

effects of refilling the reservoir pursuant to repairs would be less problematic to the environment, although construction impacts are always important to consider. The effect of any reconstruction on migratory fish populations at the site of a breached dam is an additional factor to weigh in determining appropriate terms and conditions of exemption.

For the above reasons, any project which contains an impoundment which is at substantial variance from the historic, non-flood power generation level or, if no power was previously developed at the site, the impoundment level which the dam was originally designed to contain, will be scrutinized to determine whether the return of the impoundment level to its historic or power generation level would entail significant adverse environmental effects. If the Commission so finds, the project will not be considered "at the site of an existing dam."

## II. Effective Date

Because this clarification does not change the Commission's exemption regulations or its policy regarding the application of those regulations, it will be considered effective as of November 7, 1980, the effective date of Order No. 106 (45 FR 76115, November 16, 1980). The Commission finds that notice and comment is unnecessary for interpretations of existing regulations such as this clarification.

(Federal Power Act as amended 16 U.S.C. 782-828c; Public Utility Regulatory Policies Act of 1978, 16 U.S.C. 2601-2645; the Department of Energy Organization Act 42 U.S.C. 7101-7352, E.O. 12209, 3 CFR 142 [1978])

By the Commission,

Kenneth F. Plumb,  
Secretary.

[FR Doc. 81-32455 Filed 11-6-81; 8:45 am]

BILLING CODE 6717-01-M

## 18 CFR Part 282

[Docket No. RM80-18]

**Treatment Under the Incremental Pricing Program of Natural Gas Used in the Manufacturing Process for Fertilizer, Agricultural Chemicals, Animal Feed or Food; Effective Date and Availability of Exemption Affidavits**

Issued: November 2, 1981.

**AGENCY:** Federal Energy Regulatory Commission, DOE.

**ACTION:** Notice of effective date and availability of exemption affidavits.

**SUMMARY:** On September 24, 1981, the Federal Energy Regulatory Commission (Commission) issued a rule (46 FR 50060, October 9, 1981) under Title II of the Natural Gas Policy Act of 1978 (NGPA) providing an exemption from incremental pricing for natural gas used as boiler fuel in the manufacture of fertilizer, agricultural chemicals, animal feed or food. The rule was transmitted to Congress for review, as required by section 206(d) of the NGPA. During the period for Congressional review set forth in section 507(b) of the NGPA, neither House disapproved the submittal. The exemptive rule thus became effective on November 1, 1981, the day following expiration of the review period.

**EFFECTIVE DATE:** November 1, 1981.

**FOR FURTHER INFORMATION CONTACT:**

Barbara K. Christin, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, (202) 357-9370, or

Alice Fernandez, Office of Pipeline and Producer Regulation, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, (202) 357-9095

### SUPPLEMENTARY INFORMATION:

Affidavits for claiming an exemption from incremental pricing have been revised to reflect the subject exemption and are available through the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426, or from natural gas suppliers. By order issued November 2, 1981, the Commission waived its regulations in § 282.204(d)(7) (18 CFR Part 282) to provide that if the owner or operator of an industrial boiler fuel facility files, by November 25, 1981, an affidavit with the Commission claiming the subject exemption, and sends a copy to the facility's natural gas supplier, the facility shall be exempt from incremental pricing as of November 1, 1981.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-32456 Filed 11-6-81; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

**Federal Highway Administration**

**23 CFR Ch. 1**

**Pavement Type Selection; Policy Statement; Clarification**

**AGENCY:** Federal Highway Administration (FHWA), DOT.

**ACTION:** Clarification of policy statement.

**SUMMARY:** This notice provides a clarification to a statement of FHWA policy, published on October 8, 1981 (46 FR 49842), on how the type of materials used in the various pavement components of a Federal-aid project should be determined.

**FOR FURTHER INFORMATION CONTACT:** Mr. L. M. Noel, Pavement Branch, Highway Design Division, (202) 426-0327, or Michael J. Laska, Office of the Chief Counsel, (202) 426-0800, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

**SUPPLEMENTARY INFORMATION:** The notice published on October 8, 1981, established a policy on Pavement Type Selection designed to provide the public with acceptable highway service at a minimal annual or life cycle cost while permitting maximum flexibility. The policy encouraged the consideration of alternate designs and strategies in the type selection process.

The policy contained a provision in paragraph 4 that "price adjustment clauses where utilized would also have to be treated on an equal basis." It has come to the attention of FHWA that when price adjustment clauses are used, it is difficult, if not impossible, to administer equal treatment to alternate materials. Therefore, the policy is revised to discourage the use of price adjustment clauses with alternate bids.

The FHWA policy is revised as follows:

1. Pavement type selection should be based upon an engineering evaluation considering the factors contained in the 1960 AASHO publication entitled "An Informational Guide on Project Procedures."

2. Pavement type determinations should include an economic analysis based on life cycle costs of the pavement type. Estimates of life cycle costs should become more accurate as pavement management procedures begin providing historical cost, serviceability, and performance data. States without this data are encouraged to obtain it.

