

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (b) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition; or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any airplane from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of a fuel hose assembly on the auxiliary power unit (APU), which could result in a malfunction of the APU, a potential fuel fire in the fuselage rear bay, and reduced structural integrity of the surrounding structure, accomplish the following:

(a) Within 30 days after the effective date of this AD, perform inspections to detect discrepancies of the fuel feed hose assemblies on the APU; an inspection to assure proper positioning of the air leak detection system; and an inspection of the bleed air system for signs of leakage; in accordance with paragraph 2.B. of the Accomplishment Instructions of Raytheon Service Bulletin SB 49-44, dated January 20, 1995.

(1) If no discrepancy is found: Thereafter, following the last flight of each day, perform an inspection to detect discoloration of the fuel hose assembly (outlet from the fuel pump box) on the APU, in accordance with paragraph 2.B.(2) and 2.C. of the Accomplishment Instructions of the service bulletin.

(2) If any discrepancy is found, prior to further flight, correct the discrepancy in accordance with paragraph 2.B. of the Accomplishment Instructions of the service bulletin.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM-113.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM-113.

(c) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(d) The actions shall be done in accordance with Raytheon Service Bulletin SB 49-44, dated January 20, 1995. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Raytheon Corporate Jets, Inc., Customer Support Department, Adams Field, P.O. Box 3356, Little Rock, Arkansas 72203. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment becomes effective on May 23, 1995.

Issued in Renton, Washington, on April 27, 1995.

James V. Devany,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95-10835 Filed 5-5-95; 8:45 am]

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 2, 34, 35, 41, 131, 292, 294, 382, and 385

[Docket No. RM92-12-001; Order No. 575-A]

Streamlining of Regulations Pertaining to Parts II and III of the Federal Power Act and the Public Utility Regulatory Policies Act of 1978

Issued May 2, 1995.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule; Order Granting and Dismissing Requests for Clarification and Dismissing Requests for Rehearing.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is granting and dismissing certain requests for clarification of its final rule in this proceeding and dismissing requests for rehearing. The requests for clarification and for rehearing relate to the Commission's description of petroleum coke and to codification of Commission precedent regarding the power production capacity of qualifying facilities.

EFFECTIVE DATE: This order is effective May 2, 1995.

FOR FURTHER INFORMATION CONTACT: Andre Goodson, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol St., NE., Washington, DC 20426, Telephone: (202) 208-2167. Joseph C. Lynch, Federal Energy Regulatory Commission, Office of the

General Counsel, 825 North Capitol Street, NE., Washington, DC 20426, Telephone: (202) 208-2128.

SUPPLEMENTARY INFORMATION: In addition to publishing the full text of this document in the **Federal Register**, the Commission also provides all interested persons an opportunity to inspect or copy the contents of this document during normal business hours in Room 3401, at 941 North Capitol Street, NE., Washington, DC 20426.

The Commission Issuance Posting System (CIPS), an electronic bulletin board service, provides access to the texts of formal documents issued by the Commission. CIPS is available at no charge to the user and may be accessed using a personal computer with a modem by dialing (202) 208-1397. To access CIPS, set your communications software to 19200, 14400, 12000, 9600, 7200, 4800, 2400, 1200 or 300bps, full duplex, no parity, 8 data bits and 1 stop bit. The full text of this document will be available on CIPS for 60 days from the date of issuance in ASCII and WordPerfect 5.1 format. After 60 days the document will be archived, but still accessible. The complete text on diskette in WordPerfect format may also be purchased from the Commission's copy contractor, La Dorn Systems Corporation, also located in Room 3104, 941 North Capitol Street, NE., Washington, DC 20426.

Order Granting and Dismissing Requests for Clarification and Dismissing Requests for Rehearing

On January 13, 1995, the Commission issued a Final Rule in this proceeding.¹ The Final Rule revised and clarified the Commission's policies regarding: rate filings by public utilities under the Federal Power Act (FPA); issuances of securities and assumptions of liabilities by public utilities, licensees and others; and procedural and technical rules governing qualifying facilities (QFs).

