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# federal register

Friday
March 9, 1984

## Selected Subjects

**Air Pollution Control**
Environmental Protection Agency

**Aviation Safety**
Federal Aviation Administration

**Child Welfare**
Child Support Enforcement Office

**Claims**
General Accounting Office
Justice Department

**Commodity Futures**
Commodity Futures Trading Commission

**Electric Utilities**
Rural Electrification Administration

**Fisheries**
National Oceanic and Atmospheric Administration

**Hazardous Waste**
Environmental Protection Agency

**Indemnity Payments**
Agricultural Stabilization and Conservation Service

**Labeling**
Federal Trade Commission

**Loan Programs—Education**
Veterans Administration

**Marketing Agreements**
Agricultural Marketing Service

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# Presidential Documents

Title 3—

The President

Proclamation 5158 of March 6, 1984

## 35th Anniversary of NATO

By the President of the United States of America

A Proclamation

Thirty-five years ago, on April 4, 1949, the North Atlantic Treaty was signed in Washington. Established in the dark aftermath of the most destructive war the world had ever seen, the NATO Alliance represents a living commitment of the nations of the West to the defense of democracy and individual liberty. By uniting Europe and North America in this way, it has deterred war between NATO and the Warsaw Pact for three and a half decades and made possible the longest period of peace and prosperity in modern history.

This success has not been won without effort. Throughout its history, the NATO Alliance has been challenged by the military power and political ambitions of the Soviet Union. Yet, in every decade, the nations of the Alliance have consistently pulled together to maintain peace through their collective strength and determination. On the basis of that strength and unity, the nations of the Alliance also have taken the initiative to seek a more constructive relationship with the Soviet Union.

Over the years, NATO has grown from its original twelve members to include Greece, Turkey, the Federal Republic of Germany, and, most recently, Spain. It has demonstrated a capacity to adapt to evolving political and security challenges and to meet the changing needs of its members. The Alliance's commitment to collective security has been sustained through full democratic respect for the sovereign independence of each member.

I am proud to rededicate the United States to the ideals and responsibilities of our Alliance. In May, the United States will host in Washington the spring meeting of NATO foreign ministers. This will be a special opportunity to celebrate the thirty-fifth anniversary of our common enterprise and to consider the future challenges facing the transatlantic partnership. I call upon the Congress and people of the United States to join me in expressing our support for a bond which has served us so well over the years and which will continue to be essential to our welfare in the future.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby direct the attention of the Nation to this thirty-fifth anniversary of the signing of the North Atlantic Treaty, and I call upon the Governors of the States and upon the officers of local govenments to facilitate the suitable observance of this notable event throughout this anniversary year with particular attention to April, the month which marks the historic signing ceremony, and May, the month which marks the meeting of the North Atlantic Council in Washington.

IN WITNESS WHEREOF, I have hereunto set my hand this 6th day of March, in the year of our Lord nineteen hundred and eighty-four, and of the Independence of the United States of America the two hundred and eighth.

Ronald Reagan

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# Rules and Regulations

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## GENERAL ACCOUNTING OFFICE

## DEPARTMENT OF JUSTICE

### 4 CFR Parts 101, 102, 103, 104, and 105

[Order No. 1052-84]

### Federal Claims Collection Standards

**AGENCIES:** General Accounting Office and Department of Justice.

**ACTION:** Final rule.

**SUMMARY:** This final rule would amend the Federal Claims Collection Standards issued jointly by the Department of Justice and the General Accounting Office, to reflect changes to the fundamental claims collection authority made by the Debt Collection Act of 1982, and also to generally update the Standards.

**EFFECTIVE DATE:** April 9, 1984.

**FOR FURTHER INFORMATION CONTACT:** Chris Farley, Jr., U.S. General Accounting Office, General Government Division, Claims Group, 441 G Street, NW., Washington, D.C. 20548, telephone (202) 275-3102.

**SUPPLEMENTARY INFORMATION:** On May 24, 1983, the General Accounting Office and the Department of Justice requested public comment on a proposed revision of the Federal Claims Collection Standards, the Government-wide debt collection regulations originally authorized by the Federal Claims Collection Act of 1966. The revision was generated by the enactment of the Debt Collection Act of 1982, Public Law 97-365, enacted on October 25, 1982, but other revisions were proposed also. We received numerous comments on the proposal from Government agencies and other interested organizations. The comments resulted in revisions throughout the Standards.

We express our appreciation to all of the commenters for the time they took in studying the proposed regulations and preparing their comments. We envision that these Standards will be a continually evolving process, and we welcome further comments from any interested party, for consideration in future amendments.

#### General Comments

Many commenters felt that the Standards are not sufficiently detailed. Several commenters suggested uniform and more detailed procedures either throughout the Standards or in some particular area. We agreed that some fuller explanations would be useful in a few areas. (These will be noted in the discussion of specific sections.) However, since their inception in 1966, the Standards have never been intended to prescribe detailed procedures. Rather, they are designed primarily to address policies, and to provide general guidance on sound debt collection principles. It is our belief that detailed procedures are best developed in the context of individual agency regulations, where they can be tailored to meet the needs and experiences of particular programs and activities. Each Federal agency is required to develop its own implementing regulations, based on and consistent with these Standards, and it is there that we believe the detailed procedures belong. While uniformity of *policy* is desirable throughout the Federal Government, we have never been convinced that uniformity of *operating procedures* is either necessary or beneficial.

A few commenters noted that the Standards do not address the situations of a bankrupt or a deceased debtor. However, both situations are dealt with in Title 4 of the General Accounting Office Policy and Procedures Manual for Guidance of Federal Agencies. Any agency using these Standards should also obtain a copy of Title 4 of the Policy and Procedures Manual, and refer to it for supplementary guidance. Upon final issuance of these Standards, GAO plans to revise and update Title 4.

Several commenters noted that there is legislation pending in the 98th Congress (S. 1668) which would permit Federal agencies to contract with private law firms for collection services, including litigation. We are aware of this legislation and are tracking its status. Should the legislation be enacted, we will consider an appropriate amendment to these Standards.

It was also suggested that the Standards include a requirement that Federal agencies report certain discharged indebtedness to the Internal Revenue Service. Under section 61(a)(12) of the Internal Revenue Code, income from the discharge of indebtedness is includable as gross income in certain circumstances. We are deferring action on this recommendation for the moment. We plan to study it in more detail, and will consider including it in a subsequent amendment if appropriate.

#### Part 101—Scope of Standards

Part 101 contains general provisions defining the scope of the rest of the chapter. For the most part, it has undergone little change.

The proposed regulations included a § 101.2 entitled "Omissions not a defense," which provided that the failure of an agency to comply with any provision of the regulations shall not be available as a defense to a debtor. The provision stemmed from the original version of the regulations in 1966. We have retained the provision (redesignated as § 101.8) despite some adverse comment, since any omissions would not affect the merits of the underlying indebtedness.

Several commenters urged us to include a section of definitions. We have chosen at this time not to include a detailed definition section, but we have included a few as a new § 101.2. A number of commenters asked us to explain the difference between a "debt" and a "claim." We considered definitions, based on somewhat arbitrary distinctions, but the Debt Collection Act of 1982 appears to use the terms interchangeably, so § 101.2(a) takes the same position. We note that there is a definition of "claim" in 31 U.S.C. 3701(b). In the final analysis, following the substance of the regulations is more important than specific nomenclature.

Section 101.2(b) defines "delinquent" for purposes of the regulations. This had been included as § 102.5(a)(2) of the proposed regulations. Pursuant to several suggestions, we moved it up. Similarly, § 101.2(c) appeared in the proposed regulations as § 101.8. Section 101.2(d) is new and incorporates some standard principles of interpretation.

Section 101.3 excludes antitrust claims and claims involving fraud from the initial application of these regulations. Two commenters noted that the language of the proposed regulation was ambiguous as to the precise scope of the exclusion. We have clarified the provision. It now instructs agencies to refer antitrust and fraud claims to the Justice Department as the first step. The Justice Department may retain the claim, or it may return it to the agency with instructions to proceed with administrative collection under Part 102. However, compromise and termination of such claims may be effected only by the Justice Department.

Section 101.3(c) is new. It provides that the Federal Claims Collection Standards do not apply to claims between Federal agencies. This was always the case, as explained in numerous Comptroller General decisions, but it was not previously stated in the regulations. The reason for the exclusion is that the agencies are both elements of the same government. Collection is merely a transfer from one Federal account to another. Many of the standards are particularly inappropriate for interagency transactions. Others, such as offset, had been held inapplicable by administrative decision. The regulation instructs agencies to attempt to resolve interagency claims by negotiation, and if this fails, to refer the matter to GAO. This section merely makes explicit the existing practice.

**Part 102—Standards for the Administrative Collection of Claims**

Part 102 sets forth the elements of an agency's debt collection program. In a sense, it serves also as a checklist, although each element may not be used to collect every debt. Agencies are expected to develop their own regulations to adapt these standards to their own programs and activities.

Section 102.1 pronounces the general mandate, stemming from the Federal Claims Collection Act of 1966, that agencies take aggressive action to collect debts. This section has not changed from the proposed regulation.

Section 102.2 discusses the requirement for demand letters. Demand letters are normally the first step in the debt collection process, and agencies will normally send up to three demand letters. The proposed regulation had used the term "initial notification" as well as "initial demand letter." Some commenters were uncertain whether this meant a total of three demands or four. We had used the two terms synonymously. To avoid confusion, however, we eliminated use of the term "initial notification" with respect to demand letters. The intent of the section is that there need be no more than three demand letters.

Other changes in § 102.2 resulting from comments we received are as follows:

—The proposed regulation stated that agencies should time their actions so that referrals for litigation are made within 6 months of the agency's final determination of indebtedness. The time limit has been raised to one year. The reasons are discussed in connection with a similar change in § 105.1(a).

—A commenter objected to the last sentence of the proposed § 102.2(a) which authorized agencies to waive written demand. The language was somewhat misleading, and we have revised it. However, we retained limited authority to deviate from the demand cycle. For example, if an agency has not begun collection action until the statute of limitations is about to expire, the agency should not be required to follow the demand cycle if doing so would result in loss of the Government's ability to sue on the debt.

—The debtor's right to seek review within the agency has been added to the content requirements for the initial demand letter (§ 102.2(b)).

—One commenter recommended a 30-day time limit on agency responses to communications from the debtor. We agree in principle, but stopped short of making it a requirement because it simply will not be feasible in all cases (§ 102.2(d)).

We added a provision of § 102.2(b) instructing agencies to try to ensure that demand letters are dated and either mailed or hand-delivered on the same day. This is already the practice in many agencies, and we think it is one all agencies should adopt. If a demand letter is going to impose a deadline on a debtor, the time allowed should not be eroded by the agency's delay in processing the letter.

Section 102.2(e) on the relationship of offset to the demand cycle generated a number of comments. There was some confusion over the consequences of rendering the demand cycle inapplicable by the decision to pursue offset. We have tried to clarify the relationship. We emphasize that offset, while obviating the need to comply with the specific demand requirements of § 102.2, still requires written notification. The first step in any offset, administrative or salary, must be a written notification advising the debtor of the agency's intent to use offset. Thus, eliminating the need to comply with § 102.2 does not eliminate the need for written notice. From this perspective, deviation from the demand cycle of § 102.2 in offset cases does not violate any rights of the debtor.

One commenter pointed out that the Debt Collection Act of 1982 authorizes administrative offset only after the agency has tried to collect the debt directly. While this is true, the collection action in such cases need not be anywhere near as detailed as it would be if offset potential did not exist. The last sentence of § 102.2(e) addresses this concern. If the agency has not yet sent any demand letters, then the offset notification must give the debtor the opportunity to avoid the offset by making voluntary payment. We do not think the law requires more than this, especially where doing more would result in loss of the offset opportunity.

Sections 102.3 and 102.4 have undergone considerable restructuring. Section 102.3 deals generally with administrative offset; section 102.4 covers a specific type of administrative offset—offset against the Civil Service Retirement and Disability Fund. Administrative offset under § 102.3, although very different from a salary offset (5 U.S.C. 5514), applies to a debtor who is a Federal employee just as it applies to any other non-exempt debtor.

Section 102.3(a) is the general mandate to use administrative offset whenever feasible and not otherwise prohibited. Section 102.3(a)(2) is new. It is taken from a recent decision of the Comptroller General (B–210086, July 28, 1983), and is intended to offer guidance on the concept of feasibility for offset purposes. One commenter wanted us to specify cost effectiveness in addition to feasibility as the test for determining when to use offset. We are reluctant to write this into the regulation because there may be cases in which an agency decides that offset is desirable, for example, as a deterrent to other similar debtors, even though the strict application of a cost effectiveness formula might not support offset. (See the revised § 103.4 of this chapter and the related discussion in this statement.) In any event, the concept of feasibility is sufficiently broad so as to encompass cost effectiveness in appropriate situations.

Section 102.3(b)(2) outlines the minimum content of agency implementing regulations with respect to procedural protections. We added a sentence instructing agencies to also include in their regulations procedures for requesting offset from other agencies and for processing offset requests received from other agencies.

Two Federal agencies commented that we should include more detail as to what these procedures should be.

Uniformity, it was argued, would avoid confusion and prevent inconsistencies among agencies. We agree in principle, although we feel that adding detail at this point would be premature and somewhat speculative. We prefer to wait until we have learned through experience exactly what problems, if any, might arise. To act now would amount to solving a problem the dimensions of which are not yet clear. Hence, we settled on a general prescription, the last sentence of § 102.3(b)(2).

One of the rights a debtor must be afforded is the opportunity to enter into a written repayment agreement with the agency in lieu of offset. Does this mean the agency must accept the debtor's proposal in all cases? We do not think any reasonable reading of the law would require this. Two commenters recommended that we address the agency's discretion on this point. The new § 102.3(b)(2)(i) does this. Accepting or rejecting a proposed repayment agreement must be a case-by-case determination, based on a weighing of the Government's interest (ability to collect the debt now) against the impact of offset on the debtor. If the debt is delinquent and the debtor has not disputed it, then the presumption should be in favor of offset unless the debtor can establish that it would impose undue financial hardship. An agency is not required to accept an unreasonable proposal.

Another commenter pointed out that an agency should not be required to provide procedural protections twice on the same debt. We agree, and have added a new § 102.3(b)(2)(ii) to reflect this.

Section 102.3(b)(3) notes the 10-year statute of limitations on offset under the authority of 31 U.S.C. 3716. The Debt Collection Act of 1982 applies the limitation to claims that have been "outstanding" for more than 10 years. Since the term "outstanding" has no clearly established meaning in this context, we phrased the limitation in the proposed regulation in terms of when the debt "first accrued." Two commenters suggested that we be more specific as to when a debt first accrues. There is a body of case law on the concept of accrual (for example, under 28 U.S.C. 2415), and it is not feasible to carry all this detail into the regulation. We have, however, added a clause to § 102.3(b)(3) incorporating this case law by reference.

A frequent question under the Debt Collection Act of 1982 is whether the exemptions from administrative offset (for example, for State and local governments) have the effect of displacing pre-existing common law authority. Offset is not a creature of the Debt Collection Act. The courts had long recognized that the Government had the right of administrative offset under the common law. However, the Debt Collection Act prescribed certain procedural safeguards and procedures for all agencies exercising these rights in situations which were not otherwise exempted from the Act or covered by some other legislative authority.

Non-Federal commenters argued that the Debt Collection Act totally preempts the common law, and the exemptions therefore amount to prohibitions. Several Federal agencies argued the opposite position. It has been well-established by the courts that a statute should not be construed in derogation of the common law unless legislative intent to do that is clear. There is no indication anywhere in the legislative history that the Debt Collection Act was intended to abrogate the Government's common law right of offset. Accordingly, we construe the statute as supplanting the common law only to the extent of its coverage, and the regulation adopts the position of the Federal agencies (§ 102.3(b)(4)).

One commenter queried whether the exemption for state and local governments in § 102.3(b)(4), and the virtually identical exemption in § 102.13(i) with respect to interest and related charges, apply to State-recognized Indian tribes. The law relating to Indian tribes is complex, and we think such questions are better resolved on a situational basis, where the issues can be fully briefed by the interested parties, rather than in these Standards. The ultimate resolution may, of course, be reflected in these Standards at some later time.

Section 102.3(b)(5) has been added in response to a comment from another Federal agency. It provides that offset may be taken prior to completion of the procedural protections if necessary to preserve the Government's ability to collect the debt. We emphasize that this does not authorize the *elimination* of the procedures; it merely authorizes *deviation* from the time sequence in appropriate cases.

Section 102.3(c) discusses the type of hearing or adminstrative review the agency should provide (*i.e.*, when to provide an oral hearing as opposed to a "paper hearing"). The material had appeared in the proposed regulation as part of § 102.4. We moved it up to clarify its applicability to administrative offsets generally. It is based for the most part on the Supreme Court's guidance in *Califano v. Yamasaki*, 442 U.S. 682 (1979). We believe this provision, in conjunction with the remainder of the section, is a sound approach for providing the procedural protections required both by the Debt Collection Act and by the Constitution.

Section 102.3(c)(1) has been amended to make clear that waiver consideration is not automatically required in all cases, but is relevant only where it is specifically provided for under an applicable statute.

A thorny question is how an agency should apply a partial recovery when it is collecting multiple debts from the same debtor, some of which are owed to other agencies. It is difficult to provide precise guidance, but an agency should avoid the temptation to automatically apply recoveries to its own debts first. If the statute of limitations will shortly expire on one of the debts, recoveries should ordinarily be applied to that debt first. Section 102.3(g) has been added to provide some general guidance.

Section 102.4 in the proposed regulation was said to apply to "similar funds" in addition to the Civil Service Retirement and Disability Fund. We agree with several agency comments that this over-broad description could be troublesome, and have deleted the phrase "similar funds." Further guidance may be offered in title 4 of the GAO Policy and Procedures Manual mentioned earlier, if we learn that additional funds should be covered.

Note that offset under § 102.4 is a variety of administrative offset. It is not considered a salary offset and therefore is not governed by 5 U.S.C. 5514. In contrast, however, military retired pay is governed by 5 U.S.C. 5514.

The 10-year statute of limitations in 31 U.S.C. 3716 poses a problem when dealing with the Civil Service Retirement and Disability Fund. An individual is not entitled to claim payments from the Fund until that individual retires, resigns, or otherwise terminates Federal service. Thus, a debtor might in some cases be in a position to defeat a legitimate offset by delaying making a claim for payment from the Fund or, if feasible, by continuing to work for another 10 years. Section 102.4(c) is designed to preclude this situation. The creditor agency must first provide all required procedural protections. It then makes the offset request to the Office of Personnel Management, which will then "flag" the debtor's individual account. When the debtor requests payment from the Fund in the future, the offset will be made administratively unless the debtor can demonstrate that, due to changed financial circumstances, the offset would result in undue financial hardship

and can propose a reasonable repayment plan.

Section 102.4(d) has been added to state what we think is obvious, that the Government is not entitled to a double recovery.

Section 102.4 does not specify the amount to be offset, but refers merely to "reasonable amounts" (§ 102.4(a)). Several commenters wanted more specificity. However, they could not agree as to the direction in which the specificity should go. We received comments urging maximum offset and comments suggesting that 15 percent could be adopted by analogy from 5 U.S.C. 5514. Our preference is to leave the existing language unchanged. The circumstances of an offset from the Retirement Fund can be extremely variable. In one case, annuities from the Fund may be a retired employee's sole source of support. In another case, a younger debtor may be withdrawing a large lump-sum upon resignation. We think agencies should have discretion to tailor the amount of the offset to the circumstances of the particular case. In general, it is our intent that the maximum possible amount be offset when a debtor is withdrawing from the Fund in a single lump-sum unless there is a demonstration of undue financial hardship. When payments are in the form of annuities, however, agencies should offset in a reasonable percentage, based on such factors as the size of the debt and the age and financial condition of the debtor. We have added language, however, to emphasize that the preferred practice should be to collect in a single lump-sum or a limited number of installments wherever reasonably possible.

As a general proposition, we contemplate that the creditor agency will specify the monthly amount to be offset, subject to any ceiling the Office of Personnel Management may wish to establish by regulation.

Section 102.5 deals with the use of consumer reporting agencies. The Debt Collection Act of 1982 is rather detailed on this topic, and we saw no need to repeat the detail in the regulations. One commenter pointed out the need for agency flexibility in this area and suggested establishing a threshold amount for the use of this device. Section 102.5 is intentionally skeletal and is not intended to restrict agency flexibility. As to cost effectiveness, § 102.14 instructs agencies to evaluate periodically cost effectiveness in their debt collection programs. We have not established a Government-wide threshold, but would not object should an agency choose to establish its own, as long as the amount selected can be supported with cost data. We note that the Office of Management and Budget has prescribed a $100 threshold (OMB Bulletin No. 83-21, September 21, 1983). Individual agency thresholds should of course be consistent with OMB's guidance.

As with administrative offset, the Debt Collection Act mandates certain procedures prior to reporting a debt to a consumer reporting agency, including the right to request administrative review. We have included in § 102.5(c) a cross-reference to § 102.3(c) for guidance on the form this review should take. It is again worth a reminder that, except for a separate notice when appropriate, agencies are not required to duplicate procedures with respect to the same debt. Thus, if a within-agency review is granted prior to reporting the debt to a consumer reporting agency, there is no need to repeat the review for purposes of administrative offset. (See §§ 101.7 and 102.3(b)(2)(ii).)

Section 102.6 addresses collection service contracts. The section is intended to apply only to contracts for the recovery of delinquent debts and not to routine servicing arrangements for non-delinquent debts. There have been several changes from the proposed regulation:

—Section 102.6(a)(4) has been added to facilitate promptness in referrals for litigation.

—The last clause of § 102.6(b)(3) has been added to clarify the status of revolving funds. A revolving fund constitutes statutory authority to retain receipts and is also, in effect, a continuing appropriation of those receipts for authorized expenditures from the fund. Since the "miscellaneous receipts" requirement does not apply to a revolving fund, the requirement for advance authority in appropriation acts has no application either.

The requirement for advance authority in appropriation acts has been controversial and its meaning has generated a fair amount of disagreement. Legislation has recently been enacted to make it clear that the advance authority requirement does not apply to contingent fee contracts (Pub. L. 98-167, November 29, 1983). However, it continues to apply to contracts which specify a fixed fee or flat rate payment to the collection service contractor. Section 102.6(b) is changed to reflect this development.

One commenter expressed concern that the phrase "unless otherwise specifically provided by law" in § 102.6(b)(4) might be read as a change in the existing law with respect to "refunds" to appropriations. Generally, an agency may retain amounts received from collections only if: (1) It has specific statutory authority to do so, or (2) the receipt qualifies as a "refund" to the appropriation; for example, the return of an authorized travel advance or the recovery of an erroneous overpayment. The basic definition of an authorized refund to an appropriation is found in Treasury Department-GAO Joint Regulation No. 1 (September 22, 1950), included as an appendix to title 7 of the GAO Policy and Procedures Manual. The law with respect to refunds has evolved largely through decisions of the Comptroller General. The language, "unless otherwise specifically provided by law," was meant to address the statutory authority situation—it still must be specific. We did not intend to change any existing administrative law with respect to refunds.

We were also asked to address the authority of the Social Security Administration to enter into collection service contracts. Under the Debt Collection Act of 1982, certain provisions of that Act, including the section on collection service contracts, do not apply to claims or indebtedness arising under or amounts payable under the Social Security Act. As discussed before, we do not think this exemption abrogates any pre-existing common law authorities, such as administrative offset, enjoyed by all agencies of the United States. The Act merely exempts the SSA from the requirements applicable to other agencies which utilize this collection device, as is the case with the right to administrative offset. The Social Security Administration could have entered into collection service contracts prior to the Debt Collection Act. The Act did not create this authority, although it prescribed certain limits on its use for agencies subject to section 13 of the Act.

Section 102.7 instructs agencies to hold personal interviews with debtors whenever feasible. One commenter pointed out that where the debtor is a Federal employee, such interviews should be "feasible" in almost all cases. We agree, and emphasize that this is the intent of the section.

Section 102.8 instructs agencies to contact the debtor's employing agency (where the two are different) to work out a payment arrangement where salary offset under 5 U.S.C. 5514 is not available. One example of such a situation might be a uniformed member of one of the military departments who owes a debt to the Social Security Administration based on prior erroneous payments under the Social Security Act.

Under § 102.9, agencies should consider suspending or revoking licenses or other privileges, or disqualifying debtors from participation in agency programs under certain circumstances. One commenter urged that this be made mandatory. The regulation can apply to a large and varied number of Government programs and activities whose enabling legislation might restrict or prohibit such an approach. We think the proposed provision is adequate as written as an expression of policy. We doubt the feasibility of a uniform mandatory requirement.

In response to one comment, a requirement has been added to § 102.10 that agencies provide debtors with reasonable notice of a liquidation or foreclosure sale, and accounting of any surplus proceeds and any other required procedural protections. We did not, however, include a specific reference to the Uniform Commercial Code (§ 9–504), as the commenter suggested, because we thought it was unnecessary.

Section 102.11 discusses payment in installments. We have added provisions advising agencies to obtain financial statements from debtors who claim they cannot pay in one lump-sum, and, if the agency accepts an installment proposal, to obtain a written agreement with an acceleration clause. We have also added certain procedural protections to the portion dealing with confess-judgment notes.

Prior to our proposed regulations, the installment section had specified that installment payments of less than $10 per month should normally not be accepted. The figure was raised to $25 in the proposed regulation. Several commenters disagreed with this amount. Two commenters argued that it should be raised to at least $50. A third argued that $25 was too high as a uniform requirement. We have adopted the $50 suggestion. We fully realize that $50 may be too high in some cases. Rather than carving out exceptions for particular programs, however, we point out that the regulation explicitly permits acceptance of lesser amounts if justifiable.

