

Walnut Streets, Philadelphia, Pennsylvania 19106. ATTN: Raymond d. Chalmers.  
Bureau of Air Quality and Noise Control,  
State of Maryland, 201 W. Preston Street,  
Baltimore, Maryland 21201. ATTN: George  
Ferreri.

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

**SUPPLEMENTARY INFORMATION:** On  
March 21, 1978 the then Acting Governor  
of Maryland, Blair Lee III, submitted to  
EPA, Region III, a proposed revision of  
the Maryland State Implementation Plan  
consisting of a Consent Order for the  
Chalk Point Generating Station of the  
Potomac Electric Power Company  
(PEPCO). The Governor certified that  
the Order was adopted in accordance  
with the public hearing and notice  
requirements of 40 CFR, Part 51.4 and all  
relevant State procedural requirements,  
and asked that EPA consider the  
Consent Order as a revision of the State  
Implementation Plan.

The Order requires PEPCO to bring  
the Chalk Point Station into compliance  
with Maryland's air pollution control  
regulations for particulates. The Order  
also requires PEPCO to assure that this  
plant causes no violations of sulfur  
dioxide air quality standards.

1. PEPCO must operate Chalk Point's  
coal burning units #1 and #2 in  
compliance with the following TSP  
emission limitations based on million  
BTU per hour heat input. The plant may  
emit no more than 0.6 pounds of  
particulates per million BTU heat input.

The compliance status of each unit is  
determined by stack testing. If, following  
the test, it is necessary to operate a unit  
which does not comply with the interim  
requirements set forth above, that unit  
must be operated at a load reduced by  
an amount which linearly proportional  
to the amount by which the stack test  
result exceeded the interim requirement.  
The Company thereafter may increase  
the load of a unit only for the purpose of  
testing the unit to determine compliance  
at an elevated level. The fixed load limit  
established by these tests assures  
continued compliance with the  
maximum interim emission limits.

2. The ash content of coal used as fuel  
by Chalk Point's Units #1 and #2 may  
not exceed an average of fifteen percent  
for any month, based on a minimum of  
four weekly composite samples  
collected and tested by the company.

3. Visible emissions from Chalk  
Point's coal burning units may not be  
darker in shade or appearance than that  
designated as #2 on the Ringlemann  
Smoke Chart or exceed an opacity  
greater than forty percent.

4. PEPCO must submit semi-annual  
progress reports to Maryland by July 10  
and January 10 of each year until  
compliance is achieved.

The Order also requires PEPCO to  
take action to limit sulfur oxide  
emissions from the Chalk Point  
generating plant. Sulfur oxide emissions  
from the plant's coal burning units #1  
and #2 are limited to 3.5 pounds per  
million BTU input averaged over a two-  
hour period as determined by  
continuous in-stack measurement.  
Emissions from the plant's oil burning  
unit #3 are limited by the requirement  
that it burn no more than two percent  
sulfur content residual oil.

These SO<sub>2</sub> emission control  
limitations, not Maryland's SO<sub>2</sub> control  
regulations, are established by the  
Order as the basis for controlling  
emissions from the Chalk Point facility.  
NAAQS have been shown by air quality  
modeling to be adequately protected by  
these limitations. To further assure that  
the NAAQS are protected, PEPCO is  
required to report emissions and air  
quality levels in the vicinity of Chalk  
Point by July 1, 1979 for the period from  
February 27, 1978 to July 1, 1979, and to  
protect emissions through 1985.  
Maryland will review the data to  
determine if applicable air quality  
standards are attained and will be  
maintained through 1985.

Should Maryland determine that any  
applicable ambient air quality standards  
for sulfur oxides or other compounds of  
sulfur is or will be exceeded at any time  
through the year 1985, PEPCO is  
required to purchase fuel which meets  
the requirements of Maryland's SO<sub>2</sub>  
emission control regulation in  
accordance with the following schedule:

October 1, 1979—PEPCO informed by  
Maryland of need to purchase complying fuel.  
January 1, 1980—PEPCO required to select a  
supplier of a complying fuel. The Company  
will commence equipment modifications to  
enable this fuel to be burned.  
May 1, 1980—PEPCO shall complete the  
equipment modifications.  
November 1, 1980—PEPCO shall achieve full  
compliance with Maryland's SO<sub>2</sub> regulation.