On February 13, 1995: (a) The American Petroleum Institute (American Petroleum) filed a petition for clarification or, in the alternative, a request for rehearing; (b) Texaco Cogeneration Development (Texaco Cogen) filed a petition for clarification, or, in the alternative, a request for rehearing; and (c) Granite State Hydropower Association (Granite State) filed a petition for clarification, or, in the alternative, a request for rehearing.

¹ Streamlining of Regulations Pertaining to Parts II and III of the Federal Power Act and the Public Utility Regulatory Policies Act of 1978, Order No. 575, 60 FR 4831 (Jan. 25, 1995); III FERC Stats. & Regs., Regulations Preambles ¶ 31,014 (1995).

American Petroleum and Texaco Cogen

American Petroleum and Texaco Cogen focus on the same issue. Section 292.204(b) requires that waste must comprise at least 75 percent of the fuel of a waste-fueled qualifying small power production facility.² The Final Rule recognized petroleum coke as waste for the purposes of § 292.204(b);³ it described petroleum coke as:

A by-product of the oil refining process that is very low in volatile matter, usually high in sulfur content, and an environmentally hazardous waste.⁴

American Petroleum and Texaco Cogen object to the Commission's characterization of petroleum coke as "an environmentally hazardous waste."⁵ They argue that: (a) The Notice of Proposed Rulemaking (NOPR) in this proceeding⁶ gave no notice that the Commission would regard petroleum coke as an environmentally hazardous waste;⁷ (b) there is no evidence in the record to support the conclusion that petroleum coke is an environmentally hazardous waste; and that, in any event, (c) the Commission is without authority to make the determination that petroleum coke is an environmentally hazardous waste.

American Petroleum and Texaco Cogen ask that the Commission remove from its characterization of petroleum coke in the preamble the words "and an environmentally hazardous waste." Alternatively, Texaco Cogen asks the Commission to state that the language that petroleum coke is an environmentally hazardous waste is without substantive effect.

Granite State

In the NOPR, the Commission proposed to add a new § 292.202(s), which would codify Commission precedent regarding the power

production capacity of a QF. The Commission proposed to determine a QF's maximum net sendout based on the safe and reliable operation of the facility. The Commission also proposed to measure a QF's power production capacity at the point of delivery to the transmission system of the interconnected utility. This proposed rule would have codified the Commission's decisions in *Power Developers, Inc.*⁸ and *Turners Falls Limited Partnership.*⁹ In its comments, Granite State opposed the codification of those decisions, at least as the codification might apply to hydroelectric small power production facilities that are in operation when such codification might take effect.

In the Final Rule, the Commission decided not to add the proposed new § 292.202(s) and, therefore, not to codify the Commission's decisions in *Power Developers* and *Turners Falls*. The Commission noted that two pending proceedings raise issues concerning the policy set forth in *Turners Falls*, that the Commission is reviewing those issues and will address them in those proceedings, that the Commission is not prepared at this time to issue a final rule regarding the policy set forth in *Turners Falls* and that the Commission may in the future codify its policy after it has more experience on the issue.¹⁰

Granite State asks the Commission to clarify that it will codify the decisions in *Power Developers* and *Turners Falls* only after it has conducted a properly noticed rulemaking proceeding and to state that it was not the Commission's intent in the Final Rule to apply those decisions to other hydroelectric small power production facilities.¹¹ Should the Commission not grant the requested clarification, Granite State seeks rehearing on the grounds that: (1) Part 292 of the Commission's regulations, 18 CFR Part 292, allows small power producers to sell any power—net or gross—produced by their facilities as qualifying facilities and (2) the Commission may only change the Part 292 regulations prospectively and only after the Commission has conducted a properly noticed rulemaking proceeding.

⁸ 32 FERC ¶ 61,101 (1985) (*Power Developers*).

⁹ 55 FERC ¶ 61,136 (1991) (*Turners Falls*).