We have also added a new provision (§ 102.11(b)) to incorporate the established principle of commercial law that where a debtor owes more than one debt and specifies how a voluntary installment payment is to be applied among those debts, the creditor must follow the debtor's designation. The creditor is free to determine an appropriate application if the debtor fails to do so.

Section 102.12, in somewhat shortened form, directs agencies to consider compromise. It is included in Part 102, notwithstanding the detailed treatment of compromise in Part 103, because it is an important element of an agency's administrative debt collection program. The last part of the section in the proposed regulation duplicated material covered in detail in Part 103 and has therefore been deleted.

Section 102.13 deals with the assessment of interest, penalties, and administrative costs. This portion of the regulation is complex because the corresponding provisions of the Debt Collection Act are complex.

Interest and other charges under section 11 of the Act (31 U.S.C. 3717) may not be assessed until the agency has mailed or hand-delivered a written notice to the debtor explaining the charges (§ 102.13(a)). Agencies are free to develop their own procedures to implement this requirement.

Interest accrues from the date on which the notice is first mailed or hand-delivered (§ 102.13(b)). Since the Debt Collection Act uses the term "mailed," an agency may not issue regulations defining accrual in terms of receipt rather than mailing. To minimize potential inequities, we have inserted a provision similar to that contained in § 102.2(b), to the effect that agencies should not date correspondence until the actual mailing date.

One commenter objected to the sentence in § 102.13(c) authorizing agencies to charge an interest rate higher than the Treasury tax and loan account rate. The sentence is derived from the Debt Collection Act, which refers to a "minimum annual rate." However, we agree with the commenter that this raises the undesirable possibility of unequal treatment of similarly situated debtors. It is our intent that agencies charge a higher interest rate only under the most compelling circumstances.

The same commenter also objected to the charging of interest on interest and penalties. The regulation, as does the Debt Collection Act, explicitly prohibits the charging of interest on penalties and administrative costs, as a general proposition. The regulation permits interest on interest and related charges in only one limited situation—where a debtor has defaulted on a previous repayment agreement. We do not think this is unreasonable, and have retained it.

Several commenters sought more guidance on what elements may be included as administrative costs (§ 102.13(d)). Although the commenters seemed to be in disagreement over the specifics, we added a sentence authorizing the inclusion of costs incurred in obtaining a credit report or retaining a private debt collector. Beyond this, further detail is not feasible. For example, if the volume of delinquencies were such that an agency had to hire additional personnel solely to process the delinquencies, then the salaries of these additional personnel might be included. The test agencies must use is whether the particular cost was incurred by virtue of the delinquency or whether it would have been incurred in any event.

One commenter felt that the maximum penalty rate of 6 percent a year is too low in today's economy. We agree that the penalty provision is unlikely to spur an avalanche of payments, but the Debt Collection Act explicitly states that the penalty rate may not exceed 6 percent. As with interest, the penalty rate should be consistent throughout the Government, and agencies should use a rate of less than 6 percent only with compelling justification. We have also added a sentence to § 102.13(e) to clarify the accrual date for penalties.

Agencies may establish their own regulations for the waiver of interest and other charges (§ 102.13(g)). A commenter asked whether the phrase "equity and good conscience" as used in § 102.13(g) has the same meaning as in 4 CFR 91.5(c), GAO's waiver regulations under 5 U.S.C. 5584. Although the concepts are not identical, the approach used in 4 CFR 91.5(c) may be useful by analogy in suggesting other situations agencies may wish to consider in their regulations. Under 4 CFR 91.5(c), "equity and good conscience" is generally satisfied where the indebtedness resulted from the agency's administrative error and there is no indication of fraud, misrepresentation, fault or lack of good faith on the part of the debtor. However, waiver should be denied where the agency's actions giving rise to the indebtedness were such as to put a reasonable person on notice that something was wrong and to have reasonably suggested further inquiry by the debtor.

In addition, we have expanded this section to include examples of two situations which agencies may wish to consider including in their regulations; specifically: (1) While the agency is considering a request for reconsideration, administrative review, or waiver of the underlying indebtedness under a *permissive* statute (this would include requests to GAO for advice or decision), and (2) if there is no fault or lack of good faith on the part of the debtor and the amount of interest, in relation to the amount of reasonably affordable installment payments, is so

high that the debt may never be repaid. It is not the intent of the statute or the regulations to create a "perpetual debtor," especially where the debtor has been without fault. Finally, we have added clarifying language to point out that agencies have discretion under this section to consider waiver of interest and related charges in part as well as in whole.

We have added a new provision (§ 102.13(h)) to prohibit the assessment of interest and other charges pending consideration of waiver or review under a *mandatory* statute, i.e., where the agency is required by law to consider the merits of every request for waiver or review. This reflects a recent decision of the Comptroller General (B–212222, August 23, 1983), under a rationale similar to the rationale that prompted a corresponding revision to § 104.2(c). They are both discussed later in this statement.

Section 102.13(i) recites the various exemptions from the interest provisions of the Debt Collection Act. One of them is for debts arising under contracts which were executed prior to and were in effect on October 25, 1982, the date of enactment. We are aware of no established meaning for the term "in effect", in this context. We construe the term as referring to a contract which was not yet completed on the date specified. Any other construction might result in an "ex post facto" change of contract terms.

The exemptions have generated the same question that was discussed under the administrative offset section—the extent to which the statute displaced the common law. As with administrative offset, the Government has a judicially recognized common law right to charge interest on its debts. The positions taken by those commenting on this section show the same division of opinion between Federal agencies and private organizations as occurred with respect to administrative offset. For the reasons previously discussed in the portion of this statement on administrative offset, the regulations adopt the position of the Federal agencies; namely that the common law right to charge interest continues to exist, and that the limits, procedures, and other requirements of the Debt Collection Act do not apply to those debts that are exempt from the interest provisions of the Act (§ 102.13(i)(2)). However, we are aware of no common law authority to assess penalties or administrative costs.

Prior to the issuance of our proposed regulations, the interest provision of the Federal Claims Collection Standards prohibited the charging of prejudgment interest on civil penalties and forfeiture claims unless authorized by the statute under which the claim arose. This was based on *Rodgers* v. *United States*, 332 U.S. 371. We deleted this from the proposed regulations, and have retained the deletion. The reason is that the Debt Collection Act now provides statutory authority for charging prejudgment interest. Also, the definition of "claim" in section 13(b) of the Debt Collection Act of 1982 expressly includes penalties and forfeitures.

Section 102.18 summarizes the provisions of the Debt Collection Act concerning disclosure of mailing addresses. One commenter questioned how agencies will ensure that consumer reporting agencies use mailing addresses only for proper purposes, and that consumer reporting agencies and contractors comply with 26 U.S.C. 6103. These are entirely legitimate concerns, but they present questions beyond the scope of these regulations, and we are aware of no simple answers. Agencies will have to exercise diligence to safeguard against abuse. If an agency fails in its oversight role, the matter could very well end up in litigation.

**Part 103—Standards for the Compromise of Claims**

This part sets forth criteria for agencies to consider in deciding whether to compromise debt claims. The basic compromise authority originated in the Federal Claims Collection Act of 1966. Our proposed regulations issued in May 1983 included relatively few revisions to this Part, and there are very few additional changes in these final regulations.

In our proposed regulations, we tentatively included a redefinition of the statutory $20,000 limit on agency compromise authority from the amount of the claim to the difference between the amount of the claim and the amount offered in compromise. While the change offered some practical advantages, we have concluded upon reconsideration that the legal authority for the change is questionable. Accordingly, the final regulations revert to the position expressed in the regulations since 1966—agencies have authority to compromise under the Federal Claims Collection Act only if the amount of the claim, exclusive of interest and related charges, does not exceed $20,000.

Section 103.1(b) was added in response to a comment that the Standards failed to provide guidance on evaluation of a compromise offer when the amounts involved are more than $20,000 and compromise is beyond the agency's authority. Agencies are instructed to use the same criteria as with smaller debts for evaluation purposes, but the authority to make the final decision to compromise rests with the Justice Department.

One commenter suggested that a certain percentage of the debt be established as a "benchmark" for accepting compromise offers. While this may have some advantages, we decided against it essentially because a benchmark too often tends to become a rigid rule. It would work if we could assume that all debtors can afford to pay substantial amounts but are merely reluctant. However, there will be debtors with varying degrees of financial hardship, and agencies should have the discretion to tailor their consideration to the circumstances of the particular case. If this discretion were too tightly restricted, termination might become the only feasible alternative in some cases. In order to avoid this result, we would have to set the benchmark so low as to be virtually meaningless.

Another commenter disagreed with the statement in § 103.2(d) that "Compromises payable in installments are to be discouraged," arguing that installment payments may be the only fair approach in cases of large amounts. We stress that the section does not purport to prohibit installment payments. Agencies clearly have the discretion to accept installment plans. We continue to believe, however, that the starting point should be a policy of encouraging the payment of a compromise in a single lump sum. We do not share the commenter's fear that agencies will be predisposed to deny installment proposals indiscriminately. If it can be demonstrated that payment in a lump sum would cause undue financial hardship, the agency would have little to gain by rejecting a reasonable installment proposal.

Still another commenter was concerned that § 103.3 (litigative probabilities) might encourage agencies to pursue collection of claims that are legally without merit. This is certainly not the intent of the section. There is a large difference between a claim which has no legal merit and a situation where the agency is not sure whether it has strong enough evidence to win in court or where there is room for argument on some legal question. If an agency determines that its claim is legally without merit, we fully agree that prompt termination is the only proper course of action. In the other situations however, compromise may be completely appropriate. We think the regulations are adequate in this respect.

Section 103.4 authorizes compromise based on a "diminishing returns" concept. One commenter noted that pursuit of collection may be in the Government's best interest even though the cost of collection may exceed the amount of the debt; for example, where there is a large class of similarly situated debtors. Although agencies would have had this discretion under the existing language, we have expanded the section somewhat for clarification.

Finally, a Federal agency queried whether the cost of collecting a claim for purposes of § 103.4 includes the cost of various administrative hearings and appeals, such as a pre-offset oral hearing where required or an appeal from an audit disallowance. In brief, the answer is yes, and we think the existing language is sufficient to cover the desired ground. However, we caution agencies to be realistic in their estimation of costs. Inclusion of an item should be triggered by a substantial likelihood that the cost will actually be incurred in the particular case, not merely because it is vaguely possible. With rare exceptions, the cost of a pre-offset oral hearing will normally not be relevant for purposes of § 103.4.

**Part 104—Standards for Suspending or Terminating Collection Action**

Part 104 establishes standards to govern the suspension or termination of collection action on debt claims. As with compromise, the basic authority stems from the Federal Claims Collection Act of 1966. As with compromise again, our proposed regulations included relatively few revisions to this material.

Section 104.1(b) was added to correspond to a virtually identical change to § 103.1. It addresses the treatment of suspension and termination when the claim exceeds $20,000. There is a "common sense" exception to the requirement to refer all proposed termination actions to the Justice Department. If an agency asserts a claim and later finds that it was factually erroneous or clearly without legal merit, it may and should remove the claim from its books without the need to seek Justice Department concurrence. In such a situation, a proper claim never existed. This exception is intended to apply only in cases of clear error. If there is room for reasonable disagreement, Justice Department concurrence should be sought.

The major change from the proposed regulations is § 104.2(c). This section addresses suspension of collection action when the debtor has requested waiver or administrative review under an applicable statute. The proposed regulations purported to authorize, but did not require, suspension if four conditions were met: Reasonable possibility of a decision favorable to the debtor; adequate protection of the Government's interests; undue hardship resulting from collection; and lack of authority to make refund under applicable statute.

Two commenters criticized this section. One felt that suspension should be mandatory if any of the four conditions were met. The second argued that collection should not even be initiated under these circumstances, and particularly where refund would not be authorized.

While we did not adopt either of these positions in full, we substantially revised § 104.2(c), partly in response to the legitimate concerns raised by these commenters, and partly to reflect the Supreme Court's guidance in *Califano* v. *Yamasaki*, 442 U.S. 682 (1979).

The new § 104.2(c) consists of three paragraphs. Paragraph (c)(1) deals with mandatory waiver/review statutes. Under a mandatory statute, there can be no collection until the waiver/review process has run its course, either, upon proper notice, by expiration of the applicable time limit for requesting waiver or review, or by consideration of the request if made. Suspension is required in this situation without the need to consider any additional factors.

Paragraph (c)(2) deals with permissive waiver/review statutes. Under a permissive statute, suspension is authorized, but not required, based on "appropriate consideration" of three factors—the first 3 of the 4 from the proposed regulation. Exactly what constitutes "appropriate consideration" may well vary from case to case. On the one hand, it is not necessary that all 3 factors be present in every case. On the other hand, however, suspension should not be automatic merely because any one of the three is present. The determination to suspend should balance the interests of the Government against fairness to the debtor. The determination should be reasonable in relation to the circumstances of the particular case, and it should be justifiable in terms of the specified factors.

Paragraph (c)(3) deals separately with the 4th condition specified in the proposed regulation, the lack of refund authority. If refund authority does not exist, regardless of the presence or absence of the 3 factors in paragraph (c)(2), the agency should suspend collection action pending its decision on a waiver/review request, unless it can make a clear case that the request is frivolous (without merit) and dilatory (designed primarily to forestall the collection process). The determination must be made on a case-by-case basis. Paragraph (c)(3) will, as a practical matter, apply only under permissive statutes, since suspension is required under mandatory statutes without the need to consider the presence or absence of refund authority.

One commenter pointed out that, under the proposed version of § 104.3(b) (inability to locate debtor), termination would be authorized only if all of the factors specified in the paragraph existed, a seemingly unintended result. The commenter was right, and the paragraph has been clarified to reflect our actual intent.

Another commenter recommended that collection action be suspended when an agency refers a claim to GAO for advice or decision. Our intent, although we saw no need to specify it in the regulations, is that "administrative review" as used in § 104.2(c), should be read as including referrals to GAO for advice or decision.

**Part 105—Referrals to Department of Justice or GAO**

As the Supplementary Information statement accompanying the proposed regulations pointed out, Part 105 is being significantly revised. First, the routine referral of uncollectible claims to GAO has been eliminated. This should expedite the initiation of litigation in appropriate cases. Referral to GAO is now required only in the limited circumstances set forth in § 105.1 (b) and (c). Second, the Claims Collection Litigation Report (CCLR), already in use, is the prescribed format for all referrals under Part 105. The resulting uniformity in procedures should facilitate and expedite all post-referral actions. Agencies that may still be unfamiliar with the CCLR should contact either GAO or the Justice Department. A provision has been added recognizing the Justice Department's authority to grant exceptions from the requirement to use the CCLR.

The instructions for referring claims to the Department of Justice for litigation (§ 105.1(a)) have been clarified to specify when claims should be referred to the Commercial Litigation Branch, Civil Division, and when they should be referred to the United States Attorney for the judicial district in which the debtor is found. The distinction is based on the gross original amount of the claim (claims of $100,000 or less should be sent to the appropriate United States Attorney). Also, § 105.1(d) has been added to emphasize the role and

responsibilities of the referring agency after referral.

The proposed § 105.1(a) had directed agencies to make referrals for litigation within 6 months after the agency's final determination of the fact and the amount of the debt. One commenter pointed out that 6 months is not enough time to permit the agency to adequately explore all of the administrative collection actions now available to it. One year, it was suggested, would better enable agencies to pursue the various administrative actions, thereby eliminating the need for litigation in some cases, and to do a better job in preparing those cases in which litigation still turns out to be necessary. We have adopted the suggestion and have raised the time period from 6 months to a year.

With respect to referrals, the regulations have long contained guidance in three very important areas—current address of debtor, credit data, and statement of prior collection effects. While this material predates establishment of the CCLR, it remains important and we have decided to retain it in the regulations for emphasis. We have reorganized the presentation somewhat, however, and §§ 105.2, 105.3, and 105.4 of the proposed regulations are now paragraphs of a new § 105.2 entitled "Claims Collection Litigation Report." The thrust is that all of this material is to be included with the CCLR when the agency makes the referral.

One commenter noted that the requirement to submit credit data with referrals is "peculiarly inapplicable" with respect to debts owed by State and local governments. We agree as a general proposition, and have inserted an appropriate exemption in § 105.2(a)(3), but note that the data should still be submitted if it is reasonably available. Agencies are expected to exercise judgment in applying the requirement and the exemption to units of State or local government.

Agencies refer claims to GAO or to the Justice Department for reasons other than litigation. For example, an agency may want to consider compromise, suspension, or termination, but the amount involved may be large enough (see §§ 103.1(b) and 104.1(b)) so that decision can be made only by the Justice Department. A commenter noted that the proposed regulations failed to address this type of referral, and that the instructions on the CCLR could be read to preclude its use in this situation. We have added § 105.2(b) to remove the doubt. It prescribes use of the CCLR in this situation also.

The Attorney General has determined that this final regulation is not a "major rule" as defined in Executive Order 12291 dated February 17, 1981, because it will not result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

(3) Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with Foreign-based enterprises in domestic or export markets.

The Attorney General further certifies that this regulation will not have a significant economic impact on a substantial number of small entities, including small business, small organizational units and small governmental jurisdictions.

**List of Subjects**

*4 CFR Part 101*

Antitrust, Claims, Fraud, Taxes.

*4 CFR Part 102*

Administrative practice and procedure, Claims, Military personnel, Penalties, Privacy.

*4 CFR Part 103*

Claims.

*4 CFR Part 104*

Claims.

*4 CFR Part 105*

Claims.

Accordingly, we hereby revise 4 CFR Parts 101–105 as follows:

## PART 101—SCOPE OF STANDARDS

Sec.

101.1 Prescription of standards.
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**Authority:** 31 U.S.C. 3711.

### § 101.80 Prescription of standards.

The regulations in this chapter, issued jointly by the Comptroller General of the United States and the Attorney General of the United States under 31 U.S.C. 3711(e)(2), prescribe standards for the administrative collection, compromise, termination of agency collection, and the referral to the General Accounting Office, and to the Department of Justice for litigation, of civil claims as defined by 31 U.S.C. 3701(b), by the Federal Government for money or property. Additional guidance is contained in Title 4 of the General Accounting Office Policy and Procedures Manual for Guidance of Federal Agencies. Regulations prescribed by the head of an agency pursuant to 31 U.S.C. 3711(e)(1) will be reviewed by the General Accounting Office as a part of its audit of the agency's activities.

### § 101.2 Definitions.

(a) *Claim and debt.* For the purposes of these standards, the terms "claim" and "debt" are deemed synonymous and interchangeable. They refer to an amount of money or property which has been determined by an appropriate agency official to be owed to the United States from any person, organization, or entity, except another Federal agency.

(b) A debt is considered "delinquent" if it has not been paid by the date specified in the agency's initial written notification (§ 102.2 of this chapter) or applicable contractual agreement, unless other satisfactory payment arrangements have been made by that date, or if, at any time thereafter, the debtor fails to satisfy obligations under a payment agreement with the creditor agency.

(c) As used in this chapter, "referral for litigation" means referral to the Department of Justice for appropriate legal proceedings, unless the agency concerned has statutory authority for handling its own litigation.

(d) In this chapter, words in the plural form shall include the singular and vice versa; and words importing the masculine gender shall include the feminine and vice versa. The terms "includes" and "including" do not exclude matters not listed but which are in the same general class.

### § 101.3 Antitrust, fraud, tax, and interagency claims excluded.

(a) The standards in this chapter relating to compromise, suspension, and termination of collection action (Parts 103 and 104) do not apply to any claim based in whole or in part on conduct in violation of the antitrust laws, or to any claim as to which there is an indication of fraud, the presentation of a false claim, or misrepresentation on the part of the debtor or any other party having an interest in the claim. Only the Department of Justice has authority to compromise, suspend, or terminate collection action on such claims. The standards in this chapter relating to the administrative collection of claims (Part 102) do apply, but only to the extent authorized by the Department of Justice

in a particular case. Upon identification of a claim of any of the types described in the first sentence of this paragraph, the agency involved should refer the matter promptly to the Department of Justice. At its discretion, the Department of Justice may return the claim to the forwarding agency for further handling in accordance with the regulations in this chapter.

(b) Tax claims, as to which differing exemptions, administrative considerations, enforcement considerations, and statutes apply, are also excluded from the coverage of this chapter.

(c) This chapter does not apply to claims between Federal agencies. Federal agencies should attempt to resolve interagency claims by negotiation. If the claim cannot be resolved by the agencies involved, it should be referred to the General Accounting Office.

**§ 101.4 Compromise, waiver, or disposition under other statutes not precluded.**

Nothing contained in this chapter is intended to preclude agency disposition of any claim under statutes and implementing regulations other than subchapter II of chapter 37 of Title 31 of the United States Code and these Standards, providing for the collection, compromise, termination of collection action, or waiver in whole or in part of such a claim. See, for example, the Federal Medical Care Recovery Act, 76 Stat. 593, 42 U.S.C. 2651 et seq., and applicable regulations, 28 CFR 43.1 et seq. In such cases, the laws and regulations which are specifically applicable to claims collection activities of a particular agency take precedence over this chapter. Except as provided in § 102.19 of this chapter (Exemptions), the standards set forth in this chapter should be followed in the disposition of civil claims by the Federal Government by collection, compromise, or termination of collection action (other than by waiver pursuant to other statutory authority) where neither the specific statute nor its implementing regulations establish standards governing such matters.

**§ 101.5 Conversion claims.**

The instructions contained in this chapter are directed primarily at the recovery of money on behalf of the United States and the circumstances in which Government claims may be disposed of for less than the full amount claimed. Nothing contained in this chapter is intended, however, to deter an agency from demanding the return of specific property or from demanding, in the alternative, either the return of the property or the payment of its value.

**§ 101.6 Subdivision of claims not authorized.**

Claims may not be subdivided to avoid the monetary ceiling established by 31 U.S.C. 3711(a)(2). A debtor's liability arising from a particular transaction or contract shall be considered a single claim in determining whether the claim is one of less than $20,000, exclusive of interest, penalties, and administrative costs, for purposes of compromise (§ 103.1 of this chapter) or suspension or termination of collection action (§ 104.1 of this chapter).

**§ 101.7 Required administrative proceedings.**

Nothing contained in this chapter is intended to require an agency to omit, foreclose, or duplicate administrative proceedings required by contract or other laws or regulations.

**101.8 Omissions not a defense.**

The standards set forth in this chapter shall apply to the administrative handling of civil claims of the Federal Government for money or property but the failure of an agency to comply with any provision of this chapter shall not be available as a defense to any debtor.

## PART 102—STANDARDS FOR THE ADMINISTRATIVE COLLECTION OF CLAIMS

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**Authority:** Subchapter II of Chapter 37 of Title 31, United States Code.

**§ 102.1 Aggressive agency collection action.**

(a) Each Federal agency shall take aggressive action, on a timely basis with effective followup, to collect all claims of the United States for money or property arising out of the activities of, or referred to, that agency in accordance with the standards set forth in this chapter. However, nothing contained in this chapter is intended to require the General Accounting Office or the Department of Justice to duplicate collection actions previously undertaken by any other agency, or to perform collection actions which should have been undertaken by any other agency in accordance with the standards set forth in this chapter.

(b) All agencies are expected to cooperate with one another in their debt collection activities.

**§ 102.2 Demand for payment.**

(a) Appropriate written demands shall be made promptly upon a debtor of the United States in terms which inform the debtor of the consequences of failure to cooperate. A total of three progressively stronger written demands at not more than 30-day intervals will normally be made unless a response to the first or second demand indicates that a further demand would be futile and the debtor's response does not require rebuttal. In determining the timing of demand letters, agencies should give due regard to the need to act promptly so that, as a general rule, if necessary to refer the debt to the Department of Justice for litigation, such referral can be made within one year of the agency's final determination of the fact and the amount of the debt. When necessary to protect the Government's interests (for example, to prevent the statute of limitations, 28 U.S.C. 2415, from expiring), written demand may be preceded by other appropriate actions under this chapter, including immediate referral for litigation.

(b) The initial demand letter should inform the debtor of: (1) The basis for the indebtedness and whatever rights the debtor may have to seek review within the agency; (2) the applicable standards for assessing interest, penalties, and administrative costs (§ 102.13); and (3) the date by which payment is to be made, which normally should be not more than 30 days from the date that the initial demand letter was mailed or hand-delivered. Agencies should exercise care to insure that demand letters are mailed or hand-delivered on the same day that they are actually dated. Apart from this, there is no prescribed format for the demand

letters. Agencies should utilize demand letters and procedures that will lead to the earliest practicable determination of whether the debt can be resolved administratively or must be referred for litigation.

(c) As appropriate to the circumstances, agencies may consider including, either in the initial demand letter or in subsequent letters, such items as the agency's willingness to discuss alternative methods of payment, policies with respect to use of consumer reporting agencies (§ 102.5) and collection services (§ 102.6), the agency's intentions with respect to referral of the debt to the Department of Justice for litigation, and, depending on applicable statutory authority, the debtor's entitlement to consideration of waiver.

(d) Agencies should respond promptly to communications from the debtor, within 30 days whenever feasible, and should advise debtors who dispute the debt to furnish available evidence to support their contentions.

(e) If, either prior to the initiation of, at any time during, or after completion of the demand cycle, an agency determines to pursue offset, then the procedures specified in § 102.3, § 102.4, or 5 U.S.C. 5514, as applicable, should be followed. The availability of funds for offset and the agency's determination to pursue it release the agency from the necessity of further compliance with paragraphs (a), (b), and (c) of this section. If the agency has not already sent the first demand letter, the agency's written notification of its intent to offset must give the debtor the opportunity to make voluntary payment, a requirement which will be satisfied by compliance with the notice requirements of § 102.3, § 102.4, or 5 U.S.C. 5514.

**§ 102.3 Collection by administrative offset.**

(a) Collection by administrative offset will be undertaken in accordance with these standards and implementing regulations established by each agency on all claims which are liquidated or certain in amount in every instance in which such collection is determined to be feasible and not otherwise prohibited.

(1) For purposes of this section, the term "administrative offset" has the meaning provided in 31 U.S.C. 3716(a)(1).

