. 930522-3122; I.D. 040293A]

Northeast Multispecies Fishery

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Emergency interim rule.

SUMMARY: The Secretary of Commerce (Secretary) amends the regulations implementing the Fishery Management Plan for the Northeast Multispecies Fishery (FMP). This emergency interim rule implements a 2,500-pound (1,134-kg) haddock possession limit applying to all vessels permitted under regulations for this fishery; the area known as Closed Area II will be expanded by 20 minutes longitude to the west and 15 minutes latitude to the south along its existing western and southern boundaries; Closed Area II is closed through the month of June; and a ban on pair trawling in the multispecies fishery. The intended effect of this rule is to provide additional protection to haddock and cod and to promote rebuilding of these depleted fish stocks.