¹⁰ 60 FR at 4844; III FERC Stats. & Regs. at 31,282. The two proceedings are: (a) *Carolina Power & Light Company, v. Stone Container Corp.*, Docket Nos. EL94-62-000 and QF85-102-005 (*Stone Container*); and (b) *Connecticut Valley Light & Power Company, v. Wheelabrator Claremont Company*, Docket Nos. EL94-10-000 and QF86-177-001 (*Wheelabrator*).

¹¹ Granite State Request for Clarification or Rehearing at 2.

Discussion*American Petroleum and Texaco Cogen*

We agree with American Petroleum and Texaco Cogen that the record is devoid of support for the statement that petroleum coke is an environmentally hazardous waste. In any event, reference to the environmental effects of petroleum coke is unnecessary to our determination to include petroleum coke as a waste for the purposes of § 292.204(b). We will, therefore, grant American Petroleum's and Texaco Cogen's request for clarification and will dismiss, as moot, their alternative requests for rehearing.

Granite State

With respect to Granite State's opposition to codification and application of the policy in the *Power Developers* and *Turners Falls* decisions, we emphasize, as we stated in the January 13, 1995 Final Rule, that we are reviewing the issue in the pending *Stone Container* and *Wheelabrator* proceedings and would not expect to codify any precedent regarding QF power production capacity without obtaining more experience with this issue. Since the Commission decided not to codify its precedent concerning QF power production capacity in the January 13, 1995 Final Rule, Granite State's challenge is premature.

Granite State's request that we not codify in our regulations the policy set forth in *Power Developers* and *Turners Falls* without a properly noticed rulemaking proceeding is also premature. Accordingly, we will dismiss Granite State's requests for clarification and rehearing.

The Commission Orders

(A) American Petroleum's and Texaco Cogen's petitions for clarification are hereby granted; the first sentence in footnote 95 of the preamble to the Final Rule, III FERC Stats. & Regs., Regulations Preambles ¶ 31,014 at p. 31,292 n.95 (60 FR at 4850 n. 95), is hereby amended to read, "Petroleum coke is a by-product of the oil refining process that is very low in volatile matter and usually high in sulfur content."

(B) American Petroleum's and Texaco Cogen's alternative requests for rehearing are hereby dismissed.

(C) Granite State's requests for clarification and rehearing are hereby dismissed as discussed in the body of this order.

² 18 CFR 292.204(b).

³ 60 FR at 4850; III FERC Stats. & Regs. at 31,292.

⁴ *Id.* (emphasis added).

⁵ See American Petroleum Petition for Clarification/Request for Rehearing at 2-9; Texaco Cogen Petition for Clarification/Request for Rehearing at 1-3.

⁶ Streamlining of Regulations Pertaining to Parts II and III of the Federal Power Act and the Public Utility Regulatory Policies Act of 1978, 57 FR 55176 (Nov. 24, 1992); IV FERC Stats. & Regs., Proposed Regulations ¶ 32,489 (1992).

⁷ The NOPR listed petroleum coke among the energy sources that the Commission proposed to treat as waste. The NOPR described petroleum coke as follows:

Petroleum coke ordinarily has less than 1 percent ash, has a high fixed carbon content (about 90 percent), is very low in volatile matter (6 percent to 11 percent) and usually contains more than 4.5 percent sulfur. For these reasons it is not a very desirable boiler fuel.

57 FR at 55187 n.69; IV FERC Stats. & Regs. at 32,655 n.69.

By the Commission.

Lois D. Cashell,

Secretary.

[FR Doc. 95-11213 Filed 5-5-95; 8:45 am]

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DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 706

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

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Deputy Assistant Judge Advocate General (Admiralty) of the Navy, acting pursuant to authority delegated from the Secretary of the Navy: has determined that USS DWIGHT D. EISENHOWER (CVN 69) 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 functions as a naval aircraft carrier; and

has directed that certain naval ships or classes of ships be removed from the Tables in the existing Part 706. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: December 27, 1994.