(2) Whether collection by administrative offset is feasible is a determination to be made by the creditor agency on a case-by-case basis, in the exercise of sound discretion. Agencies should consider not only whether administrative offset can be accomplished, both practically and legally, but also whether offset is best suited to further and protect all of the Government's interests. In appropriate circumstances, agencies may give due consideration to the debtor's financial condition, and are not required to use offset in every instance in which there is an available source of funds. Agencies may also consider whether offset would tend to substantially interfere with or defeat the purposes of the program authorizing the payments against which offset is contemplated. For example, under a grant program in which payments are made in advance of the grantee's performance, offset will normally be inappropriate. This concept generally does not apply, however, where payment is in the form of reimbursement.

(b) Except as provided in § 101.4, this paragraph (b), or § 102.4, the standards in this paragraph (b) shall apply to the collection of debts by administrative offset under 31 U.S.C. 3716, some other statutory authority, or the common law.

(1) Agencies shall prescribe regulations for the exercise of administrative offset.

(2) Agency regulations required by paragraph (b)(1) of this section shall establish procedures for providing a debtor, before the offset is made, with appropriate procedural rights. Except as otherwise required by law, those regulations shall provide for: Written notice of the nature and amount of the debt, and the agency's intention to collect by offset; opportunity to inspect and copy agency records pertaining to the debt; opportunity to obtain review within the agency of the determination of indebtedness; and opportunity to enter into a written agreement with the agency to repay the debt. Agency regulations shall also establish procedures for making requests for offset to other agencies holding funds payable to the debtor, and for processing requests for offset that are received from other agencies.

(i) Agencies have discretion and should exercise sound judgment in determining whether to accept a repayment agreement in lieu of offset. The determination should balance the Government's interest in collecting the debt against fairness to the debtor. If the debt is delinquent and the debtor has not disputed its existence or amount, an agency should accept a repayment agreement in lieu of offset only if the debtor is able to establish that offset would result in undue financial hardship or would be against equity and good conscience.

(ii) In cases where the procedural requirements specified in paragraph (b)(2) of this section have previously been provided to the debtor in connection with the same debt under some other statutory or regulatory authority, such as pursuant to a notice of audit disallowance, the agency is not required to duplicate those requirements before taking administrative offset.

(3) Agencies may not initiate administrative offset to collect a debt under 31 U.S.C. 3716 more than 10 years after the Government's right to collect the debt first accrued, unless facts material to the Government's right to collect the debt were not known and could not reasonably have been known by the official or officials of the Government who were charged with the responsibility to discover and collect such debts. When the debt first accrued is to be determined according to existing law regarding the accrual of debts, such as under 28 U.S.C. 2415.

(4) Agencies are not authorized by 31 U.S.C. 3716 to use administrative offset with respect to: (i) Debts owed by any State or local Government; (ii) debts arising under or payments made under the Social Security Act, the Internal Revenue Code of 1954, or the tariff laws of the United States; or (iii) any case in which collection of the type of debt involved by administrative offset is explicitly provided for or prohibited by another statute. However, unless otherwise provided by contract or law, debts or payments which are not subject to administrative offset under 31 U.S.C. 3716 may be collected by administrative offset under the common law or other applicable statutory authority.

(5) Agencies may effect administrative offset against a payment to be made to a debtor prior to the completion of the procedures required by paragraph (b)(2) of this section if: (i) Failure to take the offset would substantially prejudice the Government's ability to collect the debt, and (ii) the time before the payment is to be made does not reasonably permit the completion of those procedures. Such prior offset must be promptly followed by the completion of those procedures. Amounts recovered by offset but later found not to be owed to the Government shall be promptly refunded.

(c) *Type of hearing or review.* (1) For purposes of this section, whenever an agency is required to afford a debtor with a hearing or review within the agency, the agency shall provide the debtor with a reasonable opportunity for an oral hearing when: (i) An applicable statute authorizes or requires the agency to consider waiver of the indebtedness involved, the debtor requests waiver of the indebtedness, and the waiver determination turns on an issue of

credibility or veracity; or (ii) the debtor requests reconsideration of the debt and the agency determines that the question of the indebtedness cannot be resolved by review of the documentary evidence, for example, when the validity of the debt turns on an issue of credibility or veracity. Unless otherwise required by law, an oral hearing under this section is not required to be a formal evidentiary-type hearing, although the agency should always carefully document all significant matters discussed at the hearing.

(2) This section does not require an oral hearing with respect to debt collection systems in which determinations of indebtedness or waiver rarely involve issues of credibility or veracity and the agency has determined that review of the written record is ordinarily an adequate means to correct prior mistakes. In administering such a system, the agency is not required to sift through all of the requests received in order to accord oral hearings in those few cases which may involve issues of credibility or veracity.

(3) In those cases where an oral hearing is not required by this section, the agency shall nevertheless accord the debtor a "paper hearing," that is, the agency will make its determination on the request for waiver or reconsideration based upon a review of the written record.

(d) Appropriate use should be made of the cooperative efforts of other agencies in effecting collection by administrative offset, including use of the Army Holdup List. Generally, agencies should not refuse to comply with requests from other agencies to initiate administrative offset to collect debts owed to the United States, unless the requesting agency has not complied with the applicable provisions of these standards or the offset would be otherwise contrary to law.

(e) Collection by offset against a judgment obtained by a debtor against the United States shall be accomplished in accordance with 31 U.S.C. 3728.

(f) Whenever the creditor agency is not the agency which is responsible for making the payment against which administrative offset is sought, the latter agency shall not initiate the requested offset until it has been provided by the creditor agency with an appropriate written certification that the debtor owes a debt (including the amount) and that the provisions of this section have been fully complied with.

(g) When collecting multiple debts by administrative offset, agencies should apply the recovered amounts to those debts in accordance with the best interests of the United States, as determined by the facts and circumstances of the particular case, paying special attention to applicable statutes of limitations.

**§ 102.4 Administrative offset against amounts payable from Civil Service Retirement and Disability Fund.**

(a) Unless otherwise prohibited by law, agencies may request that moneys which are due and payable to a debtor from the Civil Service Retirement and Disability Fund be administratively offset in reasonable amounts in order to collect in one full payment or a minimal number of payments debts owed to the United States by the debtor. Such requests shall be made to the appropriate officials of the Office of Personnel Management in accordance with such regulations as may be prescribed by the Director of that Office.

(b) When making a request for administrative offset under paragraph (a) of this section, an agency shall include a written certification that:

(1) The debtor owes the United States a debt, including the amount of the debt;

(2) The requesting agency has complied with the applicable statutes, regulations, and procedures of the Office of Personnel Management; and

(3) The requesting agency has complied with the requirements of § 102.3 of this part, including any required hearing or review.

(c) Once an agency decides to request administrative offset under paragraph (a) of this section, it should make the request as soon as practical after completion of the applicable procedures in order that the Office of Personnel Management may identify and "flag" the debtor's account in anticipation of the time when the debtor requests or becomes eligible to receive payments from the Fund. This will satisfy any requirement that offset be initiated prior to expiration of the applicable statute of limitations. At such time as the debtor makes a claim for payments from the Fund, if at least a year has elapsed since the offset request was originally made, the debtor should be permitted to offer a satisfactory repayment plan in lieu of offset upon establishing that changed financial circumstances would render the offset unjust.

(d) If the requesting agency collects part or all of the debt by other means before deductions are made or completed pursuant to paragraph (a) of this section, the agency shall act promptly to modify or terminate its request for offset under paragraph (a) of this section.

(e) This section does not require or authorize the Office of Personnel Management to review the merits of the requesting agency's determination with respect to the amount and validity of the debt, its determination as to waiver under an applicable statute, or its determination to provide or not provide an oral hearing.

**§ 102.5 Use of consumer reporting agencies.**

(a) Agencies shall develop and implement procedures for reporting delinquent debts to consumer reporting agencies. For purposes of this section, the term "consumer reporting agency" has the meaning provided in 31 U.S.C. 3701(a)(3).

(b) In developing procedures under paragraph (a) of this section, agencies must have due regard for compliance with the Privacy Act of 1974, as amended, 5 U.S.C. 552a. However, consumer reporting agencies themselves are not subject to the Privacy Act.

(c) Agency procedures developed under paragraph (a) of this section shall be consistent with the requirements of 31 U.S.C. 3711(f) and § 102.3(c) of this part.

**§ 102.6 Contracting for collection services.**

(a) All agencies have authority to contract for collection services to recover delinquent debts, provided that the following conditions are satisfied:

(1) The authority to resolve disputes, compromise claims, suspend or terminate collection action, and refer the matter for litigation (§ 105.1) must be retained by the agency;

(2) The contractor shall be subject to the Privacy Act of 1974, as amended, to the extent specified in 5 U.S.C. 552a(m), and to applicable Federal and State laws and regulations pertaining to debt collection practices, such as the Fair Debt Collection Practices Act, 15 U.S.C. 1692;

(3) The contractor must be required to account strictly for all amounts collected; and

(4) The contractor must agree to provide any data contained in its files relating to paragraphs (a) (1), (2), and (3) of § 105.2 of this chapter upon returning an account to the creditor agency for subsequent referral to the Department of Justice for litigation.

(b) Funding of collection service contracts:

(1) An agency may fund a collection service contract on a fixed-fee basis, that is, payment of a fixed fee determined without regard to the amount actually collected under the contract. Payment of the fee under this type of contract must be charged to available agency appropriations.

(2) An agency may also fund a collection service contract on a contingent-fee basis, that is, by including a provision in the contract permitting the contractor to deduct its fee from amounts collected under the contract. The fee should be based on a percentage of the amount collected, consistent with prevailing commercial practice.

(3) An agency may enter into a contract under paragraph (b)(1) of this section only if and to the extent provided in advance in its appropriation act or other legislation, except that this requirement does not apply to the use of a revolving fund authorized by statute.

(4) Except as authorized under pargraph (b)(2) of this section, or unless otherwise specifically provided by law, agencies must deposit all amounts recovered under collection service contracts (or by agency employees on behalf of the agency) in the Treasury as miscellaneous receipts pursuant to 31 U.S.C. 3302.

**§ 102.7 Personal interview with debtor.**

Agencies will undertake personal interviews with their debtors whenever this is feasible, having regard for the amounts involved and the proximity of agency representatives to such debtors.

**§ 102.8 Contact with debtor's employing agency.**

When a debtor is employed by the Federal Government or is a member of the military establishment or the Coast Guard, and collection by offset cannot be accomplished in accordance with 5 U.S.C. 5514, the employing agency will be contacted for the purpose of arranging with the debtor for payment of the indebtedness by allotment or otherwise in accordance with section 206 of Executive Order No. 11222, May 8, 1965, 30 FR 6469.

**§102.9 Suspension or revocation of license or eligibility.**

Agencies seeking the collection of statutory penalties, forfeitures, or debts provided for as an enforcement aid or for compelling compliance should give serious consideration to the suspension or revocation of licenses or other privileges for any inexcusable, prolonged or repeated failure of a debtor to pay such a claim, and the debtor should be so advised. Any agency making, quaranteeing, insuring, acquiring, or participating in loans should give serious consideration to suspending or disqualifying any lender, contractor, broker, borrower or other debtor from doing further business with it or engaging in programs sponsored by it if such a debtor fails to pay its debts to the Government within a reasonable time, and the debtor should be so advised. The failure of any surety to honor its obligations in accordance with 31 U.S.C. 9305 is to be reported to the Treasury Department at once. Notification that a surety's certificate of authority to do business with the Federal Government has been revoked or forfeited by the Treasury Department will be forwarded by that Department to all interested agencies.

**§ 102.10 Liquidation of collateral.**

An agency holding security or collateral which may be liquidated and the proceeds applied on debts due it through the exercise of a power of sale in the security instrument or a nonjudicial foreclosure should do so by such procedures if the debtor fails to pay the debt within a reasonable time after demand, unless the cost of disposing of the collateral will be disproportionate to its value or special circumstances require judicial foreclosure. The agency should provide the debtor with reasonable notice of the sale, an accounting of any surplus proceeds, and any other procedures required by contract or law. Collection from other sources, including liquidation of security or collateral, is not a prerequisite to requiring payment by a surety or insurance concern unless such action is expressly required by statute or contract.

**§ 102.11 Collection in installments.**

(a) Whenever feasible, and except as otherwise provided by law, debts owed to the United States, together with interest, penalties, and administrative costs as required by § 102.13 of this part, should be collected in full in one lump sum. This is true whether the debt is being collected by administrative offset or by another method, including voluntary payment. However, if the debtor is financially unable to pay the indebtedness in one lump sum, payment may be accepted in regular installments. Agencies should obtain financial statements from debtors who represent that they are unable to pay the debt in one lump sum. Agencies which agree to accept payment in regular installments should obtain a legally enforceable written agreement from the debtor which specifies all of the terms of the arrangement and which contains a provision accelerating the debt in the event the debtor defaults. The size and frequency of installment payments should bear a reasonable relation to the size of the debt and the debtor's ability to pay. If possible, the installment payments should be sufficient in size and frequency to liquidate the Government's claim in not more than 3 years. Installment payments of less than $50 per month should be accepted only if justifiable on the grounds of financial hardship or for some other reasonable cause. An agency holding an unsecured claim for administrative collection should attempt to obtain an executed confess-judgment note, comparable to the Department of Justice Form USA-70a, from a debtor when the total amount of the deferred installments will exceed $750. Such notes may be sought when an unsecured obligation of a lesser amount is involved. When attempting to obtain confess-judgment notes, agencies should provide their debtors with written explanation of the consequences of signing the note, and should maintain documentation sufficient to demonstrate that the debtor has signed the note knowingly and voluntarily. Security for deferred payments other than a confess-judgment note may be accepted in appropriate cases. An agency may accept installment payments notwithstanding the refusal of a debtor to execute a confess-judgment note or to give other security, at the agency's option.

(b) If the debtor owes more than one debt and designates how a voluntary installment payment is to be applied as among those debts, that designation must be followed. If the debtor does not designate the application of the payment, agencies should apply payments to the various debts in accordance with the best interests of the United States, as determined by the facts and circumstances of the particular case, paying special attention to applicable statues of limitations.

**§ 102.12 Exploration of compromise.**

Agencies may attempt to effect compromise, preferably during the course of personal interviews, in accordance with the standards set forth in Part 103 of this chapter.

**§ 102.13 Interest, penalties, and administrative costs.**

(a) Except as provided in paragraphs (h) and (i) of this section, agencies shall assess interest, penalties, and administrative costs on debts owed to the United States pursuant to 31 U.S.C. 3717. Before assessing these charges, an agency must mail or hand-deliver a written notice to the debtor explaining the agency's requirements concerning the charges. (See § 102.2 of this part.)

(b) Interest shall accrue from the date on which notice of the debt and the interest requirements is first mailed or hand-delivered to the debtor (on or after October 25, 1982), using the most current

address that is available to the agency. If an agency uses an "advance billing" procedure—that is, if it mails a bill before the debt is actually owed—it can include the required interest notification in the advance billing, but interest may not start to accrue before the debt is actually owed. Agencies should exercise care to insure that the notices required by this section are dated and mailed or hand-delivered on the same day.

(c) The rate of interest assessed shall be the rate of the current value of funds to the United States Treasury (*i.e.*, the Treasury tax and loan account rate), as prescribed and published by the Secretary of the Treasury in the **Federal Register** and the Treasury Fiscal Requirements Manual Bulletins annually or quarterly, in accordance with 31 U.S.C. 3717. An agency may assess a higher rate of interest if it reasonably determines that a higher rate is necessary to protect the interests of the United States. The rate of interest, as initially assessed, shall remain fixed for the duration of the indebtedness, except that where a debtor has defaulted on a repayment agreement and seeks to enter into a new agreement, the agency may set a new interest rate which reflects the current value of funds to the Treasury at the time the new agreement is executed. Interest should not be assessed on interest, penalties, or administrative costs required by this section. However, if the debtor defaults on a previous repayment agreement, charges which accrued but were not collected under the defaulted agreement shall be added to the principal to be paid under a new repayment agreement.

(d) An agency shall assess against a debtor charges to cover administrative costs incurred as a result of a delinquent debt,—that is, the additional costs incurred in processing and handling the debt because it became delinquent as defined in § 101.2(b) of this chapter. Calculation of administrative costs should be based upon actual costs incurred or upon cost analyses establishing an average of actual additional costs incurred by the agency in processing and handling claims against other debtors in similar stages of delinquency. Administrative costs may include costs incurred in obtaining a credit report or in using a private debt collector, to the extent they are attributable to delinquency.

(e) An agency shall assess a penalty charge, not to exceed 6 percent a year, on any portion of a debt that is delinquent as defined in § 101.2(b) of this chapter for more than 90 days. This charge need not be calculated until the 91st day of delinquency, but shall accrue from the date that the debt became delinquent.

(f) When a debt is paid in partial or installment payments, amounts received by the agency shall be applied first to outstanding penalty and administrative cost charges, second to accrued interest, and third to outstanding principal.

(g) An agency shall waive the collection of interest on the debt or any portion of the debt which is paid within 30 days after the date on which interest began to accrue. An agency may extend this 30-day period, on a case-by-case basis, if it reasonably determines that such action is appropriate. Also, an agency may waive, in whole or in part, the collection of interest, penalties, and/or administrative costs assessed under this section under the criteria specified in Part 103 of this chapter relating to the compromise of claims (without regard to the amount of the debt), or if the agency determines that collection of these charges would be against equity and good conscience or not in the best interests of the United States. Waiver under the first sentence of this paragraph (g) is mandatory. Under the second and third sentences, it may be exercised only in accordance with regulations issued by the agency identifying the standards and appropriate circumstances for waiver. Examples of situations which agencies may consider including in their interest waiver regulations are: (1) Waiver of interest pending consideration of a request for reconsideration, administrative review, or waiver of the underlying debt under a permissive statute, and (2) waiver of interest where the agency has accepted an installment plan under § 102.11 of this Part, there is no indication of fault or lack of good faith on the part of the debtor, and the amount of interest is large enough in relation to the size of the installments that the debtor can reasonably afford to pay that the debt will never be repaid.

(h) Where a mandatory waiver or review statute applies, interest and related charges may not be assessed for those periods during which collection action must be suspended under § 104.2(c)(1) of this chapter.

(i) *Exemptions.* (1) The provisions of 31 U.S.C. 3717 do not apply: (i) To debts owed by any State or local government; (ii) to debts arising under contracts which were executed prior to, and were in effect on (i.e., were not completed as of), October 25, 1982; (iii) to debts where an applicable statute, regulation required by statute, loan agreement, or contract either prohibits such charges or explicitly fixes the charges that apply to the debts involved; or (iv) to debts arising under the Social Security Act, the Internal Revenue Code of 1954, or the tariff laws of the United States.

(2) However, agencies are authorized to assess interest and related charges on debts which are not subject to 31 U.S.C. 3717 to the extent authorized under the common law or other applicable statutory authority.

**§ 102.14 Analysis of costs.**

Agency collection procedures should provide for periodic comparison of costs incurred and amounts collected. Data on costs and corresponding recovery rates for debts of different types and in various dollar ranges should be used to compare the cost effectiveness of alternative collection techniques, establish guidelines with respect to points at which costs of further collection efforts are likely to exceed recoveries, assist in evaluating offers in compromise, and establish minimum debt amounts below which collection efforts need not be taken. Cost and recovery data should also be useful in justifying adequate resources for an effective collection program, evaluating the feasibility and cost effectiveness of contracting for debt collection services under § 102.6, and determining appropriate charges for administrative costs under § 102.13(d).

**§ 102.15 Documentation of administrative collection action.**

All administrative collection action shall be documented and the bases for compromise, or for termination or suspension of collection action, should be set out in detail. Such documentation shall be retained in the appropriate claims file.

**§ 102.16 Automation.**

Agencies should automate their debt collection operations to the extent it is cost effective and feasible.

**§ 102.17 Prevention of overpayments, delinquencies, and defaults.**

Agencies should establish procedures to identify the causes of overpayments, delinquencies, and defaults and the corrective actions needed.

**§ 102.18 Use and disclosure of mailing addresses.**

(a) When attempting to locate a debtor in order to collect or compromise a debt under this chapter, an agency may send a written request to the Secretary of the Treasury (or designee) in order to obtain a debtor's mailing address from the records of the Internal Revenue Service.

(b) An agency may disclose a mailing address obtained under paragraph (a) of

this section to other agents, including collection service contractors, in order to facilitate the collection or compromise of debts under this chapter, except that a mailing address may be disclosed to a consumer reporting agency only for the limited purpose of obtaining a commercial credit report on the particular taxpayer.

(c) Each agency shall ensure, by appropriate regulations and contract administration, that the agency and its agents, including consumer reporting agencies and collection service contractors, comply with the provisions of 26 U.S.C. 6103(p)(4) and applicable regulations of the Internal Revenue Service.

**§ 102.19 Exemptions.**

(a) The preceding sections of this part, to the extent they reflect remedies or procedures prescribed by the Debt Collection Act of 1982, such as administrative offset (§§ 102.3 and 102.4), use of consumer reporting agencies (§ 102.5), contracting for collection services (§ 102.6), and interest and related charges (§ 102.13), do not apply to debts arising under or payments made under the Internal Revenue Code of 1954, as amended (26 U.S.C. 1 *et seq.*), the Social Security Act (42 U.S.C. 301 *et seq.*), or the tariff laws of the United States. However, these remedies and procedures may still be authorized with respect to debts which are exempt from the purview of the Debt Collection Act of 1982, to the extent that they are authorized under some other statute or the common law.

(b) This section should not be construed as prohibiting use of these authorities or requirements when collecting debts owed by persons employed by agencies administering the laws cited in the preceding paragraph unless the debt "arose under" those laws.

**§ 102.20 Additional administrative collection action.**

Nothing contained in this chapter is intended to preclude the utilization of any other administrative remedy which may be available.

## PART 103—STANDARDS FOR THE COMPROMISE OF CLAIMS

Sec.

103.1 Scope and application.
103.2 Inability to pay.
103.3 Litigative probabilities.
103.4 Cost of collecting claim.
103.5 Enforcement policy.
103.6 Joint and several liability.
103.7 Compromise for a combination of reasons.
103.8 Further review of compromise offers.
103.9 Restrictions.

Authority: 31 U.S.C. 3711.

**§ 103.1 Scope and application.**

(a) The standards set forth in this part apply to the compromise of claims pursuant to 31 U.S.C. 3711. The head of an agency may exercise such compromise authority with respect to claims for money or property arising out of the activities of that agency where the claim, exclusive of interest, penalties, and administrative costs, does not exceed $20,000, prior to the referral of such claims to the General Accounting Office, or to the Department of Justice for litigation. The Comptroller General may exercise such compromise authority with respect to claims referred to the General Accounting Office prior to their further referral for litigation. Only the Comptroller General may effect the compromise of a claim that arises out of an exception made by the General Accounting Office in the account of an accountable officer, including a claim against the payee, prior to its referral by that Office for litigation. Agency heads, including the Comptroller General, may designate officials within their respective agencies to exercise the authorities referred to in this section.

(b) When the claim, exclusive of interest, penalties, and administrative costs, exceeds $20,000, the authority to accept the compromise rests solely with the Department of Justice. The agency should evaluate the offer, using the factors set forth in this part. If the agency then wishes to accept the compromise, it must refer the matter to the Department of Justice, using the Claims Collection Litigation Report. See 4 CFR 105.2(b). Claims for which the gross amount is over $100,000 shall be referred to the Commercial Litigation Branch, Civil Division, Department of Justice, Washington, D.C. 20530. Claims for which the gross original amount is $100,000 or less shall be referred to the United States Attorney in whose judicial district the debtor can be found. The referral should specify the reasons for the agency's recommendation. Justice Department approval is not required if the agency wishes to reject the compromise offer.

**§ 103.2 Inability to pay.**

(a) A claim may be compromised pursuant to this Part if the Government cannot collect the full amount because of: (1) The debtor's inability to pay the full amount within a reasonable time, or (2) the refusal of the debtor to pay the claim in full and the Government's inability to enforce collection in full within a reasonable time by enforced collection proceedings.

(b) In determining the debtor's inability to pay, the following factors, among others, may be considered:

(1) Age and health of the debtor;

(2) Present and potential income;

(3) Inheritance prospects;

(4) The possibility that assets have been concealed or improperly transferred by the debtor; and

(5) The availability of assets or income which may be realized by enforced collection proceedings.

(c) The agency should give consideration to the applicable exemptions available to the debtor under State and Federal law in determining the Government's ability to enforce collection. Uncertainty as to the price which collateral or other property will bring at forced sale may properly be considered in determining the Government's ability to enforce collection. A compromise effected under this section should be for an amount which bears a reasonable relation to the amount which can be recovered by enforced collection procedures, having regard for the exemptions available to the debtor and the time which collection will take.

(d) Compromises payable in installments are to be discouraged. However, if payment of a compromise by installments is necessary, a legally enforceable agreement for the reinstatement of the prior indebtedness less sums paid thereon and acceleration of the balance due upon default in the payment of any installment should be obtained, together with security in the manner set forth in § 102.11 of this chapter, in every case in which this is possible.

(e) If the agency's files do not contain reasonably up-to-date credit information as a basis for assessing a compromise proposal, such information may be obtained from the individual debtor by obtaining a statement executed under penalty of perjury showing the debtor's assets and liabilities, income and expenses. Forms such as Department of Justice Form OBD–500 or OBD–500B may be used for this purpose. Similar data may be obtained from corporate debtors using a form such as Department of Justice Form OBD–500C or by resort to balance sheets and such additional data as seems required.

**§ 103.3 Litigative probabilities.**

A claim may be compromised pursuant to this Part if there is a real doubt concerning the Government's ability to prove its case in court for the full amount claimed, either because of the legal issues involved or a *bona fide* dispute as to the facts. The amount

accepted in compromise in such cases should fairly reflect the probability of prevailing on the legal question involved, the probabilities with respect to full or partial recovery of a judgment, paying due regard to the availability of witnesses and other evidentiary support for the Government claim, and related pragmatic considerations. In determining the litigative risks involved, proportionate weight should be given to the probable amount of court costs and attorney fees pursuant to the Equal Access to Justice Act which may be assessed against the Government if it is unsuccessful in litigation. See 28 U.S.C. 2412.