A review, similar to that described  
above, will be repeated by Maryland in  
five-year intervals commencing with the  
year 1984 and continuing thereafter. If at  
any time Maryland determines that any  
applicable ambient air quality standard  
for sulfur oxides or other compounds of  
sulfur will be exceeded, PEPCO will  
submit a timetable for purchase and use  
of fuel in compliance with Maryland's  
SO<sub>2</sub> regulation similar to the above  
schedule.

This revision was proposed in the  
Federal Register on November 8, 1978

(40 FR 52033). During the public  
comment period, no comments were  
received.

The revision has been found to meet  
the requirements of Section 110(a)(2) of  
the Clean Air Act and 40 CFR, Part 51,  
Requirements for Preparation, Adoption,  
and Submittal of Implementation Plans.

In view of this finding, the  
Administrator approves the amendment  
of the Maryland SIP to include the  
Consent Order for PEPCO's Chalk Point  
power plant.

Under Executive Order 12044 EPA is  
required to judge whether a regulation is  
"significant" and therefore subject to the  
procedural requirements of the Order or  
whether it may follow other specialized  
development procedures. EPA labels  
these other regulations "specialized". I  
have reviewed this regulation and  
determined that it is a specialized  
regulation not subject to the procedural  
requirements of Executive Order 12044.

(42 U.S.C. 7401)  
Dated: March 28, 1979.

Douglas M. Costle,  
Administrator.

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

#### Subpart V—Maryland

1. In § 52.1070 Identification of Plan,  
paragraph (c)(22) is added:

§ 52.1070 Identification of Plan.

\* \* \* \* \*

(c) Title of plan:  
(22) A Consent Order for the Chalk  
Point power plant issued by the Circuit  
Court for Montgomery County on  
February 27, 1978

[FRL 1024-C]

[FR Doc. 79-10019 Filed 3-30-79; 0:45 am]

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#### 40 CFR Part 434

#### Coal Mining Point Source Category; Effluent Limitations Guidelines for Existing Sources

AGENCY: Environmental Protection  
Agency.

ACTION: Final rule.

**SUMMARY:** This amendment clarifies the  
catastrophic rainfall exemption to  
effluent limitations guidelines for  
existing sources of water pollution in the  
coal mining industry, 40 CFR Part 434,  
Subparts B-D.

**EFFECTIVE DATE:** May 2, 1979. This  
amendment will not affect national  
pollutant discharge elimination system  
permits made final before May 2, 1979.

**FOR FURTHER INFORMATION CONTACT:** William Telliard, Effluent Guidelines Division (WH-552), Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

**SUPPLEMENTARY INFORMATION:** On October 17, 1975, EPA proposed regulations adding Part 434 to Title 40 of the Code of Federal Regulations (40 FR 48830). Those regulations, with subsequent amendments, established effluent limitations guidelines based on use of the best practicable control technology currently available (BPT) for existing sources in the coal mining point source category. These were followed, on April 26, 1977, with final BPT effluent limitations guidelines for this category (42 FR 21380).

On September 19, 1977, the Agency published proposed standards of performance for new sources (NSPS) within this category based on application of the best available demonstrated control technology (42 FR 46932). These standards of performance were promulgated in final form on January 12, 1979. 44 FR 2586.

In both existing source regulations and new source performance standards there is an exemption provided for catastrophic precipitation events that overwhelm properly designed and maintained treatment facilities. The need for such an exemption provision is explained in the preamble to the final existing source regulations. 42 FR 21381-2 (April 26, 1977).

The appropriateness of EPA's catastrophic precipitation provision is one of the issues before the United States Court of Appeals for the Fourth Circuit in challenges to the existing source BPT regulations. *Consolidation Coal Co., et al. v. Costle, etc.*, No. 76-1690, etc. The question of how a catastrophic precipitation event exemption should be worded also has been before the Department of Interior in its rulemaking involving environmental standards for surface mines under the Surface Mining Control and Reclamation Act of 1977, Pub. L. 95-87.