FOR FURTHER INFORMATION CONTACT: Commander K.P. McMahon, JAGC, U.S. Navy, Admiralty Counsel, Office of the Judge Advocate General, Navy Department, 200 Stovall Street, Alexandria, VA 22332-2400, Telephone number: (703) 325-9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR Part 706. The Secretary of the Navy previously certified that USS DWIGHT D. EISENHOWER (CVN 69) is a vessel of the Navy which, due to its special construction and purpose, cannot fully with 72 COLREGS. This amendment provides notice that the Deputy Assistant Judge Advocate General (Admiralty) of the Navy, under authority delegated by the Secretary of the Navy, has amended that certification to reflect that certain navigation lights on USS DWIGHT D. EISENHOWER (CVN 69), previously certified as not in compliance with 72 COLREGS, now comply with the applicable 72 COLREGS requirements, to wit: the ship now has a single forward anchor light, as required by Rule 30(a)(i).

Notice is also provided that the Deputy Assistant Judge Advocate General (Admiralty) of the Navy has determined that certain vessels and classes of vessels listed in the existing tables of 32 CFR Part 706 may be deleted from those tables because certification of those vessels or classes of vessels is no longer required.

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 public interest since it is based on technical findings that the placement of lights on this vessel in a manner differently from that prescribed herein will adversely affect the vessel's ability to perform its military functions.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (Water), and Vessels.

Accordingly, 32 CFR Part 706 is amended as follows:

PART 706—[AMENDED]

1. The authority citation for Part 706 continues to read:

Authority: 33 U.S.C. 1605.

§ 706.2 [Amended]

2. Table Two of § 706.2 is amended by revising the entry for the following vessel:

TABLE TWO

Vessel	No.	Masthead lights, distance to stbd of keel in meters; Rule 21(a)	Forward anchor light, distance below flight dk in meters; § 2(K), Annex I	Forward anchor light, number of; rule 30(a)(i)	AFT anchor light, distance below flight dk in meters; rule 21(e), rule 30(a)(ii)	AFT anchor light, number of; rule 30(a)(ii)	Side lights, distance below flight dk in meters; § 2(g), annex I	Side lights, distance forward of forward mast-head light in meters; § 3(b), annex I	Side lights, distance in-board of ship's sides in meters; § 3(b), annex I
USS DWIGHT D. EISENHOWER.	CVN-69	30	1	9.3	2	0.7

1. Table One of 32 CFR 706.2 is amended by removing the following ships:

USS LEAHY	CG-16
USS CHARLES F. ADAMS	DDG-2
USS JOHN KING	DDG-3
USS LAWRENCE	DDG-4
USS CLAUDE V. RICKETTS	DDG-5
USS BARNEY	DDG-6
USS LYNDE MC CORMICK	DDG-8
USS TOWERS	DDG-9
USS SAMPSON	DDG-10
USS SELLERS	DDG-11
USS ROBINSON	DDG-12

USS HOEL	DDG-13	USS OKINAWA	LPH-3
USS BUCHANAN	DDG-14	USS CONSTANT	MSO-427
USS BERKELEY	DDG-15	USS ENGAGE	MSO-433
USS JOSEPH STRAUSS	DDG-16	USS ENHANCE	MSO-437
USS CONYNGHAM	DDG-17	USS ESTEEM	MSO-438
USS SEMMES	DDG-18	USS EXCEL	MSO-439
USS TATTNALL	DDG-19	USS EXPLOIT	MSO-440
USS GOLDSBOROUGH	DDG-20	USS EXULTANT	MSO-441
USS COCHRANE	DDG-21	USS FEARLESS	MSO-442
USS BENJAMIN STODDERT	DDG-22	USS FORTIFY	MSO-446
USS RICHARD E. BYRD	DDG-23	USS ILLUSIVE	MSO-448
USS WADDELL	DDG-24	USS IMPERVIOUS	MSO-449
USS BRONSTEIN	FF-1037	USS INFLECT	MSO-456
USS MC CLOY	FF-1038	USS PLUCK	MSO-464
USS IWO JIMA	LPH-2	USS LEADER	MSO-490