**§ 103.4 Cost of collecting claim.**

A claim may be compromised pursuant to this part if the cost of collecting the claim does not justify the enforced collection of the full amount. The amount accepted in compromise in such cases may reflect an appropriate discount for the administrative and litigative costs of collection, paying heed to the time which it will take to effect collection. Costs of collecting may be a substantial factor in the settlement of small claims, but normally will not carry great weight in the settlement of large claims. In determining whether the cost of collecting justifies enforced collection of the full amount, it is legitimate to consider the positive effect that enforced collection of some claims may have on the collection of other claims. Since debtors are more likely to pay when first requested to do so if an agency has a policy of vigorous collection of all claims, the fact that the cost of collection of any one claim may exceed the amount of the claim does not necessarily mean that the claim should be compromised. The practical benefits of vigorous collection of a small claim may include a demonstration to other debtors that resistance to payment is not likely to succeed.

**§ 103.5 Enforcement policy.**

Statutory penalties, forfeitures, or debts established as an aid to enforcement and to compel compliance may be compromised pursuant to this part if the agency's enforcement policy in terms of deterrence and securing compliance, both present and future, will be adequately served by acceptance of the sum to be agreed upon. Mere accidential or technical violations may be dealt with less severely than willful and substantial violations.

**§ 103.6 Joint and several liability.**

When two or more debtors are jointly and severally liable, collection action will not be withheld against one such debtor until the other or others pay their proportionate shares. The agency should not attempt to allocate the burden of paying such claims as between the debtors but should proceed to liquidate the indebtedness as quickly as possible. Care should be taken that a compromise agreement with one such debtor does not release the agency's claim against the remaining debtors. The amount of a compromise with one such debtor shall not be considered a precedent or as morally binding in determining the amount which will be required from other debtors jointly and severally liable on the claim.

**§ 103.7 Compromise for a combination of reasons.**

A claim may be compromised for one or for more than one of the reasons authorized in this part.

**§ 103.8 Further review of compromise offers.**

If an agency holds a debtor's firm written offer of compromise which is substantial in amount and the agency is uncertain as to whether the offer should be accepted, it may refer the offer, the supporting data, and particulars concerning the claim to the General Accounting Office or to the Department of Justice. The General Accounting Office or the Department of Justice may act upon such an offer or return it to the agency with instructions or advice.

**§ 103.9 Restrictions.**

Neither a percentage of a debtor's profits nor stock in a debtor corporation will be accepted in compromise of a claim. In negotiating a compromise with a business concern, consideration should be given to requiring a waiver of the tax-loss-carry-forward and tax-loss-carry-back rights of the debtor.

## PART 104—STANDARDS FOR SUSPENDING OR TERMINATING COLLECTION ACTION

Sec.

104.1 Scope and application.
104.2 Suspension of collection activity.
104.3 Termination of collection activity.
104.4 Transfer of claims.

**Authority:** 31 U.S.C. 3711(a)(3).

**§ 104.1 Scope and Application.**

(a) The standards set forth in this part apply to the suspension or termination of collection action pursuant to 31 U.S.C. 3711(a)(3) on claims which do not exceed $20,000, exclusive of interest, penalties, and administrative costs, after deducting the amount of partial payments or collections, if any. The head of an agency (or designee) may suspend or terminate collection action under this part with respect to claims for money or property arising out of activities of that agency prior to the referral of such claims to the General Accounting Office or to the Department of Justice for litigation. The Comptroller General (or designee) may exercise such authority with respect to claims referred to the General Accounting Office prior to their further referral for litigation.

(b) If, after deducting the amount of partial payments or collections, if any, a claim exceeds $20,000, exclusive of interest, penalties, and administrative costs, the authority to suspend or terminate rests solely with the Department of Justice. If the agency thinks suspension or termination may be appropriate, it should evaluate the matter, using the factors set forth in this part. if the agency then concludes that suspension or termination is appropriate, it must refer the matter to the Department of Justice, using the Claims Collection Litigation Report. See 4 CFR § 105.2(b). The referral should specify the reasons for the agency's recommendation. If the agency decides not to suspend or terminate collection action on the claim, Justice Department approval is not required. If an agency determines that its claim is plainly erroneous or clearly without legal merit, it may terminate collection action regardless of the amount involved, without the need for Department of Justice concurrence.

**§ 104.2 Suspension of collection activity.**

(a) *Inability to locate debtor.* Collection action may be suspended temporarily on a claim when the debtor cannot be located after diligent effort and there is reason to believe that future collection action may be sufficiently productive to justify periodic review and action on the claim, with due consideration for the size and amount which may be realized thereon. The following sources may be of assistance in locating missing debtors: Telephone directories; city directories; postmasters; drivers' license records; automobile title and registration records; state and local governmental agencies; the Internal Revenue Service (§ 102.18 of this chapter); other Federal agencies; employers, relatives, friends; credit agency skip locate reports, and credit bureaus. Suspension as to a particular debtor should not defer the early liquidation of security for the debt. Every reasonable effort should be made to locate missing debtors sufficiently in advance of the bar of the applicable statute of limitations, such as 28 U.S.C. 2415, to permit the timely filing of suit if such action is warranted. If the missing

debtor has signed a confess-judgment note and is in default, referral of the note for the entry of judgment should not be delayed because of the debtor's missing status.

(b) *Financial condition of debtor.* Collection action may also be suspended temporarily on a claim when the debtor owns no substantial equity in realty or personal property and is usable to make payments on the Government's claim or effect a compromise at the time but the debtor's future prospects justify retention of the claim for periodic review and action, and:

(1) The applicable statute of limitations has been tolled or started running anew; or

(2) Future collection can be effected by offset, notwithstanding the statute of limitations, with due regard to the 10-year limitation prescribed by 31 U.S.C. 3716(c)(1); or

(3) The debtor agrees to pay interest on the amount of the debt on which collection action will be temporarily suspended, and such temporary suspension is likely to enhance the debtor's ability to fully pay the principal amount of the debt with interest at a later date.

(c) *Request for waiver or administrative review.* (1) If the statute under which waiver or administrative review is sought is "mandatory," that is, if it prohibits the agency from collecting the debt prior to the agency's consideration of the request for waiver or review (see *Califano* v. *Yamasaki*, 422 U.S. 682 (1979)), then collection action must be suspended until either: (i) The agency has considered the request for waiver/review, or (ii) the applicable time limit for making the waiver/review request, as prescribed in the agency's regulations, has expired and the debtor, upon proper notice, has not made such a request.

(2) If the applicable waiver/review statute is "permissive," that is, if it does not require all requests for waiver/review to be considered, and if it does not prohibit collection action pending consideration of a waiver/review request (for example, 5 U.S.C. 5584), collection action may be suspended pending agency action on a waiver/review request based upon appropriate consideration, on a case-by-case basis, as to whether:

(i) There is a reasonable possibility that waiver will be granted, or that the debt (in whole or in part) will be found not owing from the debtor;

(ii) The Government's interests would be protected, if suspension were granted, by reasonable assurance that the debt could be recovered if the debtor does not prevail; and

(iii) Collection of the debt will cause undue hardship.

(3) If the applicable statutes and regulations would not authorize refund by the agency to the debtor of amounts collected prior to agency consideration of the debtor's waiver/review request in the event the agency acts favorably on it, collection action should ordinarily be suspended, without regard to the factors specified in paragraph (c)(2) of this section, unless it appears clear, based on the request and the surrounding circumstances, that the request is frivolous and was made primarily to delay collection.

### § 104.3 Termination of collection activity.

The head of an agency (or designee) may terminate collection activity and consider the agency's file on the claim closed under the following standards:

(a) *Inability to collect any substantial amount.* Collection action may be terminated on a claim when it becomes clear that the Government cannot collect or enforce collection of any significant sum from the debtor, having due regard for the judicial remedies available to the Government, the debtor's future financial prospects, and the exemptions available to the debtor under State and Federal law. In determining the debtor's inability to pay, the following factors, among others, may be considered: Age and health of the debtor; present and potential income; inheritance prospects; the possibility that assets have been concealed or improperly transferred by the debtor; the availability of assets or income which may be realized by enforced collection proceedings.

(b) *Inability to locate debtor.* Collection action may be terminated on a claim when the debtor cannot be located, and either: (1) There is no security remaining to be liquidated, or (2) the applicable statute of limitations has run and the prospects of collecting by offset, notwithstanding the bar of the statute of limitations, are too remote to justify retention of the claim.

(c) *Cost will exceed recovery.* Collection action may be terminated on a claim when it is likely that the cost of further collection action will exceed the amount recoverable thereby.

(d) *Claim legally without merit.* Collection action should be terminated immediately on a claim whenever it is determined that the claim is legally without merit.

(e) *Claim cannot be substantiated by evidence.* Collection action should be terminated when it is determined that the evidence necessary to prove the claim cannot be produced or the necessary witnesses are unavailable and efforts to induce voluntary payment are unavailing.

### § 104.4 Transfer of claims.

When an agency has doubt as to whether collection action should be suspended or terminated on a claim, it may refer the claim to the General Accounting Office for advice. When a significant enforcement policy is involved in reducing a statutory penalty or forfeiture to judgment, or recovery of a judgment is a prerequisite to the imposition of administrative sanctions, such as the suspension or revocation of a license or the privilege of participating in a Government sponsored program, an agency may refer such a claim for litigation even though termination of collection activity might otherwise be given consideration under § 104.3 (a) or (c). Claims on which an agency holds a judgment by assignment or otherwise will be referred to the Department of Justice for further action if renewal of the judgment lien or enforced collection proceedings are justified under the criteria discussed in this part, unless the agency concerned has statutory authority for handling its own litigation.

## PART 105—REFERRALS TO DEPARTMENT OF JUSTICE OR GAO

Sec.

105.1 Prompt referral.
105.2 Claims Collection Litigation Report.
105.3 Preservation of evidence.
105.4 Minimum amount of referrals to Department of Justice.
105.5 Preliminary referrals to GAO.

**Authority:** 31 U.S.C. 3711.

### § 105.1 Prompt referral.

(a) Except as provided in paragraphs (b) and (c) of this section, claims on which aggressive collection action has been taken in accordance with Part 102 of this chapter and which cannot be compromised, or on which collection action cannot be suspended or terminated, in accordance with Parts 103 and 104 of this chapter, shall be promptly referred to the Department of Justice for litigation. Claims for which the gross original amount is over $100,000 shall be referred to the Commercial Litigation Branch, Civil Division, Department of Justice, Washington, D.C. 20530. Claims for which the gross original amount is $100,000 or less shall be referred to the United States Attorney in whose judicial district the debtor can be found. Referrals should be made as early as possible, consistent with aggressive agency collection action and the observance of the regulations contained in this chapter, and in any event, well

within the period for bringing a timely suit against the debtor. Ordinarily, referrals should be made within one year of the agency's final determination of the fact and the amount of the debt.

(b) Claims arising from audit exceptions taken by the General Accounting Office to payments made by agencies must be referred to the General Accounting Office for review and approval prior to referral to the Department of Justice for litigation, unless the agency concerned has been granted an exception by the General Accounting Office.

(c) When the merits of the Government's claim, the amount owed on the claim, or the propriety of acceptance of a proposed compromise, suspension, or termination are in doubt, the agency concerned should refer the matter to the General Accounting Office for resolution and instructions prior to proceeding with collection action and/or referral to the Department of Justice for litigation.

(d) Once a claim has been referred to GAO or to the Department of Justice pursuant to this section, the referring agency shall refrain from having any contact with the debtor and shall direct the debtor to GAO or the Department of Justice, as appropriate, when questions concerning the claim are raised by the debtor. GAO or the Department of Justice, as appropriate, shall be immediately notified by the referring agency of any payments which are received from the debtor subsequent to referral of a claim under this section.

**§ 105.2 Claims Collection Litigation Report.**

(a) Unless an exception has been granted by the Department of Justice in consultation with the General Accounting Office, the Claims Collection Litigation Report (CCLR), which was officially implemented by the General Accounting Office on January 20, 1983, shall be used with all referrals of administratively uncollectible claims made pursuant to § 105.1. As required by the CCLR, the following information shall be included.

(1) *Report of prior collection actions.* A checklist or brief summary of the actions previously taken to collect or compromise the claim will be forwarded with the claim upon its referral. If any of the administrative collection actions enumerated in Part 102 of this chapter have been omitted, the reason for their omission must be provided. GAO, the United States Attorney, or the Civil Division of the Department of Justice may return claims at their option when there is insufficient justification for the omission of one or more of the administrative collection actions enumerated in Part 102 of this chapter.

(2) *Current address of debtor.* The current address of the debtor, or the name and address of the agent for a corporation upon whom service may be made shall be provided. Reasonable and appropriate steps will be taken to locate missing parties in all cases. Referrals to the Department of Justice for the institution of foreclosure or other proceedings, in which the current address of any party is unknown, will be accompanied by a listing of the prior known addresses of such party and a statement of the steps taken to locate that party.

(3) *Credit data.* Reasonably current credit data indicating that there is a reasonable prospect of effecting enforced collection from the debtor, having due regard for the exemptions available to the debtor under State and Federal law and the judicial remedies available to the Government, shall be included.

(i) Such credit data may take the form of: (A) A commercial credit report; (B) an agency investigative report showing the debtor's assets, liabilities, income, and expenses; (C) the individual debtor's own financial statement executed under penalty of perjury reflecting the debtor's assets, liabilities, income, and expenses; or (D) an audited balance sheet of a corporate debtor.

(ii) Such credit data may be omitted if: (A) A surety bond is available in an amount sufficient to satisfy the claim in full; (B) the forced sale value of the security available for application to the Government's claim is sufficient to satisfy the claim in full; (C) the referring agency wishes to liquidate loan collateral through judicial foreclosure but does not desire a deficiency judgment; (D) the debtor is in bankruptcy or receivership; (E) the debtor's liability to the Government is fully covered by insurance, in which case the agency will furnish such information as it can develop concerning the identity and address of the insurer and the type and amount of insurance coverage; or (F) the nature of the debtor is such that credit data is not normally available or cannot reasonably be obtained, for example, a unit of State or local government.

(b) Agencies shall also use the CCLR when referring claims to the Department of Justice in order to obtain the approval of that Department with respect to compromise, suspension, or termination, as required by §§ 103.1(b) and 104.1(b).

**§ 105.3 Preservation of evidence.**

Care will be taken to preserve all files, records, and exhibits on claims referred or to be referred to the Department of Justice for litigation. Under no circumstances should original documents be sent to the Department of Justice or to the United States Attorney without specific prior approval to do so. Copies of relevant documents should be sent whenever necessary.

**§ 105.4 Minimum amount of referrals to Department of Justice.**

Agencies will not refer claims of less than $600, exclusive of interest, penalties, and administrative costs, for litigation unless: (a) Referral is important to a significant enforcement policy, or (b) the debtor not only has the clear ability to pay the claim but the Government can effectively enforce payment, having due regard for the exemptions available to the debtor under State and Federal law and the judicial remedies available to the Government.

**§ 105.5 Preliminary referrals to GAO.**

Preliminary referrals of claims to the General Accounting Office, as required by § 105.1(b) and (c), will be in accordance with instructions, including monetary limitations, contained in the General Accounting Office Policy and Procedures Manual for Guidance of Federal Agencies, and the provisions of §§ 105.2 and 105.3 of this part.

Dated: March 2, 1984.

**William French Smith,**

*Attorney General of the United States.*

Dated: February 27, 1984.

**Charles A. Bowsher,**

*Comptroller General of the United States.*

[FR Doc. 84-6226 Filed 3-8-84; 8:45 am]

BILLING CODE 1610-01-M; 4410-01-M

## DEPARTMENT OF AGRICULTURE

### Agricultural Stabilization and Conservation Service

### 7 CFR Part 760

### Dairy Indemnity Payment Programs

**AGENCY:** Agricultural Stabilization and Conservation Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** This action adopts as a final rule an interim rule published in the **Federal Register** on September 7, 1983 (48 FR 40366) which amended the Dairy Indemnity Payment Program Regulations to extend the operation of the program through September 30, 1983. The interim rule further provided that if there are insufficient funds available to the Department to pay all eligible claims

filed after October 1, 1982, each claimant filing a claim under the program would be paid a pro rata share of any remaining funds available for the fiscal year.

**EFFECTIVE DATE:** March 9, 1984.

**FOR FURTHER INFORMATION CONTACT:** Gerald Schiermeyer, Agricultural Program Specialist, Emergency Operations and Livestock Programs Division, ASCS, USDA, South Building, Room 4095, Washington, D.C. 20013; (202) 447-5171.

**SUPPLEMENTARY INFORMATION:** This rule has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Department Regulation 1512-1 and has been classified as "not major." This rule has been classified as "not major" since it will not result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The title and number of the Federal assistance program to which this rule applies are: Title—Dairy Indemnity Payments, Number—10.053, as found in the Catalog of Federal Domestic Assistance Programs.

It has been determined that the Regulatory Flexibility Act is not applicable to this rule since ASCS is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

The Dairy Indemnity Payment Program was originally authorized by section 331 of the Economic Opportunity Act of 1964 (75 Stat. 525). The program was extended several times, most recently by the Agriculture and Food Act of 1981 (95 Stat. 1220) which authorized the program to be carried out through September 30, 1985. The objective of the program is to indemnify dairy farmers and manufacturers of dairy products, who, through no fault of their own, suffer income losses on milk, or milk products removed from commercial markets because such products contain certain harmful residues. In addition, dairy farmers can also be indemnified for income losses due to residues of toxic substances and contamination by nuclear radiation or fallout.

The sum of $7.0 million has been appropriated to cover fiscal year 1982 and 1983 claims under the program. The claims for these two fiscal years will most likely exceed the $7.0 million. Accordingly, an interim rule was published in the **Federal Register** on September 7, 1983 (48 FR 40366) which provided that beginning with fiscal year 1983, each eligible claimant would receive a pro rata share of the remaining funds available to the Department to pay dairy indemnity claims if insufficient funds are available to the Department to pay all eligible claims. In addition, the interim rule provided that all such claims would be paid after January 1, 1984. There was no comments received during the 30-day comment period provided for in the interim rule which ended on October 7, 1983.

Information collection requirements contained in this regulation (7 CFR Part 760) have been approved by the Office of Management and Budget under provisions of 44 U.S.C. Chapter 35 and have been assigned OMB No. 0560-0045.

### List of Subjects in 7 CFR Part 760

Bees, Dairy products, Honey, Indemnity payments, Pesticides and pests.

### Final Rule

Accordingly, it has been determined that the interim rule published at 48 FR 40366 amending the regulations at 7 CFR Part 760 is hereby adopted as a final rule without change.

Authority: Secs. 1, 2, 3, Pub. L. 90-484, 82 Stat. 750, as amended (7 U.S.C. 450 j, k, l).

Signed at Washington, D.C. on March 5, 1984.

**Everett Rank,**

*Administrator, Agricultural Stabilization and Conservation Service.*

[FR Doc. 84-6269 Filed 3-8-84; 8:45 am]

BILLING CODE 3410-05-M

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## Agricultural Marketing Service

## 7 CFR Part 910

**[Lemon Reg. 454]**

## Lemons Grown in California and Arizona; Limitation of Handling

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market at 255,000 cartons during the period March 11–March 17, 1984. Such action is needed to provide for orderly marketing of fresh lemons for the period due to the marketing situation confronting the lemon industry.

**EFFECTIVE DATE:** March 11, 1984.

**FOR FURTHER INFORMATION CONTACT:** William J. Doyle, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202-447-5975.

**SUPPLEMENTARY INFORMATION:** This final rule has been reviewed under Secretary's Memorandum 1512-1 and Executive Order 12291, and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities.

This final rule is issued under Marketing Order No. 910, as amended (7 CFR Part 910) regulating the handling of lemons grown in California and Arizona. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The action is based upon recommendations and information submitted by the Lemon Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the Act.

This action is consistent with the marketing policy currently in effect. The committee met publicly on March 6, 1984, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports the demand for lemons is slightly easier.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared purposes of the Act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared purposes of the Act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of subjects in 7 CFR Part 910

Marketing agreements and orders, California, Arizona, Lemons.

PART 910—[AMENDED]

Section 910.754 is added as follows:

§ 910.754 Lemon Regulation 454.

The quantity of lemons grown in California and Arizona which may be handled during the period March 11, 1984, through March 17, 1984, is established at 255,000 cartons.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: March 7, 1984.

Russell L. Hawes,

*Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.*

[FR Doc. 84–6585 Filed 3–8–84; 8:45 am]

BILLING CODE 3410–02–M

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Part 95

[Docket No. 23914; Amdt. No. 316]

### Air Traffic and General Operating Rules; IFR Altitudes; Miscellaneous Amendments

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This amendment adopts miscellaneous amendments to the required IFR (instrument flight rule) altitudes and changeover points for certain Federal airways, jet routes, or direct routes for which a minimum or maximum en route authorized IFR altitude is prescribed. These regulatory actions are needed because of changes occurring in the National Airspace System. These changes are designed to provide for the safe and efficient use of the navigable airspace under instrument conditions in the affected areas.

**EFFECTIVE DATE:** March 15, 1984.

**FOR FURTHER INFORMATION CONTACT:** Donald K. Funai, Flight Procedures Standards Branch (AFO–230), Air Transportation Division, Office of Flight Operations, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426–8277.

**SUPPLEMENTARY INFORMATION:** This amendment to Part 95 of the Federal Aviation Regulations (14 CFR Part 95) prescribes new, amended, suspended, or revoked IFR altitudes governing the operation of all aircraft in IFR flight over a specified route or any portion of that route, as well as the changeover points (COPs) for Federal airways, jet routes, or direct routes as prescribed in Part 95. The specified IFR altitudes, when used in conjunction with the prescribed changeover points for those routes, ensure navigation aid coverage that is adqequate for safe flight operations and free of frequency interference.

The reasons and circumstances which create the need for this amendment involve matters of flight safety, operational efficiency in the National Airspace System, and are related to published aeronautical charts that are essential to the user and provide for the safe and efficient use of the navigable airspace. In addition, those various reasons or circumstances require making this amendment effective before the next scheduled charting and publication date of the flight information to assure its timely availability to the user. The effective date of this amendment reflects those considerations. In view of the close and immediate relationship between these regulatory changes and safety in air commerce, I find that notice and public procedure before adopting this amendment is unnecessary, impracticable, and contrary to the public interest and that good cause exists for making the amendment effective in less than 30 days.

Index

List of Subjects in 14 CFR Part 95

Aviation safety, Aircraft, Airspace.

Adoption of the Amendment

PART 95—[AMENDED]

Accordingly and pursuant to the authority delegated to me by the Administrator, Part 95 of the Federal Aviation Regulations (14 CFR Part 95) is amended as follows effective at 0901 GMT March 15, 1984.

(Secs. 307 and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348 and 1510); 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); and 14 CFR 11.49(b)(3))

**Note.**—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operational current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C. on March 1, 1984.