3. An independent engineering and economic analysis and final pavement type determination should be performed or updated a short time prior to advertising on each pavement type being considered.

4. Where the analysis reflects that two or more initial designs and their forecasted performance are determined to be comparable (or equivalent), then

alternate bids may be permitted if requested by the contracting agency. The Division Administrator shall review the analysis and concur in the finding of equivalency prior to PS&E approval. Price adjustment clauses should not be used when alternate bids are permitted.

This policy is written with the intention of taking advantage of fluctuating material prices while not compromising good design and pavement management practices.

(Catalog of Federal Domestic Assistance, Program Number 20.205, Highway Research, Planning, and Construction. The provisions of OMB Circular No. A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects apply to this program)

Issued on: November 2, 1981.

R. A. Barnhart,  
Federal Highway Administrator.

[FR Doc. 81-3234 Filed 11-6-81; 8:45 am]

BILLING CODE 4910-22-M

## DEPARTMENT OF DEFENSE

### Department of the Navy

#### 32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972

AGENCY: Department of the Navy, DoD.

#### § 706.2 [Amended]

1. Table Five of § 706.2 is amended, by adding the following naval ship to the list of vessels therein to indicate the certifications issued by the Secretary of the Navy:

TABLE 5

Vessel	Number	Forward masthead light not required; height above hull, Annex I, Section 2(a)(6), (c), (d)	Aft masthead light less than 4.5 meters above forward masthead light, Annex I, Section 2(a)(6)	Masthead lights not over all other lights and obstructions, Annex I, Section 2(f)	Vertical separation of masthead lights used when towing less than required by Annex I, Section 2(a)(6)	Aft masthead lights not visible over forward light 1000 meters ahead of ship in all normal degrees of trim, Annex I, Section 2(b)	Forward masthead light not in forward quarter of ship, Annex I, Section 3(a)	After masthead light not less than $\frac{1}{2}$ ship's length aft of forward masthead light, Annex I, Section 3(a)	Percentage horizontal separation attained
USS Scott	DDG 995	-	-	-	-	-	-	-	-
USS Chandler	DDG 996	-	-	X	-	-	X	X	44.6

2. Table Four paragraph 7 of § 706.2 is amended by adding to the list of vessels therein certifications issued by the Secretary of the Navy.

7. The arc of visibility of the after masthead light required by Rule 23(a)(ii) and Annex I, section 2(f) may be obstructed from right ahead on certain naval ships as follows:

USS Chandler (DDG 996)..... 0°28.8°

#### ACTION: Final rule.

**SUMMARY:** The Department of the Navy is amending its certifications under the International Regulations for Preventing Collisions at Sea, 1972, [72 COLREGS] to reflect that the Secretary of the Navy has determined that USS CHANDLER (DDG 996) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with certain provisions of the 72 COLREGS without interfering with its special function as a guided missile destroyer. The intended effect of this rule is to warn mariners in waters where the 72 COLREGS apply.

**EFFECTIVE DATE:** October 27, 1981.

**FOR FURTHER INFORMATION CONTACT:** Captain Richard J. McCarthy, JAGC, USN, Admiralty Counsel, Office of the Judge Advocate General, Navy Department, 200 Stovall Street, Alexandria, Virginia 22332, Telephone Number (202) 325-9744.

**SUPPLEMENTARY INFORMATION:** Pursuant to the authority granted in Executive Order 11964 and 33 U.S.C. 1605, the Department of the Navy amends 32 CFR Part 706. This amendment provides notice that the Secretary of the Navy has certified that USS CHANDLER (DDG 996) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS, Annex I, Section 2(f), pertaining to the placement of masthead

lights over all other lights and obstructions; 72 COLREGS, Annex I; Section 3(a) pertaining to the placement of the forward masthead lights in the forward quarter of the ship; 72 COLREGS, Annex I, section 3(a) pertaining to the placement of the after masthead light; and 72 COLREGS, Rule 23(a)(ii) regarding the arc of visibility of the after masthead light, without interfering with its special function as a naval ship. The Secretary of the Navy has also certified that the aforementioned lights are located in closest possible compliance with the applicable 72 COLREGS requirements. Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary and contrary to the public interest since it is based on technical findings that the placement of lights on this ship in a manner different from that prescribed herein will adversely affect the ship's ability to perform its military function.

#### PART 706—CERTIFICATIONS AND EXEMPTIONS UNDER THE INTERNATIONAL REGULATIONS FOR PREVENTING COLLISIONS AT SEA, 1972

Accordingly, 32 CFR Part 706 is amended as follows:

#### USS Chandler (DDG 996)

Dated: 27 October 1981.

Authority: Executive Order 11964; 33 U.S.C. 1605.

James F. Goodrich,  
*Acting Secretary of the Navy.*

[FR Doc. 81-32306 Filed 11-5-81; 8:45 am]

BILLING CODE 3810-AE-M