The exemption in the BPT regulations promulgated on April 26, 1977 provides: Any untreated overflow, increase in volume of a point source discharge, or discharge from a by-pass system from facilities designed, constructed, and maintained to contain or treat the discharges from the facilities and areas covered by this subpart which would result from a 10-year 24-hour precipitation event, shall not be subject to the limitations set forth in paragraph (a) of this section.

The new source performance standards promulgated on January 12,

1979, contain an exemption provision which reads:

Upon satisfactory demonstration by the discharger, any overflow, increase in volume of a discharge, or discharge from a bypass system, resulting from a 10 year/24 hour or larger precipitation event or from a snow melt of equivalent volume, from facilities designed, constructed and maintained to contain or treat the volume of water which would result from a 10 year/24 hour precipitation event, shall not be subject to the limitations set forth in paragraph (a) of this section.

Finally, the final surface mining regulations, signed by the Secretary of Interior on March 5, 1979 and creating 30 CFR Chapter VII, state in their relevant portions:

(a) A discharge from the disturbed areas is not subject to the effluent limitations of this Section, if—  
(1) The discharge is demonstrated by the discharger to have resulted from a precipitation event equal to or larger than a 10-year 24-hour precipitation event; and  
(2) The discharge is from facilities designed, constructed and maintained in accordance with the requirements of this Part.

Clearly, there are differences in the wording of the three provisions, and yet in effect the provisions are quite similar. Nevertheless, in order to make EPA's BPT regulations identical to the new source performance standards in this respect, and to make both EPA regulations consistent with the Surface Mining Regulations, EPA today is conforming the BPT regulations to the new source performance standards. The Agency had announced in the January 12 preamble that intention to make BPT and new source standards identical with respect to the catastrophic precipitation exemption. 44 FR 2588.

In the original BPT regulations EPA intended that the burden of demonstrating that the exemption is justified is on the discharger. That is now made explicit, and is consistent with the Surface Mining Act regulations. There is an additional change. As a result of the amendments announced today, BPT regulations will—like the other two—tie the exemption to demonstration that an actual catastrophic event occurred rather than simply that the properly designed and maintained containment facility experienced an overflow or bypass. (The Agency believes that in practice there would have been no difference in application of the exemption provisions in that regard.)

In an effort to avoid disturbing final NPDES permits that have been written based on the BPT regulations and possibly causing confusion and litigation over a change in language that EPA

believes will make little if any practical difference, the amendments announced today will apply only to NPDES permits issued in final form May 2, 1979.

Dated: March 27, 1979.

Douglas M. Costle,  
Administrator.

§§ 434.22, 434.32 and 434.42 [Amended]  
40 CFR 434.22(c), 434.32(b) and  
434.42(b) are each amended to read as follows:

\* \* \* \* \*  
Upon satisfactory demonstration by the discharger, any overflow, increase in volume of a discharge, or discharge from a bypass system, resulting from a 10 year/24 hour or larger precipitation event or from a snow melt of equivalent volume, from facilities designed, constructed and maintained to contain or treat the volume of water which would result from a 10 year/24 hour precipitation event, shall not be subject to the limitations set forth in paragraph (a) of this section.

[FRL 1087-5]

[FR Doc. 79-10022 Filed 3-30-79; 8:45 am]

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## NUCLEAR REGULATORY COMMISSION

### 41 CFR Part 20

#### Contractor Organizational Conflicts of Interest

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Final Rule.

**SUMMARY:** This regulation establishes policies and procedures for the Nuclear Regulatory Commission (NRC) with respect to the avoidance of contractor organizational conflicts of interest. The regulation is intended to avoid, eliminate, or neutralize contractual relationships which might lead NRC offerors and contractors to give advice and assistance that is not unbiased, impartial, objective and technically sound. Additionally, it seeks to eliminate the opportunities for an unfair competitive advantage that might accrue to an NRC contractor.

**EFFECTIVE DATE:** May 3, 1979.

**FOR FURTHER INFORMATION CONTACT:** Edward L. Halman, Director, Division of Contracts, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, (301) 427-4460.

**SUPPLEMENTARY INFORMATION:** Section 7 of Pub. L. 95-209, the NRC authorization Act for fiscal year 1978,