Kenneth S. Hunt,

*Director of Flight Operations.*

BILLING CODE 4910–13–M

## REVISIONS TO MINIMUM ENROUTE IFR ALTITUDES & CHANGEOVER POINTS

### AMENDMENT 316 EFFECTIVE DATE, MARCH 15, 1984

| FROM | TO | MEA |
|---|---|---|
| **§95.48 GREEN FEDERAL AIRWAY 8** | | |
| **IS AMENDED TO DELETE** | | |
| KACHEMAK, AK NDB | CAMPBELL LAKE, AK NDB | 4000 |
| **§95.303 RED FEDERAL AIRWAY 103** | | |
| **IS DELETED** | | |
| WILDWOOD, AK NDB | *DUFOS, AK FIX | 2000 |
| *5800 - MCA DUFOS FIX, SE BND | | |
| DUFOS, AK FIX | CLICK, AK FIX | *9000 |
| *8300 - MOCA | | |
| CLICK, AK FIX | WESSELS, AK NDB | 2000 |
| **§95.625 BLUE FEDERAL AIRWAY 25** | | |
| **IS AMENDED TO READ IN PART** | | |
| GLENNALLEN, AK NDB | *DELTA JUNCTION, AK NDB | **12000 |
| *8000 - MCA DELTA JUNCTION NDB, SE BND | | |
| **11500 - MOCA | | |
| **IS AMENDED TO DELETE** | | |
| CLICK, AK FIX | HINCHINBROOK, AK NDB | 4000 |
| **§95.626 BLUE FEDERAL AIRWAY 26** | | |
| **IS AMENDED TO DELETE** | | |
| CAMPBELL LAKE, AK NDB | PETERS CREEK, AK NDB | 4800 |
| PETERS CREEK, AK NDB | SUMMIT, AK NDB | 10000 |
| SUMMIT, AK NDB | *WOLFE, AK FIX | 9500 |
| *4700 - MCA WOLFE FIX, S BND | | |
| WOLFE, AK FIX | CHENA, AK NDB | 9500 |
| **§95.638 BLUE FEDERAL AIRWAY 38** | | |
| **IS AMENDED TO DELETE** | | |
| SITKA, AK NDB | ELEPHANT, AK NDB | 6500 |
| **§95.1001 DIRECT ROUTES-U.S.** | | |
| **IS ADDED TO READ** | | |
| CORONA, NM VORTAC | TRACC, NM FIX | 12000 |
| PINON, NM VOR | *TRACC, NM FIX | 10000 |
| *11000 - MCA TRACC FIX, N BND | | |
| ROSWELL, NM VORTAC | *TRACC, NM FIX | 10000 |
| *11000 - MCA TRACC FIX, N BND | | |

| FROM | TO | MEA |
|---|---|---|
| **§95.6003 VOR FEDERAL AIRWAY 3** | | |
| **IS AMENDED TO READ IN PART** | | |
| WESTMINSTER, MD VORTAC | MODENA, PA VORTAC | *3000 |
| *2100 - MOCA | | |
| MODENA, PA VORTAC | HARRS, PA FIX | *2500 |
| *1900 - MOCA | | |
| HARRS, PA FIX | MARRE, NJ FIX | 2500 |
| **§95.6006 VOR FEDERAL AIRWAY 6** | | |
| **IS AMENDED TO READ IN PART** | | |
| OMAHA, NE VORTAC | *LYMAN, IA FIX | 3000 |
| *4500 - MRA | | |
| **§95.6008 VOR FEDERAL AIRWAY 8** | | |
| **IS AMENDED TO READ IN PART** | | |
| OMAHA, NE VORTAC | *LYMAN, IA FIX | 3000 |
| *4500 - MRA | | |
| **§95.6013 VOR FEDERAL AIRWAY 13** | | |
| **IS AMENDED TO READ IN PART** | | |
| PALACIOS, TX VORTAC | HUMBLE, TX VORTAC | 2000 |
| HUMBLE, TX VORTAC | CLEEP, TX FIX | 2000 |
| CLEEP, TX FIX | LEGGE, TX FIX | *5000 |
| *2000 - MOCA | | |
| LEGGE, TX FIX | LUFKIN, TX VORTAC | 2000 |
| MASON CITY, IA VORTAC | NEWRY, MN FIX | 3000 |
| NEWRY, MN FIX | MEINZ, MN FIX | 3200 |
| MEINZ, MN FIX | FARMINGTON, MN VORTAC | 3000 |
| **§95.6015 VOR FEDERAL AIRWAY 15** | | |
| **IS AMENDED TO READ IN PART** | | |
| HUMBLE, TX VORTAC | NAVASOTA, TX VORTAC | 2000 |
| WACO, TX VORTAC | SCURRY, TX VORTAC | 2500 |
| SAINT JOSEPH, MO VORTAC | ELMOS, MO FIX | *2900 |
| *2400 - MOCA | | |
| ELMOS, MO FIX | EMEND, IA FIX | *4000 |
| *2500 - MOCA | | |
| EMEND, IA FIX | NEOLA, IA VORTAC | *3000 |
| *2500 - MOCA | | |
| **§95.6019 VOR FEDERAL AIRWAY 19** | | |
| **IS AMENDED TO READ IN PART** | | |
| KIOWA, CO VORTAC | DENVER, CO VORTAC | *8100 |
| *7400 - MOCA | | |

| FROM | TO | MEA |
|---|---|---|
| **§95.6033 VOR FEDERAL AIRWAY 33** | | |
| **IS AMENDED TO READ IN PART** | | |
| HARRISBURG, PA VORTAC | PHILIPSBURG, PA VORTAC | 4000 |
| **§95.6040 VOR FEDERAL AIRWAY 40** | | |
| **IS AMENDED TO READ IN PART** | | |
| DRYER, OH VORTAC | BRIGGS, OH VORTAC | 3000 |
| **§95.6045 VOR FEDERAL AIRWAY 45** | | |
| **IS AMENDED TO READ IN PART** | | |
| CHAPL, NC FIX | KIMES, NC FIX | 3000 |
| **§95.6053 VOR FEDERAL AIRWAY 53** | | |
| **IS AMENDED TO READ IN PART** | | |
| CHARLESTON, SC VORTAC | COLUMBIA, SC VORTAC | 2000 |
| **§95.6054 VOR FEDERAL AIRWAY 54** | | |
| **IS AMENDED TO READ IN PART** | | |
| WACO, TX VORTAC | SCURRY, TX VORTAC | 2500 |
| **§95.6055 VOR FEDERAL AIRWAY 55** | | |
| **IS AMENDED TO READ IN PART** | | |
| PARK RAPIDS, MN VOR/DME | BETRA, MN FIX | *4500 |
| *3000 - MOCA | | |
| **§95.6056 VOR FEDERAL AIRWAY 56** | | |
| **IS AMENDED TO READ IN PART** | | |
| AUGUSTA, GA VORTAC | COLUMBIA, SC VORTAC | 3000 |
| AUGUSTA, GA VORTAC | LASHE, SC FIX | |
| VIA S ALTER | VIA S ALTER | 2900 |
| LASHE, SC FIX | COLUMBIA, SC VORTAC | |
| VIA S ALTER | VIA S ALTER | 3000 |
| **§95.6071 VOR FEDERAL AIRWAY 71** | | |
| **IS AMENDED TO READ IN PART** | | |
| EL DORADO, AR VORTAC | SPARO, AR FIX | |
| | SE BND | 2500 |
| | NW BND | 4000 |
| CANEY, AR FIX | HOT SPRINGS, AR VOR | |
| | NW BND | 2500 |
| | SE BND | 3000 |
| SAWIL, AR FIX | OLLAS, AR FIX | *3500 |
| *2900 - MOCA | | |
| OLLAS, AR FIX | HARRISON, AR VOR | *4500 |
| *3500 - MOCA | | |

| FROM | TO | MEA |
|---|---|---|
| **§95.6075 VOR FEDERAL AIRWAY 75** | | |
| **IS AMENDED TO READ IN PART** | | |
| BRIGGS, OH VORTAC | DRYER, OH VORTAC | 3000 |
| **§95.6091 VOR FEDERAL AIRWAY 91** | | |
| **IS AMENDED TO READ IN PART** | | |
| GROUP, NY FIX | ALBANY, NY VORTAC | *2800 |
| *2100 - MOCA | | |
| ALBANY, NY VORTAC | GLENS FALLS, NY VORTAC | *3000 |
| *2500 - MOCA | | |
| ENSON, VT FIX | *WEIGH, VT FIX | **4000 |
| *4000 - MRA | | |
| **2800 - MOCA | | |
| **§95.6112 VOR FEDERAL AIRWAY 112** | | |
| **IS AMENDED TO READ IN PART** | | |
| *PORTLAND, OR VORTAC | GYMME, WA FIX | |
| | E BND | 7000 |
| | W BND | 6500 |
| *4700 - MCA PORTLAND VORTAC, E BND | | |
| **§95.6114 VOR FEDERAL AIRWAY 114** | | |
| **IS AMENDED TO READ IN PART** | | |
| WRACK, LA FIX | CLUNK, LA FIX | |
| VIA N ALTER | VIA N ALTER | *5000 |
| *1700 - MOCA | | |
| CLUNK, LA FIX | WALKE, LA FIX | |
| VIA N ALTER | VIA N ALTER | *2500 |
| *1400 - MOCA | | |
| **§95.6153 VOR FEDERAL AIRWAY 153** | | |
| **IS AMENDED TO READ IN PART** | | |
| BUDDS, NJ FIX | STILLWATER, NJ VORTAC | *3000 |
| *2500 - MOCA | | |
| **§95.6158 VOR FEDERAL AIRWAY 158** | | |
| **IS AMENDED TO READ IN PART** | | |
| POUND, IA FIX | DUBUQUE, IA VORTAC | *6000 |
| *2500 - MOCA | | |
| **§95.6170 VOR FEDERAL AIRWAY 170** | | |
| **IS AMENDED TO READ IN PART** | | |

| FROM | TO | MEA |
|---|---|---|
| **§95.6170 VOR FEDERAL AIRWAY 170—Continued** | | |
| DUPONT DE VORTAC | KERNO MD FIX | 2000 |
| **§95.6184 VOR FEDERAL AIRWAY 184 IS AMENDED TO READ IN PART** | | |
| PHILIPSBURG, PA VORTAC | HARRISBURG, PA VORTAC | 4000 |
| PADRE PA FIX | MODENA, PA VORTAC | *2500 |
| *1900 - MOCA | | |
| **§95.6194 VOR FEDERAL AIRWAY 194 IS AMENDED TO READ IN PART** | | |
| LIBERTY, NC VORTAC | RALEIGH-DURHAM, NC VORTAC | 2600 |
| **§95.6200 VOR FEDERAL AIRWAY 200 IS AMENDED TO READ IN PART** | | |
| UKIAH, CA VORTAC | *LAPED CA FIX | 6000 |
| *9000 - MRA | | |
| **§95.6213 VOR FEDERAL AIRWAY 213 IS AMENDED TO READ IN PART** | | |
| TAR RIVER, NC VORTAC | HOPEWELL, VA VORTAC | *2000 |
| *1500 - MOCA | | |
| ROBBINSVILLE, NJ VORTAC | WARRD, NJ | *2000 |
| *1500 - MOCA | | MAA- 8000 |
| WARRD, NJ | SOLBERG, NJ VORTAC | 2000 |
| | | MAA- 8000 |
| **§95.6214 VOR FEDERAL AIRWAY 214 IS AMENDED TO READ IN PART** | | |
| INDIAN HEAD, PA VORTAC | FLINT, MD FIX | *5000 |
| *4500 - MOCA | | |
| MARTINSBURG, WV VORTAC | WOOLY, MD FIX | *3800 |
| *3300 - MOCA | | |
| **§95.6216 VOR FEDERAL AIRWAY 216 IS AMENDED TO READ IN PART** | | |
| PAWNEE CITY, NE VORTAC | LAMONI, IA VORTAC | *3400 |
| *2700 - MOCA | | |
| **§95.6218 VOR FEDERAL AIRWAY 218 IS AMENDED TO READ IN PART** | | |
| GRAND RAPIDS, MN VOR/DME | GOPHER, MN VORTAC | *5500 |
| *2700 - MOCA | | |
| **§95.6219 VOR FEDERAL AIRWAY 219 IS AMENDED TO READ IN PART** | | |
| SIOUX CITY, IA VORTAC | *GRUVE, IA FIX | **4500 |
| *5000 - MRA | | |
| **2900 - MOCA | | |
| **§95.6222 VOR FEDERAL AIRWAY 222 IS AMENDED TO READ IN PART** | | |
| HUMBLE, TX VORTAC | BEAUMONT, TX VORTAC | 2000 |
| **§95.6226 VOR FEDERAL AIRWAY 226 IS AMENDED TO READ IN PART** | | |
| KEATING, PA VORTAC | WILLIAMSPORT, PA VORTAC | *4500 |
| *3900 - MOCA | | |
| STILLWATER, NJ VORTAC | BUDDS, NJ FIX | *3000 |
| *2500 - MOCA | | |
| **§95.6229 VOR FEDERAL AIRWAY 229 IS AMENDED TO READ IN PART** | | |
| MURFE, NJ FIX | KENNEDY, NY VORTAC | *4500 |
| *2200 - MOCA | | MAA- 7000 |
| MADISON, CT VORTAC | HARTFORD, CT VORTAC | *2600 |
| *2000 - MOCA | | |
| EAGRE, CT FIX | SPENO, MA FIX | *3000 |
| *2500 - MOCA | | |
| JAMMA, VT FIX | EBERT, VT FIX | 5500 |
| MUDDI, VT FIX | BURLINGTON, VT VORTAC | *5800 |
| *5300 - MOCA | | |
| **§95.6231 VOR FEDERAL AIRWAY 231 IS AMENDED TO READ IN PART** | | |
| SKOTT, MT FIX | KALISPELL, MT VOR/DME | |
| | S BND | *10000 |
| | N BND | *8500 |
| *7600 - MOCA | | |
| **§95.6232 VOR FEDERAL AIRWAY 232 IS AMENDED TO READ IN PART** | | |
| COOBE, PA FIX | KEATING, PA VORTAC | 4000 |
| KEATING, PA VORTAC | WATSO, PA FIX | 4000 |
| MILTON, PA VORTAC | BEERS, PA FIX | *4000 |
| *3500 - MOCA | | |
| BROADWAY, NJ VOR/DME | LISSA, NY FIX | 2500 |
| LISSA, NY FIX | LA GUARDIA, NY VOR/DME | 2700 |
| **§95.6249 VOR FEDERAL AIRWAY 249 IS AMENDED TO READ IN PART** | | |
| ELLAN, NY FIX | DE LANCEY, NY VOR | *5700 |
| *5200 - MOCA | | |
| **§95.6252 VOR FEDERAL AIRWAY 252 IS AMENDED TO READ IN PART** | | |
| RAGER, NY FIX | HUGUENOT NY VORTAC | *4000 |
| *3100 - MOCA | | |
| **§95.6258 VOR FEDERAL AIRWAY 258 IS AMENDED TO READ IN PART** | | |
| CHARLESTON, WV VORTAC | *SCRIB, WV FIX | 4000 |
| *4100 - MCA SCRIB FIX, SE BND | | |
| PIGGS, VA FIX | ENTUK, VA FIX | *4000 |
| *3400 - MOCA | | |
| **§95.6260 VOR FEDERAL AIRWAY 260 IS AMENDED TO READ IN PART** | | |
| CHARLESTON, WV VORTAC | MONTS, WV FIX | *4000 |
| *3100 - MOCA | | |
| RAINELLE, WV VOR | ROANOKE, VA VORTAC | *6000 |
| *5400 - MOCA | | |
| FRANKLIN, VA VORTAC | COFIELD, NC VORTAC | *1800 |
| *1300 - MOCA | | |
| **§95.6265 VOR FEDERAL AIRWAY 265 IS AMENDED TO READ IN PART** | | |
| KRANT, MD FIX | DATED, MD FIX | 2100 |
| DATED, MD FIX | WESTMINSTER, MD VORTAC | *2600 |
| *2100 - MOCA | | |
| WESTMINSTER, MD VORTAC | HARRISBURG, PA VORTAC | *3400 |
| *2900 - MOCA | | |
| HARRISBURG, PA VORTAC | PHILIPSBURG, PA VORTAC | 4000 |
| **§95.6266 VOR FEDERAL AIRWAY 266 IS AMENDED TO READ IN PART** | | |
| PROVE, NC FIX | LEAKS, NC FIX | 3000 |
| LEAKS, NC FIX | SOUTH BOSTON, VA VORTAC | *3000 |
| *2100 - MOCA | | |
| SOUTH BOSTON, VA VORTAC | HARVY VA FIX | *2300 |
| *1800 - MOCA | | |
| **§95.6267 VOR FEDERAL AIRWAY 267 IS AMENDED TO READ IN PART** | | |
| BISCAYNE BAY, FL VORTAC | GREMM, FL FIX | *5000 |
| *2000 - MOCA | | |
| WORMS, FL FIX | JACKSONVILLE, FL VORTAC | *3000 |
| *2000 MOCA | | |
| **§95.6268 VOR FEDERAL AIRWAY 268 IS AMENDED TO READ IN PART** | | |
| PLEEZ, PA FIX | INDIAN HEAD, PA VORTAC | *5000 |
| *4500 - MOCA | | |
| INDIAN HEAD, PA VORTAC | HAGERSTOWN, MD VOR | *6000 |
| *4500 - MOCA | | |
| KEMAR, MD FIX | WESTMINSTER, MD VORTAC | *4000 |
| *2400 - MOCA | | |
| LEEAH, NJ FIX | AVALO, NJ FIX | *2000 |
| *1300 - MOCA | | |
| **§95.6270 VOR FEDERAL AIRWAY 270 IS AMENDED TO READ IN PART** | | |
| VAIRS, NY FIX | WELLSVILLE, NY VORTAC | *4500 |
| *4000 - MOCA | | |
| WELLSVILLE, NY VORTAC | WOMAN, NY FIX | *4500 |
| *4000 - MOCA | | |
| WOMAN, NY FIX | ELMIRA, NY VORTAC | *4000 |
| *3400 - MOCA | | |
| TUSON, NY FIX | *ATHOS, NY FIX | **6000 |
| *4000 - MCA ATHOS FIX, W BND | | |
| **5600 - MOCA | | |
| ATHOS, NY FIX | HIDAL, NY FIX | 4000 |
| **§95.6295 VOR FEDERAL AIRWAY 295 IS AMENDED TO READ IN PART** | | |
| BISCAYNE BAY FL VORTAC | LONNI, FL FIX | 2000 |
| **§95.6306 VOR FEDERAL AIRWAY 306 IS AMENDED TO READ IN PART** | | |
| NAVASOTA, TX VORTAC VIA S ALTER | HUMBLE, TX VORTAC VIA S ALTER | 2000 |
| **§95.6310 VOR FEDERAL AIRWAY 310 IS AMENDED TO READ IN PART** | | |
| KIMES, NC FIX | CHAPL, NC FIX | 3000 |
| **§95.6311 VOR FEDERAL AIRWAY 311 IS AMENDED BY ADDING** | | |
| COLUMBIA, SC VORTAC | CHARLESTON, SC VORTAC | 2000 |
| **§95.6318 VOR FEDERAL AIRWAY 318 IS AMENDED TO READ IN PART** | | |
| U S CANADIAN BORDER | HOULTON, ME VOR/DME | *9000 |
| *3900 MOCA | | |

| FROM | TO | MEA |
|---|---|---|

**§95.6408 VOR FEDERAL AIRWAY 408**
**IS AMENDED TO READ IN PART**

| | | |
|---|---|---|
| SCOBY, MD FIX | MODENA, PA VORTAC | *5000 |
| *3400 - MOCA | | MAA-22000 |

**§95.6419 VOR FEDERAL AIRWAY 419**
**IS AMENDED TO READ IN PART**

| | | |
|---|---|---|
| WESTMINSTER, MD VORTAC | MODENA, PA VORTAC | *3000 |
| *2100 - MOCA | | |
| MODENA, PA VORTAC | HARRS, PA FIX | *2500 |
| *1900 - MOCA | | |
| HARRS, PA FIX | STILLWATER, NJ VORTAC | *3000 |
| *2500 - MOCA | | |

**§95.6423 VOR FEDERAL AIRWAY 423**
**IS AMENDED TO READ IN PART**

| | | |
|---|---|---|
| WILLIAMSPORT, PA VORTAC | BINGHAMTON, NY VORTAC | *4300 |
| *3800 - MOCA | | |

**§95.6431 VOR FEDERAL AIRWAY 431**
**IS AMENDED TO READ IN PART**

| | | |
|---|---|---|
| KEENE, NH VORTAC | BRATS, VT FIX | *4400 |
| *3400 - MOCA | | |
| BRATS, VT FIX | GLENS FALLS, NY VORTAC | *5900 |
| *5400 - MOCA | | |
| GLENS FALLS, NY VORTAC | GASSY, NY FIX | *5000 |
| *4400 - MOCA | | |

**§95.6433 VOR FEDERAL AIRWAY 433**
**IS AMENDED TO READ IN PART**

| | | |
|---|---|---|
| KERNO, MD FIX | DUPONT, DE VORTAC | 2000 |
| MARES, CT FIX | SEAMO, CT FIX | *3000 |
| *2000 - MOCA | | |
| SEAMO, CT FIX | HOOTH, CT FIX | 3000 |

**§95.6438 VOR FEDERAL AIRWAY 438**
**IS AMENDED TO READ IN PART**

| | | |
|---|---|---|
| GRANTSVILLE, MD VORTAC | FLINT, MD FIX | *5000 |
| *4400 - MOCA | | |
| FLINT, MD FIX | TOMAC, MD FIX | *4000 |
| *3300 - MOCA | | |
| TOMAC, MD FIX | HAGERSTOWN, MD VOR | 4000 |
| HAGERSTOWN, MD VOR | LUCKE, VA FIX | *3800 |
| *3300 - MOCA | | |

**§95.6441 VOR FEDERAL AIRWAY 441**
**IS AMENDED TO READ IN PART**

| | | |
|---|---|---|
| HOMOE, FL FIX | OCALA, FL VORTAC | *3000 |
| *1600 - MOCA | | |

| FROM | TO | MEA |
|---|---|---|

**§95.6445 VOR FEDERAL AIRWAY 445**
**IS AMENDED TO READ IN PART**

| | | |
|---|---|---|
| STAMS, CT FIX | VAAMP, CT FIX | *2500 |
| *2000 - MOCA | | |

**§95.6449 VOR FEDERAL AIRWAY 449**
**IS AMENDED TO READ IN PART**

| | | |
|---|---|---|
| LAKE HENRY, PA VORTAC | DE LANCEY, NY VOR | 4300 |
| DE LANCEY, NY VOR | OAKIL, NY FIX | 5000 |
| OAKIL, NY FIX | ALBANY, NY VORTAC | 4400 |

**§95.6451 VOR FEDERAL AIRWAY 451**
**IS AMENDED TO READ IN PART**

| | | |
|---|---|---|
| SEEDY, NH FIX | BRUNSWICK (NAVY), ME VORTAC | *3000 |
| *1500 - MOCA | | |

**§95.6454 VOR FEDERAL AIRWAY 454**
**IS AMENDED TO READ IN PART**

| | | |
|---|---|---|
| JUNKI, VA FIX | HOPEWELL, VA VORTAC | *2100 |
| *1500 - MOCA | | |

**§95.6455 VOR FEDERAL AIRWAY 455**
**IS AMENDED TO READ IN PART**

| | | |
|---|---|---|
| EATON, MS VORTAC | BAING, MS FIX | |
| VIA W ALTER | VIA W ALTER | *3000 |
| *2000 - MOCA | | |

**§95.6457 VOR FEDERAL AIRWAY 457**
**IS AMENDED TO READ IN PART**

| | | |
|---|---|---|
| WESTMINSTER, MD VORTAC | LANCASTER, PA VORTAC | *3000 |
| *2500 - MOCA | | |

**§95.6464 VOR FEDERAL AIRWAY 464**
**IS AMENDED TO READ IN PART**

| | | |
|---|---|---|
| U.S. CANADIAN BORDER | DUNKIRK, NY VORTAC | 3300 |
| DUNKIRK, NY VORTAC | LANGS, NY FIX | 3300 |

**§95.6467 VOR FEDERAL AIRWAY 467**
**IS AMENDED TO READ IN PART**

| | | |
|---|---|---|
| DRUMM, DE FIX | CEDAR LAKE, NJ VORTAC | 1800 |
| ADAPS, NJ FIX | LISSA, NY FIX | *3000 |
| *1600 - MOCA | | |
| MARES, CT FIX | SEAMO, CT FIX | *3000 |
| *2000 - MOCA | | |

| FROM | TO | MEA |
|---|---|---|

**§95.6467 VOR FEDERAL AIRWAY 467—Continued**

| | | |
|---|---|---|
| SEAMO, CT FIX | HARTFORD, CT VORTAC | 2600 |

**§95.6469 VOR FEDERAL AIRWAY 469**
**IS AMENDED TO READ IN PART**

| | | |
|---|---|---|
| GATTS, VA FIX | RADIA, VA FIX | *5400 |
| *4900 MOCA | | |
| ELKINS, WV VORTAC | TYGAR, WV FIX | *5000 |
| *4400 MOCA | | |
| MORGANTOWN, WV VORTAC | OTOWN, PA FIX | *5000 |
| *4100 MOCA | | |
| OTOWN, PA FIX | NESTO, PA FIX | *4000 |
| *3100 MOCA | | |
| NESTO, PA FIX | QUARY, PA FIX | 4000 |
| QUARY, PA FIX | JOHNSTOWN, PA VORTAC | *5000 |
| **400 MOCA | | |
| SAINT THOMAS, PA VORTAC | ROXXY, PA FIX | *5000 |
| *4000 MOCA | | |

**§95.6470 VOR FEDERAL AIRWAY 470**
**IS AMENDED TO READ IN PART**

| | | |
|---|---|---|
| TABER, VA FIX | *MONAT, VA FIX | **5600 |
| *4000 MRA | | |
| **5100 MOCA | | |
| MONAT, VA FIX | LYNCHBURG, VA VORTAC | |
| | W BND | *4000 |
| | E BND | *3000 |
| *2900 MOCA | | |

**§95.6471 VOR FEDERAL AIRWAY 471**
**IS AMENDED TO READ IN PART**

| | | |
|---|---|---|
| BANGOR, ME VORTAC | MILLINOCKET, ME VORTAC | *2400 |
| *1900 MOCA | | |
| HOULTON, ME VOR/DME | U.S. CANADIAN BORDER | *2600 |
| *1900 MOCA | | |

**§95.6473 VOR FEDERAL AIRWAY 473**
**IS AMENDED TO READ IN PART**

| | | |
|---|---|---|
| ROANOKE, VA VORTAC | HOBOS, VA FIX | *6000 |
| *5100 MOCA | | |
| HOBOS, VA FIX | MONTEBELLO, VA VOR/DME | 6000 |
| MONTEBELLO, VA VOR/DME | GORDONSVILLE, VA VORTAC | *6000 |
| *5500 MOCA | | |

**§95.6474 VOR FEDERAL AIRWAY 474**
**IS AMENDED TO READ IN PART**

| | | |
|---|---|---|
| PLEEZ, PA FIX | INDIAN HEAD, PA VORTAC | *5000 |
| *4500 MOCA | | |

| FROM | TO | MEA |
|---|---|---|

**§95.6474 VOR FEDERAL AIRWAY 474—Continued**

| | | |
|---|---|---|
| INDIAN HEAD, PA VORTAC | SAINT THOMAS, PA VORTAC | *5000 |
| *4500 MOCA | | |
| SAINT THOMAS, PA VORTAC | BICKA, PA FIX | *5000 |
| *4000 MOCA | | |
| SPRRY, PA FIX | PADRE, PA FIX | 2800 |
| PADRE, PA FIX | MODENA, PA VORTAC | *2500 |
| *1900 MOCA | | |

**§95.6475 VOR FEDERAL AIRWAY 475**
**IS AMENDED TO READ IN PART**

| | | |
|---|---|---|
| MARES, CT FIX | SEAMO, CT FIX | *3000 |
| *2000 - MOCA | | |
| SEAMO, CT FIX | MADISON, CT VORTAC | *2500 |
| *1800 - MOCA | | |
| MADISON, CT VORTAC | NORWICH, CT VORTAC | *2300 |
| *2000 - MOCA | | |
| NORWICH, CT VORTAC | PROVIDENCE, RI VORTAC | *2400 |
| *1800 - MOCA | | |

**§95.6476 VOR FEDERAL AIRWAY 476**
**IS AMENDED TO READ IN PART**

| | | |
|---|---|---|
| STAFO, VA FIX | IRONS, MD FIX | *3000 |
| *1600 MOCA | | |

**§95.6477 VOR FEDERAL AIRWAY 477**
**IS AMENDED TO READ IN PART**

| | | |
|---|---|---|
| HUMBLE, TX VORTAC | LEONA, TX VORTAC | 2000 |
| HUMBLE, TX VORTAC | NAVASOTA, TX VORTAC | |
| VIA W ALTER | VIA W ALTER | 2000 |

**§95.6479 VOR FEDERAL AIRWAY 479**
**IS AMENDED TO READ IN PART**

| | | |
|---|---|---|
| MUFLA, NJ FIX | YARDLEY, PA VORTAC | *2500 |
| *1500 - MOCA | | |

**§95.6483 VOR FEDERAL AIRWAY 483**
**IS AMENDED TO READ IN PART**

| | | |
|---|---|---|
| ELLAN, NY FIX | DE LANCEY, NY VOR | *5700 |
| *5200 - MOCA | | |
| TEBOR, NY FIX | STODA, NY FIX | 3400 |
| SYRACUSE, NY VORTAC | *LYSAN, NY FIX | **2300 |
| *3000 - MRA | | |
| **1900 - MOCA | | |
| LYSAN, NY FIX | SODUS, NY FIX | *2300 |
| *1600 - MOCA | | |

| FROM | TO | MEA |
|---|---|---|
| **§95.6487 VOR FEDERAL AIRWAY 487** | | |
| **IS AMENDED TO READ IN PART** | | |
| PAWLING, NY VORTAC | HIDAL, NY FIX | *4600 |
| *4100 - MOCA | | |
| CANAN, NY FIX | CAMBRIDGE, NY VORTAC | *4400 |
| *4000 - MOCA | | |
| GRISS, NY FIX | ENSON, VT FIX | *4000 |
| *2700 - MOCA | | |
| ENSON, VT FIX | *WEIGH, VT FIX | **4000 |
| *4000 MRA | | |
| **2800 MOCA | | |
| **§95.6489 VOR FEDERAL AIRWAY 489** | | |
| **IS AMENDED TO READ IN PART** | | |
| KINGSTON, NY VORTAC | ATHOS, NY FIX | *2600 |
| *1900 - MOCA | | |
| GROUP, NY FIX | ALBANY, NY VORTAC | *2800 |
| *2100 - MOCA | | |
| ALBANY, NY VORTAC | GLENS FALLS, NY VORTAC | *3000 |
| *2500 - MOCA | | |
| GLENS FALLS, NY VORTAC | *KROWN, NY FIX | **5000 |
| *6000 - MRA | | |
| **4200 - MOCA | | |
| KROWN, NY FIX | LEAFY, NY FIX | *6000 |
| *4200 - MOCA | | |
| KEESE, NY FIX | PLATTSBURGH, NY VORTAC | 3300 |
| **§95.6490 VOR FEDERAL AIRWAY 490** | | |
| **IS AMENDED TO READ IN PART** | | |
| UTICA, NY VORTAC | CAMBRIDGE, NY VORTAC | *4000 |
| *3300 - MOCA | | |
| CAMBRIDGE, NY VORTAC | STRUM, NH FIX | *6000 |
| *5300 - MOCA | | |

| FROM | TO | MEA |
|---|---|---|
| **§95.6490 VOR FEDERAL AIRWAY 490—Continued** | | |
| STRUM, NH FIX | DUBIN, NH FIX | 5000 |
| LURCH, NH FIX | *MUGGY, NH FIX | 4000 |
| *4000 - MCA MUGGY FIX, W BND | | |
| MUGGY, NH FIX | MANCHESTER, NH VORTAC | 2800 |
| **§95.6496 VOR FEDERAL AIRWAY 496** | | |
| **IS AMENDED TO READ IN PART** | | |
| UTICA, NY VORTAC | MALLO, NY FIX | 4500 |
| WAREN, NY FIX | GLENS FALLS, NY VORTAC | *4000 |
| *3500 - MOCA | | |
| GLENS FALLS, NY VORTAC | KERST, VT FIX | *4500 |
| *3900 - MOCA | | |
| GRUMP, NH FIX | NEETS, NH FIX | 4000 |
| **§95.6501 VOR FEDERAL AIRWAY 501** | | |
| **IS AMENDED TO READ IN PART** | | |
| SAINT THOMAS, PA VORTAC | PHILIPSBURG, PA VORTAC | *4500 |
| *4000 - MOCA | | |
| WELLSVILLE, NY VORTAC | BEEPS, NY FIX | *4500 |
| *4000 - MOCA | | |
| **§95.6510 VOR FEDERAL AIRWAY 510** | | |
| **IS AMENDED TO READ IN PART** | | |
| MUSKEGON, MI VORTAC | GRAND RAPIDS, MI VOR/DME | 2700 |

| FROM | TO | MEA | MAA |
|---|---|---|---|
| **§95.7044 JET ROUTE NO. 44** | | | |
| **IS AMENDED BY ADDING** | | | |
| DENVER, CO VORTAC | MCCOOK, NE VOR | 18000 | 41000 |
| MCCOOK, NE VOR | LINCOLN, NE VORTAC | 18000 | 41000 |
| **§95.7130 JET ROUTE NO. 130** | | | |
| **IS AMENDED BY ADDING** | | | |
| DENVER, CO VORTAC | MCCOOK, NE VOR | 18000 | 41000 |
| MCCOOK, NE VOR | PAWNEE CITY, NE VORTAC | 18000 | 41000 |

[FR Doc. 84-6316 Filed 3-8-84; 8:45 am]
BILLING CODE 4910-13-C

## §95.8003 VOR FEDERAL AIRWAYS CHANGEOVER POINTS

| AIRWAY SEGMENT | | CHANGEOVER POINTS | |
|---|---|---|---|
| FROM | TO | DISTANCE | FROM |
| | **V-20** | | |
| | **IS AMENDED BY ADDING** | | |
| TIBBY, LA VORTAC VIA S ALTER | NEW ORLEANS, LA VORTAC VIA S ALTER | 26 | TIBBY |
| | **V-174** | | |
| | **IS AMENDED BY ADDING** | | |
| ELKINS, WV VORTAC | SHAWNEE, VA VORTAC | 57 | ELKINS |
| | **V-187** | | |
| | **IS AMENDED TO READ IN PART** | | |
| ALBUQUERQUE, NM VORTAC | FARMINGTON, NM VORTAC | 58 | ALBUQUERQUE |

## §95.8005 JET ROUTES CHANGEOVER POINTS

| AIRWAY SEGMENT | | CHANGEOVER POINTS | |
|---|---|---|---|
| FROM | TO | DISTANCE | FROM |
| | **J-44** | | |
| | **IS AMENDED BY ADDING** | | |
| DENVER, CO VORTAC | MCCOOK, NE VOR | 130 | DENVER |
| MCCOOK, NE VOR | LINCOLN, NE VORTAC | 51 | MCCOOK |
| | **J-130** | | |
| | **IS AMENDED BY ADDING** | | |
| DENVER, CO VORTAC | MCCOOK, NE VOR | 130 | DENVER |
| MCCOOK, NE VOR | PAWNEE CITY, NE VORTAC | 72 | MCCOOK |

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 948

# Surface Coal Mining and Reclamation Operations on Federal Lands Under the Permanent Program; State-Federal Cooperative Agreements; West Virginia

**AGENCY:** Office of Surface Mining Reclamation and Enforcement, Interior.

**ACTION:** Final rule.

**SUMMARY:** This final rule completes the administrative process for the adoption of a cooperative agreement between the Department of the Interior and the State of West Virginia for the regulation of surface coal mining and reclamation operations on Federal lands in West Virginia except those containing leased Federal coal under the permanent regulatory program. Such a cooperative agreement is provided for by section 523(c) of the Surface Mining Control and Reclamation Act of 1977.

**EFFECTIVE DATE:** March 9, 1984.

**ADDRESSES:** Copies of the request by the State of West Virginia for the permanent program cooperative agreement, related information required under 30 CFR Part 745, and the complete administrative record of this rulemaking are available for public inspection Monday through Friday, 8:30 a.m. to 5:00 p.m., excluding holidays, at the following address: Administrative Record R&I–08, Office of Surface Mining, Room 5315, 1100 L Street, NW., Washington, D.C. 20005.

**FOR FURTHER INFORMATION CONTACT:** Len Richeson, Office of Surface Mining, South Interior Building, 1951 Constitution Avenue, NW., Washington, D.C. 20240, Phone: (202) 343–5866.

**SUPPLEMENTARY INFORMATION:** This notice is divided into five parts in order to assist understanding of the process by which the Secretary decided to enter into a permanent program cooperative agreement with the Governor of the State of West Virginia:

I. Background
II. Director's Findings
III. Approval of the Cooperative Agreement
IV. Summary of the Cooperative Agreement and Disposition of Comments
V. Procedural Matters

## I. Background

### *A. The State of West Virginia's Request*

The purpose of this final rulemaking is to adopt a permanent program cooperative agreement between the Department of the Interior and the State of West Virginia which will give West Virginia primacy in the administration of its approved permanent regulatory program on Federal lands in West Virginia except those containing leased Federal coal. The State of West Virginia requested the cooperative agreement on August 26, 1981. Section 523(c) of the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act), 30 U.S.C. 1201 *et seq.*, allows for the State and the Secretary to enter into a permanent program cooperative agreement if the State has, as West Virginia does, an approved State program (State program) for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands. *See* 30 CFR Part 948.

Permanent program cooperative agreements are authorized by the first sentence of section 523(c) which provides that "[a]ny State *with an approved State program* may elect to enter into a cooperative agreement with the Secretary to provide for State regulation of surface coal mining and reclamation operations on Federal lands within the State, provided the Secretary determines in writing that such State has the necessary personnel and funding to fully implement such a cooperative agreement in accordance with the provisions of this Act." 30 U.S.C. 1273(c) (emphasis added).

The procedures for States to elect to enter into permanent program cooperative agreements are found in 30 CFR Part 745 (48 FR 6912, February 16, 1983). Section 745.11(b) requires that certain information be submitted with a request for a permanent program cooperative agreement except to the extent that the information has previously been included in the State program. West Virginia specified in its request for a cooperative agreement that the information relating to the budget, other programs, organization, inspection and enforcement duties and staffing of the State regulatory authority (which is the Department of Natural Resources, Division of Reclamation) appeared in Volume II, sections E, G, I, L, and O of the State program as approved on January 21, 1981 (46 FR 5915). The written certification from the State Attorney General required by 30 CFR 745.11(b)(3) was also included with the draft cooperative agreement. The Attorney General concluded that "no State statutory constraints exist which would limit the capability of the West Virginia Department of Natural Resources to fully comply with the requirements of 30 CFR Part 745."

### *B. Federal Rulemaking*

On June 17, 1983, the Office of Surface Mining (OSM) published a notice of proposed rulemaking and public hearing (48 FR 27784) concerning the proposed cooperative agreement. A public hearing was scheduled to receive testimony on the proposed rule. However, as provided in the notice, the hearing was cancelled because no one expressed an interest in testifying at the hearing by the date specified. Final revisions of the text based on written comments received during the public comment period are discussed in Part IV, "Summary of the Cooperative Agreement and Disposition of Comments."

## II. Director's Findings

Under 30 CFR 745.11(f), the Director, OSM, must make the following three findings before recommending to the Secretary that the Department of the Interior enter into a cooperative agreement with a State.

*Finding No. 1:* The Director finds that the State of West Virginia has a State program which was conditionally approved and became effective upon publication in the **Federal Register** on January 21, 1981 (46 FR 5915).

*Finding No. 2:* The Director finds that the State regulatory authority has sufficient budget, equipment and personnel to enforce fully the State's statutes and regulations for the regulation of surface coal mining and reclamation operations on Federal lands covered by the cooperative agreement in West Virginia. The Director makes this finding based on information obtained in the processing of grants to the State of West Virginia.

*Finding No. 3:* The Director finds that the State of West Virginia has the legal authority to administer the cooperative agreement. This finding is made based on the written certification of the Attorney General of West Virginia and on the conditional approval of the State's permanent regulatory program.

These findings were reported to the Secretary in a decision memorandum dated February 7, 1984, in which the Director, Office of Surface Mining (Director), recommended approval of the cooperative agreement.

## III. Approval of the Cooperative Agreement

Based upon the conditional approval of the West Virginia State Program, the administrative record of this rulemaking, written comments, and the findings and recommendations of the Director, the Secretary decided to approve a permanent program cooperative agreement with the State of West

Virginia. The cooperative agreement was signed on February 16, 1984, by the Secretary of the Interior and on February 24, 1984, by the Governor of the State of West Virginia. By its terms, the agreement becomes effective upon publication as a final rule in the **Federal Register.**

**IV. Summary of the Cooperative Agreement and Disposition of Comments**

Each Article of the agreement is summarized below, along with the Department's disposition of any comments received. Unless indicated otherwise, the text is the same as that in the proposed rule except for minor editorial changes.

*Article I: Introduction, Purpose, and Responsible Administrative Agency*

This Article sets forth the legal authority for the cooperative agreement which is contained in section 523(c) of the Act. The purposes of the cooperative agreement are also listed along with the name of the responsible administrative agency within the State of West Virginia, which is the Department of Natural Resources, Reclamation Division (DNR). A phrase has been added to the authority provision clarifying that this agreement does not apply to Federal lands in West Virginia containing leased Federal coal. A similar provision was included in proposed Article IV: "Applicability." This addition merely clarifies the language in Article I.

This Article also includes a provision clarifying the separate role of the Forest Service in regulating mining on lands administered by it. Most of the lands covered by this agreement are under the jurisdiction of, and are subject to regulation by, the Forest Service. Surface coal mining and reclamation operations on other Federal lands covered by this agreement are subject to regulation by the appropriate Federal land management agency.

*Article II: Effective Date*

Under the proposed rule, Article II stated that the cooperative agreement would take effect after it had been signed by the Governor and the Secretary and 30 days after publication as a final rule in the **Federal Register.** The final rule has been revised to make the cooperative agreement effective after it has been signed by the Governor and the Secretary and upon publication as a final rule in the **Federal Register.** Immediate implementation of the cooperative agreement is justified because it will facilitate the immediate elimination of dual administration of regulations governing surface coal mining and reclamation operations in West Virginia and lead to greater efficiency and economy for the State, the Federal Government, and operators. The Agreement will remain in effect until terminated as provided in Article X.

*Article III: Definitions*

This Article specifies which definitions apply to the cooperative agreement. As proposed, the terms and phrases used in the cooperative agreement, which are defined in 30 CFR Parts 700, 701, and 740, would be given the meanings set forth in those definitions. The phrase "and the State program" has been added to Article III to clarify that the definitions in the State program are also applicable, since the substantive and procedural requirements of the State program have been adopted under the Federal lands program. 30 CFR 740.11(a), 48 FR 6936 (February 16, 1983).

*Article IV: Applicability*

Paragraph A provides that (1) in accordance with the Federal lands program in 30 CFR Part 740, the laws, rules, terms, and conditions of West Virginia's State program are applicable to Federal lands in West Virginia and (2) the agreement does not apply to operations on Federal lands containing leased-Federal coal. This paragraph is consistent with the Federal lands program which made the State program applicable on Federal lands in West Virginia. *See* 30 CFR 740.11(a), 48 FR 6936 (February 16, 1983). The reference to the West Virginia State program is intended to encompass that State program as approved on January 21, 1981, as well as any amendments thereto which are approved in accordance with 30 CFR 732.17. Because the State does not wish to assume responsibility for regulating surface coal mining and reclamation operations on Federal lands containing leased Federal coal, this agreement does not apply to such lands.

Paragraph B provides that when the State is acting as the regulatory authority, its appealable decisions and orders will be reviewed by the State reviewing authority. Appealable decisions and orders issued by the Department will be appealable to the Department's Office of Hearings and Appeals.

*Article V: Requirements for Cooperative Agreement*

This Article mutually binds the Governor and the Secretary to the provisions of the cooperative agreement and the conditions and requirements contained in Article V. In accordance with paragraph A, the responsible agency in the State of West Virginia for purposes of administering the cooperative agreement is DNR, which has and must continue to have authority under State law to carry out this cooperative agreement.

Paragraph B provides that the State may be reimbursed pursuant to section 705(c) of the Act upon application by DNR and if adequate funds have been appropriated to OSM by Congress. Section 705(c) of the Act provides that a State with a cooperative agreement may receive an increase in its annual grant for the development, administration and enforcement of a State program on Federal lands by an amount which the Secretary determines is approximately equal to the amount the Federal Government would have expended to regulate surface coal mining and reclamation operations on the Federal lands within the State. See 30 U.S.C. 1295(c). The reference in section 705(c) to section 523(d) is obviously a typographical error. The correct reference is section 523(c). The regulations implementing section 705(c) appear at 30 CFR 735.16 through 735.26. If adequate funds have not been appropriated, OSM and DNR will meet to decide on appropriate measures to insure that mining operations are regulated in accordance with the Program. Funds provided to the State are to be adjusted in accordance with Office of Management and Budget (OMB) Circular A–102 (Uniform Requirements For Assistance To State and Local Governments), Attachment E (Program Income).

Paragraph C requires the State to make annual reports to OSM with respect to compliance with this agreement. Paragraph C also provides for a general exchange of information developed under the agreement, unless such an exchange is prohibited by Federal law.

Paragraph D requires DNR to maintain the necessary personnel to fully implement this agreement.

Paragraph E requires DNR to ensure itself of access to the necessary equipment, laboratories, and other facilities to perform inspections and analyses necessary to carry out the requirements of the agreement.

Paragraph F provides that the amount of fees charged to permit applicants be determined in accordance with West Virginia's State program. These and other fees will be retained by the State and to the extent attributable to Federal lands, will offset any Federal grant

made to the State under 30 CFR 735 and paragraph B of Article V.

*Article VI: Review of a Permit Application Package*

Under this Article, an applicant is required by DNR and the Department to submit a permit application package in an appropriate number of copies to DNR. DNR will furnish OSM a copy if OSM so requests. The term "permit application package," used in the cooperative agreement beginning in this Article, is a new term adopted by OSM in revising the Federal lands program (48 FR 6912, February 16, 1983). OSM adopted the term because there are requirements for mining on Federal lands that are in addition to those required by a permit application under the State program for non-Federal lands. For example, operations on Federal lands may be subject to requirements of the Federal land management agency or other appropriate agency under Federal laws other than the Act. The package concept allows for any additional information to be submitted along with the application required by the State program.

The permit application package is to be in a form required by DNR and contain any supplemental information which may be required by OSM or the Federal land management agency. At a minimum, the permit application package must include the information necessary for DNR to make a determination of compliance with the State program and with any conditions or special requirements imposed by the Federal land management agency.

Paragraphs 1 through 5 of Article VI.B describe the procedures for the review and analysis of permit application packages on Federal lands covered by the agreement. Paragraph 1 identifies DNR as responsible for the analysis, review, and approval or disapproval of the permit application package on Federal lands in West Virginia except those containing leased Federal coal. In assuming responsibility for review, analysis, and approval or disapproval of permit applications, DNR will also be the primary point of contact for operators on behalf of both the State and the Department.

Paragraph 2 provides that upon receipt of a permit application package, DNR will (1) transmit a copy of the complete permit application package to the Federal land management agency with a request for review pursuant to 30 CFR 740.13(b)(4), and (2) provide OSM with relevant information concerning the mining proposal to allow OSM to determine whether or not the proposed surface coal mining and reclamation operation is prohibited or limited by the requirements of section 522(e) of the Act (30 U.S.C. 1272(e)) and 30 CFR Parts 760–762 with respect to Federal areas designated by Congress as unsuitable for mining. Paragraph 2 also makes DNR responsible for obtaining, in a timely manner, the views of any other Federal agencies with jurisdiction or responsibility over a permit application package on Federal lands in West Virginia.

Paragraph 3 requires that OSM provide technical assistance to DNR, when requested, if resources permit. OSM will also be responsible for determinations of compatibility and valid existing rights under 30 CFR Part 761 relating to Federal areas designated by Congress as unsuitable for mining. Paragraph 3 makes OSM responsible for ensuring that any information OSM receives from an applicant is promptly sent to DNR. Paragraph 3 further provides for OSM to have access to DNR files for mines on Federal lands and reserves to the Secretary the right to act independently of DNR in order to carry out his responsibilities under laws other than the Act. Finally, paragraph 3 requires that a copy of all resulting correspondence with the applicant that may have a bearing on decisions regarding the permit application package will have to be sent to the State.

Paragraph 4 requires that DNR prepare the required technical analysis and written findings on the permit application package and send a draft of this document to the Federal land management agency, if requested.

Paragraph 5 requires that any permit issued by DNR include any terms or conditions imposed by the Federal land management agency. DNR will send notice to the applicant, to the Federal land management agency, and to OSM of the decision with a statement of findings and conclusions in support of the decision.

One commenter stated that the proposed cooperative agreement does not specify which agency (OSM or DNR) will have responsibility for review and decision of permit applications pending at the time the agreement goes into effect. The commenter suggested that it be specifically stated that this responsibility will remain with OSM. OSM agrees with the commenter. While no specific language has been added to the cooperative agreement, OSM has decided to complete its review of any pending permit applications and approve, disapprove, or conditionally approve these applications. Upon approval, OSM will transfer the permits to the State so that the State can assume responsibility for the administrative and enforcement aspects of the permits in accordance with the State program and the cooperative agreement.

*Article VII: Inspections*

This Article specifies that DNR must conduct inspections on Federal lands covered by the cooperative agreement and prepare and file inspection reports in accordance with its approved Program.

Administrative provisions of this Article include designation of DNR as the primary point of contact with the operator and a provision for reasonable notice to the State prior to a Federal inspection. However, this Article preserves the right of the Department to conduct inspecitons of surface coal mining and reclamation operations on Federal lands without prior notice to DNR for the purposes of evaluating the manner in which the cooperative agreement is being carried out and insuring that performance and reclamation standards are being met.

The right of Federal and State agencies to conduct inspections for purposes outside the scope of the cooperative agreement is not affected. In particular, this Article would preserve the Department's obligation and authority to conduct inspections pursuant to 30 CFR Part 842.

This Article also requires that personnel of the State and the Department be mutually available to serve as witnesses in enforcement actions taken by either party.

*Article VIII: Enforcement*

Article VIII sets forth the enforcement obligations and authorities of OSM and DNR. Paragraph A gives DNR primary enforcement authority on Federal lands in accordance with the requirements of the cooperative agreement and the State program.

Paragraph B requires that DNR promptly notify the Federal land management agency of violations of applicable laws, regulations and orders and approved permits, and of all actions taken with respect to such violations.

Paragraph C reserves to the Secretary the responsibility to enforce violations of Federal law other than the Act. Paragraph C also preserves OSM's authority to take enforcement action to comply with Parts 843 and 845. In taking such action, OSM will apply the substantive requirements contained in the Act or the State program, but will use the Federal procedures and penalty system.

*Article IX: Bonds*

Under paragraph A, DNR will require each operator to submit a single performance bond to meet Federal and State requirements. The bond will be required to be payable to the State and the United States. DNR is required to obtain the consent of the Federal land management agency prior to releasing an operator's performance bond.

Paragraph B of Article IX obligates the State of West Virginia to use the West Virginia Special Reclamation Fund to complete reclamation of any surface coal mining and reclamation operation on Federal land in accordance with the State program and permit where there is a forfeiture of the performance bond and where the cost of reclamation exceeds the bond amount. This provision is included because the State program requires only that an operator submit a minimum bond which in some cases, does not cover the full cost of reclamation. When a forfeiture occurs, the State supplements the operator's bond with funds from the West Virginia Special Reclamation Fund to complete reclamation. Thus, this provision ensures that, similar to operations on non-Federal lands, the regulatory authority will use the West Virginia Special Reclamation Fund for reclamation activities on Federal lands.

*Article X: Termination of Cooperative Agreement*

Article X provides for the termination of the cooperative agreement in accordance with 30 CFR 745.15.

*Article XI: Reinstatement of Cooperative Agreement*

Article XI provides for reinstatement of the cooperative agreement in accordance with 30 CFR 745.16.

*Article XII: Amendment of Cooperative Agreement*

Article XII provides that the cooperative agreement may be amended by mutual agreement of the Govenor and Secretary in accordance with 30 CFR 745.14.

*Article XIII: Changes in State or Federal Standards*

This Article recognizes that the Secretary or the State may from time to time promulgate new or revised permitting or performance standards, or administrative and enforcement procedures.

*Article XIV: Changes in Personnel and Organization*

As required by 30 CFR 745.12, this Article requires the State and the Department to advise each other of changes in the organization, structure, functions, duties and funds of the offices, departments, divisions, and persons within their organizations which could affect administration or enforcment of the cooperative agreement.

*Article XV: Reservation of Rights*

Article XV recognizes that the Act, 30 CFR 745.13, and other authorities prohibit the Secretary from delegating certain authorities to the State. Article XV states that the cooperative agreement shall not be construed as waiving or preventing the assertion of any rights not expressly addressed in the cooperative agreement or available to the parties.

**V. Procedural Matters**

*1. E.O. 12291 and Regulatory Flexibility Act*

The Department has determiend that this is not a major rule and does not require a regulatory impact analysis under Executive Order 12291 because promulgation of a State-Federal cooperative agreement between the Department of the Interior and the State of West Virginia will not result in a major increase in costs or prices for consumers; individual industries; Federal, State, or local government agencies, or geographic regions. The cooperative agreement should result in cost savings to the mining industry and lessen the burden of regulatory compliance. Further, the cooperative agreement will not result in significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises ot compete with foreign-based enterprises in domestic or export markets. The Department certifies that this document will not have a significant economic effect on a substantial number of small entities and therefore does not require a regulatory flexibility analysis under the Regulatory Flexibility Act, 5 U.S.C. 605(b). This certification was made based on an assessment of the probable impact of the cooperative agreement on small entities within the State. It was concluded that the effect of the cooperative agreement would be to reduce the cost and burden of complying with the Federal lands program found in 30 CFR Chapter VII, Subchapter D. The above findings were made by the Director, OSM and approved by the Assistant Secretary for Energy and Minerals. A copy is on file in the OSM Administrative Record Room, Room 5315, 1100 L Street, Washington, D.C. 20005.

*2. Recordkeeping and Reporting Requirements*

There are recordkeeping and reporting requirements in the proposed cooperative agreement which are the same as and required by the permanent regulations. Those regulations required clearance from the Office of Management and Budget under 44 U.S.C. 3507 and were assigned the following clearance numbers:

| Location of requirement | OMB clearance number |
|---|---|
| Article IV.F (Required by 30 CFR Part 735) | 1029-0013 |
| Article V. (Required by 30 CFR Part 740) | 1029-0026 |
| Article VII.A (Required by 30 CFR Part 840) | 1029-0051 |
| Article IX.A (Required by 30 CFR Part 740) | 1029-0026 |

*3. National Environmental Policy Act*

Proceedings relating to adoption of a permanent program cooperative agreement are part of the Secretary's implementation of the Federal lands program pursuant to section 523 of the Act. Such proceedings are, therefore, exempt under section 702(d) of the Act from the requirement to prepare a detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

*4. Justification for Immediate Effective Date*

The Department of the Interior finds, in accordance with section 553(d)(3) of the Administrative Procedure Act (5 U.S.C. 551 *et seq.*), that good cause exists to make this final rule effective upon publication. Immediate implementation will result in the immediate elimination of dual administration of surface coal mining in West Virginia and thus result in efficiency and economy both to the State and the Federal Government.

**List of Subjects in 30 CFR Part 948**

Coal Mining, Intergovernmental relations, Surface mining, Underground mining.

For the reasons set forth herein, 30 CFR Part 948 is amended as follows.

Dated: March 2, 1984

**Garrey E. Carruthers**

*Assistant Secretary for Land and Minerals Management.*

**PART 948—[AMENDED]**

1. Section 948.30 is added to read as follows:

**§ 948.30 State-Federal Cooperative Agreement.**

**Cooperative Agreement**

This is a Cooperative Agreement (Agreement) between the State of West Virginia (State) acting by and through the Governor, and the United States Department of the Interior (Department), acting by and through the Secretary of the Interior (Secretary).

*Article I: Introduction, Purpose and Responsible Administrative Agency*

A. *Authority:* This Agreement is authorized by section 523(c) of the Surface Mining Control and Reclamation Act (the Federal Act), 30 U.S.C. 1273(c), which allows a State with a permanent regulatory program approved under 30 U.S.C. 1253 to elect to enter into an Agreement for the regulation and control of surface coal mining and reclamation operations on Federal lands within that State. This Agreement provides for such regulation within West Virginia except on lands containing leased Federal coal consistent with the State and Federal Acts, the West Virginia State Program (State program), and the Federal Lands Program (section 523(a) of the Federal Act and 30 CFR Parts 740–745).

B. *Purpose:* The purpose of the Agreement is to: (1) Foster State-Federal cooperation in the regulation of surface coal mining and reclamation operations on Federal lands; (2) eliminate unnecessary intergovernmental overlap and duplication; and (3) provide uniform and effective application of the State program on all lands except those containing leased Federal coal in West Virginia.

C. *Responsible Administrative Agencies:* The Department of Natural Resources, Reclamation Division (DNR) is responsible for administering this Agreement on behalf of the Governor on Federal lands throughout the State. The Office of Surface Mining Reclamation and Enforcement (OSM) is responsible for administering this Agreement on behalf of the Secretary, in accordance with the regulations in 30 CFR Chapter VII. The Federal lands in West Virginia covered by this Agreement are predominantly those under the jurisdiction of the United States Department of Agriculture, Forest Service. It is understood by all parties that the Forest Service or the Federal land management agency, if other than the Forest Service, will continue to govern mining operations on Federal lands covered by this agreement pursuant to laws, regulations, agreements, and restrictions for which the respective agency is responsible. These requirements are in addition to the requirements discussed in this Agreement.

*Article II: Effective Date*

After it has been signed by the Governor and the Secretary, the Agreement shall take effect upon publication in the **Federal Register** as a final rule. This Agreement shall remain in effect until terminated as provided in Article X.

*Article III: Definitions*

Terms and phrases used in this Agreement which are defined in 30 CFR Parts 700, 701 and 740, and the State program shall be given the meanings set forth in said definitions.

*Article IV: Applicability*

A. *Applicability to Federal Lands:* In accordance with the Federal Lands Program in 30 CFR Part 740, the laws, rules, terms, and conditions of the State program (as conditionally approved effective January 21, 1981, 30 CFR Part 948, or as hereinafter amended in accordance with 30 CFR 732.17) are applicable to Federal lands within West Virginia. This Agreement does not apply to operations on Federal lands containing leased Federal coal.

B. *Filing of Appeals:* Orders and decisions issued by DNR in accordance with the State program that are appealable shall be appealed to the State of West Virginia's Reclamation Board of Review. Orders and decisions issued by the Department that are appealable shall be appealed to the Department of the Interior's Office of Hearings and Appeals.

*Article V: Requirements for Cooperative Agreement*

The Governor and the Secretary affirm that they will comply with all of the provisions of this Agreement and will continue to meet all the conditions and requirements specified in this Article.

A. *Authority of State Agency:* DNR has and shall continue to have authority under State law to carry out this Agreement.

B. *Funds:* Upon application by the DNR and subject to the availability of appropriations, the Department shall provide the State with the funds to defray the costs associated with carrying out responsibilities under this Agreement as provided in section 705(c) of the Act and 30 CFR 735.16. If sufficient funds have not been appropriated to OSM, OSM and DNR shall promptly meet to decide on measures that will insure that mining operations are regulated in accordance with the State program. If agreement cannot be reached, then either party may terminate the Agreement in accordance with Article X. Funds provided to the State shall be adjusted in accordance with Office of Management and Budget Circular A–102, Attachment E, and shall be reduced by the amount of fees collected by the State that are attributable to the Federal lands covered by this Agreement.

C. *Reports and Records:* DNR shall make annual reports to OSM pursuant to 30 CFR 745.12(d), containing information respecting its compliance with the terms of this Agreement. Upon request, DNR and OSM shall exchange information developed under this Agreement except where prohibited by Federal law. OSM shall provide DNR with a copy of any final evaluation report concerning State administration and enforcement of this Agreement.

D. *Personnel:* DNR shall provide the necessary personnel to fully implement this Agreement in accordance with the provisions of the Federal and State Acts and the State program.

E. *Equipment and Laboratories:* DNR shall assure itself access to equipment, laboratories, and facilities with which all inspections, investigations, studies, tests, and analyses can be performed and which are necessary to carry out the requirements of this Agreement.

F. *Permit Application Fees:* The amount of the fee accompanying an application for a permit shall be determined in accordance with Section 20–6–9(f) of the Code of West Virginia (1931), as amended. All permit and civil penalty fees collected from operations on Federal lands shall be retained by the State and deposited with the State Treasurer. The financial status report submitted pursuant to 30 CFR 735.26 shall include a report of the amount of permit application fees collected and attributable to Federal lands during the prior Federal fiscal year. This amount shall be disposed of in accordance with Federal regulations, and OMB Circular No. A–102, Attachment E.

*Article VI: Review of a Permit Application Package*

A. *Contents of Permit Application Package:* DNR and the Secretary shall require an operator proposing to conduct surface coal mining and reclamation operations on Federal lands covered by this Agreement to submit a permit application package in an appropriate number of copies to DNR. DNR will furnish OSM a copy if OSM so requests. The permit application package shall be in the form required by DNR and include any supplemental information required by OSM or the Federal land management agency. The permit application package shall include the information required by, or necessary for, DNR to make a determination of compliance under 30 CFR 740.4(c)(2) with any conditions or special requirements imposed by the Federal land management agency and with the requirements of the State program, including:

1. *W. Va. Code*, Section 20–6–1 *et seq.*, as amended;

2. Applicable regulations of the West Virginia Surface Mining Reclamation Regulations, 20–6–Series VIII (1981);

3. Requirements of the West Virginia DNR Reclamation Division "Technical Handbook of Standards and Specifications for Mining Operations (1981)."

B. *Review Procedures:* 1. DNR shall assume primary responsibility for the analysis, review, and approval or disapproval of permit application packages required by 30 CFR 740.13 for surface coal mining and reclamation operations on Federal lands in West Virginia except those containing leased Federal coal. DNR shall be the primary point of contact for operators regarding decisions on the permit application package and will be responsible for informing the applicant of all joint State-Federal or Federal determinations.

2. Upon receipt of a permit application package that involves surface coal mining and reclamation operations on Federal lands covered by this agreement, DNR shall (1) transmit a copy of the complete permit application package to the Federal land management agency with a request for review pursuant to 30 CFR 740.13(b)(4), and (2) provide OSM with relevant information to allow OSM to determine whether or not the proposed surface coal mining and reclamation operation is prohibited or limited by the requirements of section 522(e) of the

Federal Act (30 U.S.C. 1272(e)) and 30 CFR Parts 760–762 with respect to Federal areas designated by Congress as unsuitable for mining. DNR shall be responsible for obtaining, in a timely manner, the views and determinations of any other Federal agencies with jurisdiction or responsibility over Federal lands affected by a permit application package in West Virginia.

3. OSM will provide technical assistance to DNR when requested if available resources allow and will process requests for determinations of compatibility and valid existing rights under 30 CFR Part 761 relating to Federal areas designated by Congress as unsuitable for mining. OSM will be responsible for ensuring that any information OSM receives from an applicant is promptly sent to DNR. OSM shall have access to DNR files concerning mines on Federal lands. The Secretary reserves the right to act independently of DNR to carry out his responsibilities under laws other than the Federal Act. A copy of all resulting correspondence with the applicant that may have a bearing on decisions regarding the permit application package shall be sent to the State.

4. DNR shall prepare the required technical analysis and written findings on the permit application package. If requested by the Federal land management agency, a draft of these documents shall be sent to it for review and comment.

5. The permit issued by DNR shall incorporate any terms or conditions imposed by the Federal land management agency, including conditions relating to post-mining land use, and shall condition the initiation of surface coal mining operations on compliance with the requirements of the Federal land management agency. After DNR issues the decision on the permit application package, it shall send a notice to the applicant, the Federal land management agency, and OSM with a statement of findings and conclusions in support of the action.

*Article VII: Inspections*

DNR shall conduct inspections on Federal lands covered by this agreement and prepare and file inspection reports in accordance with the approved Program

A. *Inspection Reports:* DNR shall, within 15 days of conducting any inspection on Federal lands, file with OSM an inspection report describing (1) the general conditions of the lands under the permit; (2) whether the operator is complying with applicable performance and reclamation requirements; and (3) the manner in which specific operations are being conducted.

B. *DNR Authority:* DNR shall be the point of contact and primary inspection authority in dealing with the operator concerning operations and compliance with the requirements covered by this Agreement, except as described in this Agreement and the Secretary's regulations. Nothing in this Agreement shall prevent inspections by authorized Federal or State agencies for purposes other than those covered by this Agreement.

C. *OSM Authority:* OSM may conduct inspections of surface coal mining and reclamation operations on Federal lands for the purpose of evaluating the manner in which this Agreement is being carried out and to insure that performance and reclamation standards are being met. In order to facilitate a joint Federal-State inspection, OSM will ordinarily give DNR notice of its intent to conduct an inspection. When OSM is responsing to a citizen complaint of an imminent danger to the health or safety of the public or a significant, imminent environmental harm pursuant to 30 CFR 842.11(b)(1)(i), it will contact DNR if circumstances and time allow, prior to the Federal inspection. OSM may conduct any inspections necessary to comply with 30 CFR Part 842. If an inspection is made without DNR inspectors, OSM shall provide DNR with a copy of the inspection report within 15 days after inspection. The Secretary reserves the right to conduct inspections without prior notice to DNR to carry out his responsibilities under the Act.

D. *Witness Availability:* Personnel of the State and of the Department of the Interior shall be mutually available to serve as witnesses in enforcement actions taken by either party.

*Article VIII: Enforcement*

A. *DNR Inforcement:* DNR shall have primary enforcement authority on Federal lands covered by this agreement in accordance with the State program and this Agreement. During any joint inspection by OSM and DNR, DNR shall take appropriate enforcement action, including issuance of orders of cessation and notices of violation.

B. *Notification:* DNR shall promptly notify the Federal land management agency of all violations of applicable laws, regulations, orders, and approved permits subject to this Agreement and of all actions taken with respect to such violations.

C. *Secretary's Authority:* (1) This Agreement does not affect or limit the Secretary's authority to enforce provisions of laws other than the Act. (2) During an inspection made solely by OSM or any joint inspection where DNR and OSM fail to agree regarding the propriety of any particular enforcement action, OSM may take any enforcement action necessary to comply with 30 CFR Parts 843 and 845. Such enforcement action shall be based on the Act or the substantive requirements of the State program and shall be taken using the procedures and penalty system contained in 30 CFR Parts 843 and 845.

*Article IX: Bonds*

A. *Performance Bond:* DNR shall require all operators on Federal lands to submit a performance bond to cover the operator's responsibilities under the Federal Act and the State program, payable to both the United States and West Virginia. The performance bond shall be of sufficient amount to comply with the requirements of both State and Federal law, and release of the performance bond shall be conditioned upon compliance with all applicable requirements. DNR may release the operator from any obligation under the performance bond with the concurrence of the Federal land management agency. If this Agreement is terminated: (1) The bond will revert to being payable only to the United States to the extent that Federal lands are involved, and (2) the bond will be delivered by DNR to OSM if only Federal lands are covered by the bond.

B. *Forfeiture:* In the event of forfeiture by an operator of the performance bond for surface coal mining and reclamation operations on Federal lands covered by this agreement, the State shall use funds received from bond forfeiture and, where necessary, funds from the West Virginia Special Reclamation Fund (pursuant to Section 20–6–12(h) of the West Virginia Surface Coal Mining and Reclamation Act) to ensure that reclamation is accomplished in accordance with the State program and the approved permit.

*Article X: Termination of Cooperative Agreement*

This Agreement may be terminated by the Governor or the Secretary under the provisions of 30 CFR 745.15.

*Article XI: Reinstatement of Cooperative Agreement*

If this Agreement has been terminated in whole or in part, it may be reinstated under the provisions of 30 CFR 745.16.

*Article XII: Amendment of Cooperative Agreement*

This Agreement may be amended by mutual agreement of the Governor and the Secretary in accordance with 30 CFR 745.14.

*Article XIII: Changes in State or Federal Standards*

A. *Time for Changes:* The Secretary or the State may from time to time promulgate new Federal or State regulations, including new or revised performance or reclamation requirements or enforcement or administration procedures. OSM and DNR shall immediately inform each other of any final changes and of any effect such changes may have on the cooperative agreement. If it is determined to be necessary to keep this Agreement in force, DNR shall request necessary State legislative action and each party shall change or revise its regulations or promulgate new regulations, as applicable. Such changes shall be made under the procedures of 30 CFR Part 732 for changes to the approved State program and sections 501 and 523 of the Federal Act for changes to the Federal lands program.

B. *Copies of Changes*: The State and OSM shall provide each other with copies of any changes to their respective laws, rules, regulations, and standards pertaining to the enforcement and administration of this Agreement.

*Article XIV: Changes in Personnel and Organization*

DNR and the Secretary shall, consistent with 30 CFR Part 745, advise each other of changes in the organization, structure, functions, duties, and funds of the offices, departments, divisions, and persons within their organizations which could affect administration and enforcement of this Agreement. Each shall promptly advise the other in writing of changes in key personnel, including the head of a department or

division, or changes in the functions or duties of persons occupying the principal offices within the structure of the program. DNR and OSM shall advise each other in writing of changes in the location of offices, addresses, telephone numbers, and changes in the names, location and telephone numbers of their respective mine inspectors and the area within the State for which such inspectors are responsible.

*Article XV: Reservation of Rights*

In accordance with 30 CFR 745.13, this Agreement shall not be construed as waiving or preventing the assertion of any rights that have not been expressly addressed in this Agreement that the State or the Secretary may have under other laws or regulations. (Pub. L. 95–87 (30 U.S.C. 1201 et seq.))

Dated: February 16, 1984.

William Clark,

*Secretary of the Interior.*

Dated: February 24, 1984.

John D. Rockefeller IV,

*Governor of West Virginia.*

[FR Doc. 84–6229 Filed 3–8–84; 8:45 am]

BILLING CODE 4310–05–M

## DEPARTMENT OF AGRICULTURE

### Forest Service

### 36 CFR Part 223

### Sale and Disposal of National Forest System Timber; Correction

**AGENCY:** Forest Service, USDA.

**ACTION:** Final rule; redesignation; correction.

**SUMMARY:** The Department of Agriculture retitled and redesignated its regulations at 36 CFR Part 223 governing Sale and Disposal of National Forest System Timber in a document published Monday, January 23, 1984 (49 FR 2760). Portions of Part 223 were inadvertently omitted from the redesignation table. This document corrects the redesignation table to reflect the omissions.

**FOR FURTHER INFORMATION CONTACT:** Marian Connolly, Forest Service Federal Register Liaison Officer, 202–235–1488.

### PART 223—[CORRECTED]

1. The authority citation for Part 223 reads:

Authority: Sec. 14, Pub. L. 94–588, 90 Stat. 2958, 16 U.S.C. 472a, unless otherwise noted.

2. The entries designated below, appearing in the redesignation table on pages 2760 and 2761, are corrected as shown:

| Entry | Former part 223 section designation | New part 223 section designation |
|---|---|---|
| | . . . | . . |
| 12 | 223.1(h) introductory text, (1)–(3). | 223.12 introductory text, (a)–(c). |
| | . . . | . . |
| 15 | 223.3(a) introductory text, (1)–(8). | 223.30 introductory text, (a)–(h). |
| | . . . | . . |
| 28 | 223.3(m)(1) 4th sentence, (i)–(iii). | 223.43(a) introductory text, (1)–(3). |
| | . . . | . . |
| 39 | 223.3(p) introductory text, (1)–(3). | 223.48 introductory text, (a)–(c). |
| | . . . | . . |
| 44 | 223.4(e) introductory text, (1)–(4). | 223.64 introductory text, (a)–(d). |
| | . . . | . . |
| 50 | 223.5(d) introductory text, (1)–(6). | 223.83 introductory text, (a)–(h). |
| 51 | 223.5(e) introductory text, (1)–(7). | 223.84 introductory text, (a)–(g). |
| 52 | 223.5(f) introductory text, (1)–(3). | 223.85 introductory text, (a)–(c). |
| | . . . | . . |
| 54 | 223.5(h)(1) introductory text, (i) and (ii). | 223.87(a) introductory text, (1) and (2). |
| 55 | 223.5(h)(2) introductory text, (i)–(iii)(c). | 223.87(b) introductory text, (1)–(3)(iii). |
| | . . . | . . |
| 57 | 223.5(h)(4) introductory text, (i) and (ii). | 223.87(d) introductory text, (1) and (2). |
| 58 | 223.5(i) introductory text, (1)–(4). | 223.88 introductory text, (a)–(d). |
| | . . . | . . |
| 61 | 223.7(a) introductory text, (1)–(5). | 223.100 introductory text, (a)–(e). |
| | . . . | . . |
| 66 | 223.8(b) introductory text, (1)–(4). | 223.111 introductory text, (a)–(d). |
| | . . . | . . |
| 69 | 223.8(e) introductory text, (1) and (2). | 223.114 introductory text, (a) and (b). |
| 70 | 223.8(f) introductory text, (1) and (2). | 223.115 introductory text, (a) and (b). |
| | . . . | . . |
| 72 | 223.10(a) introductory text, (1)–(10). | 223.160 introductory text, (a)–(j). |
| | . . . | . . |
| 75 | 223.10(d) introductory text, (1)–(3). | 223.163 introductory text, (a)–(c). |
| | . . . | . . |
| 77 | 223.11 | 223.117. |

Dated: March 2, 1984.

**Douglas W. MacCleery,**

*Deputy Assistant Secretary for Natural Resources and Environment.*

[FR Doc. 84–6493 Filed 3–8–84; 8:45 am]

BILLING CODE 3410–11–M

## VETERANS ADMINISTRATION

### 38 CFR Part 21

### Veterans Education; Educational Loan Forgiveness

**AGENCY:** Veterans Administration.

**ACTION:** Final regulations.

**SUMMARY:** The VA (Veterans Administration) is canceling regulations dealing with loan forgiveness through accelerated payment of educational assistance allowance. The law required that by January 1, 1983 States or local governmental units which wanted to participate in the loan forgiveness program must have established a matching program. None did so. The law allows the loan forgiveness program to operate only if there is participation by States or local governmental units. This cancellation will make clear that veterans and eligible persons may not receive education loan forgiveness through accelerated payments.

**EFFECTIVE DATE:** February 24, 1984.

**FOR FURTHER INFORMATION CONTACT:** June C. Schaeffer (225), Assistant Director for Policy and Program Administration, Education Service, Department of Veterans Benefits, Veterans Administration, 810 Vermont Avenue NW., Washington, D.C. 20420 (202–389–2092).

**SUPPLEMENTARY INFORMATION:** On pages 50568 and 50569 of the **Federal Register** of November 2, 1983 there was published a notice of intent to amend part 21 to remove all references to education loan forgiveness through accelerated payments.

Interested people were given 33 days to submit comments, suggestions or objections. The VA received no comments, suggestions or objections. Accordingly, the agency is canceling these regulations.

The VA has determined that the canceled regulations are not major rules as that term is defined by Executive Order 12291, entitled, "Federal Regulation". The annual effect on the economy will be less than $100 million. The cancellation will have no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Administrator of Veterans' Affairs hereby certifies that the cancellation of these regulations will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. Pursuant to 5 U.S.C. 605(b), this cancellation, therefore, is exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604. This certification can be made because no education loan forgiveness has ever occurred. Hence canceling the requlations that provide for education loan forgiveness will have no economic impact whatever.

The Catalog of Federal Domestic Assistance numbers for the programs affected by this cancellation of regulations are 64.111 and 64.117.

**List of Subjects in 38 CFR Part 21**

Civil rights, Claims, Education, Grant programs—education, Loan programs—education, Reporting and recordkeeping requirements, Schools, Veterans, Vocational education, Vocational rehabilitation.

Approved: February 24, 1984.

By direction of the Adminstrator.

**Everett Alvarez, Jr.,**

*Deputy Administrator.*

## PART 21—VOCATIONAL REHABILITATION AND EDUCATION

The Veterans Administration amends 38 CFR Part 21 as set forth below:

**§ 21.1045 [Amended]**

1. In § 21.1045, paragraph (j) is removed.

**§ 21.4502 [Amended]**

2. In § 21.4502, paragraph (c) is removed.

**§ 21.4506 [Removed]**

3. Section 21.4506 is removed.

[FR Doc. 84-6336 Filed 3-8-84; 8:45 am]

BILLING CODE 8320-01-M

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

**[A-5-FRL 2540-3]**

### Approval and Promulgation of Implementation Plans; Wisconsin

**AGENCY:** U.S. Environmental Protection Agency.

**ACTION:** Final rulemaking.

**SUMMARY:** This rulemaking action addresses the 1982 State Implementation Plan (SIP) revision submitted to EPA by the State of Wisconsin Department of Natural Resources (WDNR), pursuant to the Part D requirements of the Clean Air Act (Act). Part D of the Act requires that plans be submitted by July 1, 1982, in order to demonstrate attainment of the ozone and carbon monoxide (CO) National Ambient Air Quality Standards (NAAQS) in nonattainment areas with approved attainment date extensions. On June 28, 1982, the WDNR submitted its 1982 ozone and CO SIP revision in draft form to EPA. EPA's review of this plan revealed several deficiencies. On February 3, 1983, EPA published a **Federal Register** notice (48 FR 5103) proposing to disapprove the draft plan. Within the February 3, 1983, rulemaking action, EPA noted that if Wisconsin's final plan showed that the State had remedied the deficiencies cited in the proposed rule, then EPA would publish a final rule approving the plan and incorporating it into the SIP. WDNR submitted its final plan to EPA on March 8, 1983.

In today's action, EPA is approving the ozone attainment demonstration for the seven-county ozone nonattainment area in Southeastern Wisconsin. EPA is also approving the State's commitment and schedule for adopting future volatile organic compound emission controls (RACT III and major non-control technique guideline (CTG) sources). Lastly, EPA is approving the CO attainment demonstration for the Milwaukee area. EPA is deferring final action on the vehicle inspection and maintenance element of the SIP submittal.

**EFFECTIVE DATE:** April 9, 1984.

**ADDRESSES:** Copies of this revision to the Wisconsin SIP are available for inspection at: The Office of the Federal Register, 1100 L Street, NW., Room 8401, Washington, D.C. 20408.

Copies of the SIP revision, public comments on the notice of proposed rulemaking, and other materials relating to this rulemaking are available for inspection at the following addresses: (It is recommended that you telephone Gary Gulezian at (312) 886-6258, before visiting the Region V Office).

U.S. Environmental Protection Agency, Air and Radiation Branch, Region V, 230 South Dearborn Street, Chicago, Illinois 60604;

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

Wisconsin Department of Natural Resources, Bureau of Air Management, 101 South Webster, Madison, Wisconsin 53707.

**FOR FURTHER INFORMATION CONTACT:** Gary Gulezian, Chief, Regulatory Analysis Section (5AR-26), Environmental Protection Agency, Region V, Chicago, Illinois 60604, (312) 886-6258, FTS 8-886-6258.

**SUPPLEMENTARY INFORMATION:**

### I. Background

On June 28, 1982, the WDNR submitted a draft of the 1982 revision to Wisconsin's ozone/CO SIP to EPA. This draft was used as the basis for a State and local public hearing held on October 26, 1982. EPA's proposed rule on the adequacy of the plan was published in the **Federal Register** on February 3, 1983 (48 FR 5103). EPA also prepared comments, which contained EPA's evaluation of the draft plan, and forwarded them to WDNR in a letter dated October 26, 1982.

Within the February 3, 1983, rulemaking action, EPA noted that several portions of the plan contained major deficiencies and deviated from EPA policy on the preparation of 1982 SIP revisions. Specifically, EPA noted the following items: (1) An inadequate demonstration of attainment of the ozone National Ambient Air Quality Standard (NAAQS) in the Milwaukee demonstration area; (2) Nonimplementation of a vehicle inspection and maintenance (I/M) program by the required implementation date of January 1, 1983; (3) Lack of commitment for a submittal of reasonably available control technology (RACT) regulations for stationary sources; and, (4) Deviations from EPA policy and guidance cited in the October 26, 1982, comment letter to the State. Furthermore, EPA noted that, if Wisconsin substantially changed the draft plan, except to remedy the specific deficiencies and deviations cited above, EPA would have to re-evaluate the plan and publish a revised notice of proposed rulemaking.

EPA has determined that the final 1982 ozone and CO SIP revision, submitted to EPA on March 8, 1983, acceptably addresses the deficiencies and deviations cited in the proposed rule, except for the I/M element. Thus, EPA is taking final action, without reproposal, on all portions of the final SIP revision, with the exception of the I/M element.

Wisconsin's 1982 ozone and CO SIP revision does contain a commitment to implement an I/M program commencing April 1, 1984. EPA notes that Wisconsin is progressing toward implementation of the program. However, the State has failed to fully implement its program as of December 31, 1932, as required by the 1979 SIP revisions, which were approved in order to meet the 1979 planning deadline under Section 172 of the Act. Therefore, on August 3, 1983 (48 FR 35327), EPA proposed to find that Wisconsin is no longer implementing its approved ozone and CO SIP in the Milwaukee area, and to limit Federal assistance and impose a construction moratorium on new and existing stationary sources under Sections 176(b) and 173(4) of the Act.

After review and evaluation of public comment on the August 3, 1983, proposal, EPA will make a determination on the adequacy of Wisconsin's progress toward implementation of its I/M program. Thus, in today's rule, EPA is taking no action on the I/M element of Wisconsin's 1982 Ozone and CO SIP revision. EPA notes that Wisconsin is

progressing toward implementation of an I/M program through site acquisition and construction. However, before EPA can finally approve this element of the SIP, Wisconsin must fully implement its I/M program, and must promulgate and submit administrative rules detailing the operational parameters of the I/M program.

The results of EPA's review of the final SIP revision are summarized below. A technical support document, entitled "Final Review of Wisconsin's 1982 Ozone/Carbon Monoxide State Implementation Plan," contains a complete discussion of EPA's review. This document is available at the EPA offices listed in the Address section of this notice.

Additional background information on today's rulemaking can be found in the February 3, 1983 (47 FR 5103) Federal Register.

## II. Public Comment Discussion

A 45-day public comment period was provided for EPA's proposed disapproval of the draft plan. During the comment period EPA received several public comments, in addition to the final SIP revision from the State. The Agency's evaluation of these comments is summarized below.

*Comment:* Representatives from three local governments expressed concern over the potentially significant negative impacts of ozone and ozone precursor transport, from the Chicago-Northwest Indiana area into Southeast Wisconsin, and, in particular, into the Milwaukee demonstration area. The primary concern of these commentors is that the transported ozone/precursor could prevent attainment of the ozone NAAQS in the Milwaukee area.

*EPA Response:* EPA's policy states that precursor emissions from urban areas must be sufficiently reduced to eliminate ozone NAAQS violations downwind of the urban area. EPA is requiring a reduction of volatile organic compound (VOC) emissions in the Chicago area that is designed to eliminate the transport of ozone, at above-standard levels, into the Milwaukee demonstration area. At the same time, VOC emissions in the Milwaukee demonstration area must be reduced to a level that allows attainment of the ozone NAAQS downwind of downtown Milwaukee. EPA has determined that the WDNR conducted the final ozone modeling analysis for the 1982 ozone SIP with the assumption that sufficient upwind precursor emission controls would be implemented, in the future, to prevent upwind (background) ozone concentrations in excess of the standard.

*Comment:* One local agency addressed the appropriateness of various types of sanctions resulting from disapproval of the Wisconsin SIP.

*EPA Response:* EPA has determined that Wisconsin has revised its draft plan and has submitted an acceptable SIP revision, with the exception of the I/M element. Because EPA is deferring action on Wisconsin's I/M program at this time, today's final rulemaking action imposes no Clean Air Act sanctions on the State of Wisconsin. EPA will address this comment, if appropriate, when it takes final rulemaking action on Wisconsin's I/M program. The reader is referred to EPA's November 2, 1982 (48 FR 50686) final rulemaking action pertaining to EPA's general policy on the imposition of sanctions.

*Comments:* One set of comments was submitted by the State of New York regarding ozone SIP submittals for several States in the Eastern U.S., including the draft submittal for Wisconsin. These comments and EPA's responses are discussed in detail in the record of this rulemaking.

A brief summary of the comments and EPA's responses is presented below.

New York commented that an approval of Wisconsin's ozone SIP would contravene Section 110(a)(2)(E) of the Clean Air Act (referring to interstate impacts), by allowing sources in the Milwaukee area to make it unduly difficult for New York State to achieve attainment. New York also argues that Stage II (vapor recovery during refueling of motor vehicles at retail gasoline distributors) is a reasonably available control technology, and should be required for all the States identified in its comments, not just for the States of New York and New Jersey.

*EPA Response:* The best available tool for assessing transport into and out of the New York City area (i.e., City Specific Empirical Kinetic Modeling Approach) already considers ozone and ozone precursors transported into New York, and provides credit for anticipated reductions in this transport. Also, EPA requirements preclude excessive ozone transport in that each urban area must demonstrate attainment at all monitors where violations are principally attributable to that urban area. Furthermore, EPA responds that Stage II vapor recovery is not generally considered to be a reasonably available control technology, but this control and other controls may be necessary in areas where attainment cannot be demonstrated without such controls. Stage II vapor recovery is not necessary to demonstrate attainment in the Milwaukee area. For these reasons, emissions in the Milwaukee urban area do not prevent attainment in the New York City area, and further controls in the Milwaukee area are not required by the Clean Air Act.

Additional technical analyses and rebuttal to New York's comments on the Wisconsin SIP are contained in EPA's technical support document dated August 24, 1983. It is EPA's conclusion that New York has not demonstrated a significant level of ozone transport from Wisconsin to New York City.

*Comment:* One commenter argued that approval of enforceable schedules to develop and adopt additional control programs necessary to assure attainment by 1987 (such as Wisconsin's commitment to adopt EPA's RACT III regulations) violates Section 172(c) of the Clean Air Act, which requires each 1982 SIP submission to contain "enforceable measures."

*EPA Response:* EPA disagrees with this complaint because the term "enforceable measures" is broad enough to encompass enforceable schedules. A detailed explanation of EPA's response is contained in the record of this rulemaking.

## III. State Response to EPA's Proposed Rulemaking

On March 8, 1983, WDNR submitted the final 1982 SIP for the Milwaukee demonstration area. This final SIP adequately addresses all prior EPA comments on the draft submittal, except for the I/M element. EPA reviewed the SIP in accordance with the criteria published on January 22, 1981 (46 FR 7182), and in the "General Preamble" for SIP revisions for nonattainment areas, published on April 4, 1979 (44 FR 20372).[1] EPA's conclusions on the changes that the WDNR has made in response to EPA's notice of proposed rulemaking are described below.

1. *Demonstration of Attainment for Ozone Prior to December 31, 1987.* WDNR revised the draft plan to provide a single VOC emission reduction target, and submitted a new modeling analysis for the Milwaukee urban area. The demonstration area consists of the seven-county Southeastern Wisconsin area, which includes Kenosha, Milwaukee, Ozaukee, Racine, Walworth, Washington, and Waukesha Counties.

[1] EPA published four additional notices supplementing the general preamble in 1979: July 2, 1979 (44 FR 38583); August 28, 19769 (44 FR 50371); September 17, 1979 (44 FR 53761); and, November 23, 1979 (44 FR 67182).

The analysis considers ozone standard violations monitored at the worst-case monitoring site, the University of Wisconsin-Milwaukee. Based on this analysis, the WDNR determined that a VOC emission reduction of 33.6 percent, from the 1980 base-year VOC emission levels for the seven-county area, would be necessary to attain the standard. The SIP documents a 1980 base-year VOC emission level of 302,870 kilograms (kg) per summer weekday, and projects a 1987 VOC emission level of 199,120 kg per summer weekday. Therefore, the SIP projects a 34.3 percent reduction in VOC emissions between 1980 and 1987. This projected reduction demonstrates attainment of the ozone standard prior to December 31, 1987. This attainment demonstration meets EPA's technical and policy requirements. Readers should refer to EPA's August 24, 1983, technical support document for a more detailed discussion.

The control measures for VOC emissions, consisting of stationary source controls in the Milwaukee demonstration area, are embodied in the Wisconsin Administrative Code, NR 154.13. The regulations were approved as SIP revisions on June 21, 1982 (47 FR 26622) and January 11, 1980 (45 FR 2319). Measures for controlling VOC emissions from mobile sources include the Federal Motor Vehicle Emission Control Program (FMVECP), regional Transportation Control Measures (TCMs), and vehicle I/M. The EPA technical support document further describes the levels of VOC controls included within the SIP.

2. *Commitment to Submit Stationary Source RACT Regulations.* The 1982 Wisconsin SIP commits the State to adopt and submit RACT III regulations to EPA, 1 year after the January 1st following the issuance of each control technique guideline (CTG) document published by EPA. The SIP also commits the State to develop, submit, and implement the major non-CTG RACT regulations according to the following schedule:

- July 1, 1983–December 31, 1984. Case-by-case evaluation of potential emission reductions and appropriate control techniques.
- January 1, 1985–December 31, 1985. Rule development and rule submission to EPA.
- January 1, 1986–December 31, 1987. Control implementation.

EPA considers this schedule to be as expeditious as practicable.

EPA notes that the 1987 VOC emission level reported in the SIP does not reflect the impact of reductions obtained from the implementation of these controls.

3. *Demonstration of Attainment for CO Prior to December 31, 1987.* The 1982 SIP considers CO violations monitored in the nonattainment area at 7528 W. Appleton Avenue in Milwaukee. WDNR applied a linear rollback equation to derive an annual CO emission rate at which violations of the standard are not expected to occur. The rollback analysis predicts that CO emissions must be reduced by 32.6 percent from 1980 base-year levels.

The FMVECP will provide the major control measure for CO in Milwaukee. The FMVECP is projected to reduce CO emissions by 35.7 percent. Vehicle I/M is projected to result in a CO emission reduction of 12.8 percent. Thus, the State demonstrates attainment of the CO standard prior to December 31, 1987. This demonstration meets EPA's technical and policy guidance. The EPA technical support document further describes the 1982 CO SIP.

As part of today's rulemaking action, EPA is removing the condition of approval of the CO portion of the Wisconsin SIP, as outlined at 40 CFR Part 52.2583(a)(1). The State has fulfilled this condition, which pertains to the remaining hot-spot in the vincinity of Appleton Avenue and 76th Street, within the 1982 CO SIP revision.

4. *Deviations from EPA Policy and Guidance.* In response to EPA's technical review letter of October 26, 1982, and the February 3, 1983, notice of proposed rulemaking, WDNR revised those portions of the draft SIP where corrections and/or explanations of deviations from EPA's policy and guidance, or additional documentation, were required. WDNR incorporated the revisions into the final 1982 SIP. EPA reviewed each change and determined that the State has adequately addressed EPA's concerns. This is discussed in further detail in EPA's Technical Support Document, dated August 28, 1983.

## IV. Summary of Rulemaking Action

1. EPA is approving the data analyses, ozone modeling, and demonstration of attainment for ozone in the 1982 ozone/CO SIP.

2. In addition to the stationary source VOC emission controls previously approved, EPA is approving Wisconsin's commitments and schedules for RACT III and major non-CTG source control measure adoption, submittal, and implementation, which are contained in the 1982 ozone/CO SIP.

3. EPA is approving the data analysis and demonstration of attainment for CO in the 1982 ozone/CO SIP.

4. EPA is removing the condition of approval for further CO hot-spot analysis from 40 CFR Part 52.2583(a)(1).

5. EPA is deferring final action on the I/M element of the 1982 ozone/CO SIP at this time.

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 EPA response, are available for public inspection at the EPA Region V office listed above.

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

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).)

**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 referene.

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

This notice is issued under authority of Section 110 and 172 of the Clean Air Act, as amended (42 U.S.C. 7410 and 7502).

Dated: March 1, 1984.

**William D. Ruckelshaus,**

*Administrator.*

## PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

**Wisconsin—Subpart YY**

1. Section 52.2570 is amended by adding paragraph (c)(31) as follows:

**§ 52.2570 Identification of plan.**

* * * * *

(c) * * *

(31) On March 8, 1983, the Wisconsin Department of Natural Resources submitted the 1982 revision to the Ozone/Carbon Monoxide SIP for Southeastern Wisconsin. This revision pertains to Kenosha, Milwaukee,

Ozaukee, Racine, Walworth, Washington, and Waukesha Counties. EPA is deferring action on the vehicle inspection and maintenance (I/M) portion of this revision.

* * * * *

2. Section 52.2572 is revised to read as follows:

**§ 52.2572 Approval status.**

With the exceptions set forth in this subpart, the Administrator approves Wisconsin's plans for the attainment and maintenance of the National Ambient Air Quality Standards under Section 110 of the Clean Air Act. Furthermore, the Administrator finds the plans satisfy all requirements of Part D, Title I, of the Clean Air Act as amended in 1977, except as noted below. In addition, continued satisfaction of the requirements of Part D for the Ozone portion of the State Implementation Plan depends on the adoption and submittal of RACT requirements on: (1) Group III Control Techniques Guideline sources within 1 year after January 1st following the issuance of each Group III control technique guideline; and (2) Major (actual emissions equal or greater than 100 tons VOC per year) non-control technique guideline sources in accordance with the State's schedule contained in the 1982 Ozone SIP revision for Southeastern Wisconsin.

**§ 52.2583 [Amended]**

3. In Section 52.2583, paragraph (a)(1) is revoked and reserved.

[FR Doc. 84-6250 Filed 3-8-84; 8:45 am]
BILLING CODE 6560-50-M

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**40 CFR Part 228**

**[WH-FRL 2542-1]**

## Ocean Dumping; Extension of Interim Site Designations

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Interim final rule.

**SUMMARY:** EPA today extends the interim designation of two existing dredged material disposal sites until final rulemaking is completed, or until January 31, 1985, whichever is sooner. The two sites are located (1) in the Atlantic Ocean off Jacksonville, Florida, and (2) in the Pacific Ocean off San Francisco, California ("San Francisco Channel Bar"). This action is necessary to provide acceptable ocean dumping sites for the disposal of dredged material essential to maintain navigation until formal rulemaking is completed.

**DATE:** This action will become effective on March 9, 1984. Comments must be received on or before April 9, 1984.

**ADDRESSES:** Send comments to: Mr. T. A. Wastler, Chief, Marine Protection Branch (WH-585), EPA, Washington, DC 20460.

**FOR FURTHER INFORMATION CONTACT:** Mr. T. A. Wastler, 202/755-0356.

**SUPPLEMENTARY INFORMATION:** Section 102(c) of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended, 33 U.S.C. 1401 et seq. ("the Act"), gives the Administrator of EPA the authority to designate sites where ocean dumping may be permitted. On September 19, 1980, the Administrator delegated the authority to designate ocean dumping sites to the Assistant Administrator for Water and Waste Management, now the Assistant Administrator for Water.

The EPA Ocean Dumping Regulations (40 CFR Chapter I, Subchapter H, § 228.4) state that ocean dumping sites will be designated by publication in this Part 228. A list of "Approved Interim and Final Ocean Dumping Sites" was published on January 11, 1977 (42 FR 2461 et seq.) and was last extended on February 7, 1983 (48 FR 5557 et seq.). That list established the Jacksonville and San Francisco Channel Bar sites as interim sites and extended their period of use until January 31, 1984. Today's extension will modify the previous extension by placing these sites in the list of sites having interim designation until January 31, 1985, or until final rulemaking is completed, whichever is sooner.

Rulemaking is in process on both sites, but it has not been possible to complete the rulemaking within the time of the existing extension and allow for full public participation in the process. This interim extension will allow careful consideration of all comments received during the rulemaking process.

EPA today, in a separate action, proposes designation of the Jacksonville site. The public is invited to participate in the rulemaking process by commenting on this proposed action. A proposal for designating the San Francisco Channel Bar site will be published in the near future.

Continued designation of these two interim dredged material disposal sites is necessary to assure the uninterrupted availability of the adjacent harbors to interstate and foreign commerce. These site designations expired February 1, 1984. Accordingly, pursuant to the Administrative Procedure Act, 5 U.S.C. 553(b)(3)(B), the Agency has determined that notice and public procedure on the interim designations, prior to their extension, is impracticable and contrary to the public interest. However, the Agency solicits public comment on the extension of the interim designations and will address any comments received in the final rulemaking. For the same reasons, EPA has determined, pursuant to the Administrative Procedure Act, 5 U.S.C. 553(d)(3), that there is good cause to make this extension effective immediately.

It should be emphasized that, if an ocean dumping site is designated, such a site designation does not constitute or imply EPA's approval of actual disposal of materials at sea. Before ocean dumping of dredged material at the site may commence, the Corps of Engineers must evaluate a permit application according to EPA's ocean dumping criteria. If a Federal project is involved, the Corps must also evaluate the proposed dumping in accordance with those criteria. In either case, EPA has the right to disapprove the actual dumping, if it determines that environmental concerns under the Act have not been met.

Under the Regulatory Flexibility Act, EPA is required to perform a Regulatory Flexibility Analysis for all rules which may have a significant impact on a substantial number of small entities. EPA has determined that this action will not have a significant impact on small entities since the site designation will only have the effect of providing a disposal option for dredged material. Consequently, this action does not necessitate preparation of a Regulatory Flexibility Analysis.

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This action will not result in an annual effect on the economy of $100 million or more or cause any of the other effects which would result in its being classified by the Executive Order as a "major" rule. Consequently, this action does not necessitate preparation of a Regulatory Impact Analysis.

This action does not contain any information collection requirements subject to Office of Management and Budget review under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq.

**List of Subjects in 40 CFR Part 228**

Water pollution control.

**Authority:** 33 U.S.C. Sections 1412 and 1418.

Dated: March 2, 1984.

Jack E. Ravan,

*Assistant Administrator for Water.*

**PART 228—[AMENDED]**

**§ 228.12 [Amended]**

In consideration of the foregoing, Subchapter H of Chapter I of Title 40 is amended by removing paragraphs (A), San Francisco Channel Bar, CA, and (C) Jacksonville, FL, from paragraph (a)(1)(i) of § 228.12 and adding them to paragraph (a)(1)(iii) as paragraphs (J) and (K) respectively.

[FR Doc. 84-6370 Filed 3-8-84; 8:45 am]

BILLING CODE 6560-50-M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Office of Child Support Enforcement

### 45 CFR Part 302

### Withholding of Unemployment Benefits for Support Purposes

**AGENCY:** Office of Child Support Enforcement (OCSE), HHS.

**ACTION:** Final rule.

**SUMMARY:** These regulations implement section 454(19) of the Social Security Act as amended by section 2335 of Pub. L. 97-35, the Omnibus Budget Reconciliation Act of 1981. (Redesignated as par. (19) by section 171(b) of Pub. L. 97-248.) Section 2335 requires child support enforcement (IV-D) agencies to determine on a periodic basis whether individuals receiving unemployment compensation owe support obligations that are not being met. It further requires IV-D agencies to enforce unmet support obligations in accordance with State-developed guidelines for obtaining an agreement with the individual to have a specified amount of support withheld from unemployment compensation otherwise due the individual or, in the absence of an agreement, by bringing legal process to require the withholding. The IV-D agency must reimburse the State employment security agency (SESA) for the administrative costs attributable to enforcing support obligations by withholding unemployment compensation.

**EFFECTIVE DATE:** March 9, 1984.

**FOR FURTHER INFORMATION CONTACT:** Carol Jordan, (301) 443-5350.

**SUPPLEMENTARY INFORMATION:**

**Statutory Provisions**

Section 2335 of Pub. L. 97-35, which provides for withholding of unemployment compensation for support purposes, contains provisions affecting both IV-D agencies and SESAs. These regulations implement only those provisions of section 2335 that affect IV-D agencies. The remaining provisions have been implemented under instructions issued by the Department of Labor. (See Unemployment Insurance Program Letter No. 15-82, dated April 8, 1982.) Although these regulations affect only the Child Support Enforcement Program under title IV-D of the Social Security Act (the Act), all of the provisions of the statute are discussed here to provide a complete picture of the roles of the IV-D agency and the SESA in relation to the withholding of unemployment compensation for the purpose of paying unmet support obligations.

With respect to the Child Support Enforcement program, section 2335 amends section 454 of the Act by adding a new paragraph (19). The new subparagraph 454(19)(A) provides that, under the IV-D State plan, the IV-D agency must determine on a periodic basis whether any individuals receiving compensation under the State's unemployment compensation law (including amounts payable under any agreement under a Federal unemployment compensation law) owe support obligations that are being enforced by the IV-D agency. This periodic determination is to be made from information supplied by the SESA under section 508 of the Unemployment Compensation Amendments of 1976. The information available to the IV-D agency under section 508 is discussed later in this preamble under the heading "Regulatory Provisions." Also discussed below is the related requirement in section 2335 that the SESA notify the IV-D agency if an individual discloses to the SESA that he or she owes child support.

The new subparagraph 454(19)(B) provides that, under the IV-D State plan, the IV-D agency must enforce support obligations that are not being met by individuals receiving unemployment compensation. In enforcing an obligation under this process, the IV-D agency must obtain an agreement with the individual to have a specified amount withheld from the unemployment compensation otherwise due the individual, or, in the absence of an agreement, must bring legal process in appropriate cases, pursuant to State or local law, to require the withholding of unemployment compensation. If a voluntary agreement is obtained, the SESA is entitled to receive a copy of it. The applicable legal process is defined in paragraph 462(e) of the Act as a writ, order, summons, or other similar process in the nature of a garnishment.

With respect to the Department of Labor's unemployment insurance program under title III of the Act, section 2335 amends paragraph 303(e) of the Act to impose several requirements on SESAs. Subparagraph 303(e)(1) is amended to specify that the provisions for withholding unemployment compensation for support purposes are applicable only to "child support obligations" being enforced pursuant to the IV-D State plan described in section 454 of the Act. Because section 454 now permits collection of certain spousal support obligations, the withholding of unemployment compensation is permissible for child support and for spousal support that has been included in the same support obligation, if the State IV-D agency elects to collect spousal support. However, section 2335 does not require the SESA to collect spousal support or to inquire whether the individual owes spousal support.

A new subparagraph 303(e)(2) specifies that the SESA will (i) ask each new applicant for unemployment compensation whether he or she owes a child support obligation being enforced under the IV-D State plan; (ii) notify the State or local IV-D agency when an eligible applicant discloses that he or she owes support being enforced under the IV-D State plan; (iii) withhold an amount from unemployment compensation when asked to do so by the applicant, or when notified to do so by the IV-D agency as a result of an agreement the IV-D agency has obtained from the individual or as a result of legal process; and (iv) pay any amount withheld to the appropriate State or local IV-D agency. Subparagraph 303(e)(2) also defines unemployment compensation as any compensation payable under State law (including amounts payable pursuant to agreements under any Federal unemployment compensation law). Finally, subparagraph 303(e)(2) requires the IV-D agency to reimburse the SESA for the administrative costs incurred in the withholding process which are attributable to support obligations being enforced by the IV-D agency.

Under the new subparagraph 303(e)(3), the Secretary of Labor, after giving the SESA reasonable notice and opportunity for hearing, may cease to certify payments to the States under section 302 of the Act if the State fails to comply with subparagraphs 303(e) (1) and (2).

Section 2335 requires both IV-D agencies and SESAs to engage in activities resulting in the withholding of

unemployment compensation for support purposes beginning October 1, 1982.

**Regulatory Provisions**

OCSE believes that care must be taken to ensure that this new program activity is implemented in a cost-effective manner in order to avoid situations in which administrative costs outweigh collections made. These regulations specify that IV-D agencies shall agree to pay only for SESA activities they believe will be cost-effective (i.e., cost-effective in relation to the collections that will result from the process) and to periodically review overall program operations and costs in relation to collections for the purpose of identifying modifications to improve program and cost effectiveness.

These regulations at 45 CFR 302.65 begin at paragraph (a) with three definitions that are applicable to this regulation section. The first, legal process, is based on the definition in paragraph 462(e) of the Act. Legal process is defined as a writ, order, summons or other similar process in the nature of a garnishment, which is issued by a court of competent jurisdiction or by an authorized official pursuant to an order of such court or pursuant to State or local law. We believe this definition is broad enough to encompass the pertinent legal processes in all States, since it does not require garnishment action per se, but permits legal action by "similar process." The second term, State employment security agency or SESA, is defined as the agency charged with the administration of State unemployment compensation laws in accordance with title III of the Act. The third and final definition characterizes unemployment compensation an any compensation payable under State unemployment compensation law (including amounts payable in accordance with agreements under any Federal unemployment compensation law) and lists, by name, the specific categories of benefits that qualify as unemployment compensation.

Paragraph (b) of § 302.65 specifies that the State IV-D agency shall enter into a written agreement with SESA in its State to carry out the process of withholding unemployment compensation from individuals with unmet support obligations that are being enforced by the IV-D agency. The agreement may specify direct contacts between the SESA and local IV-D agencies, as permitted by the statute. To keep requirements at the absolute minimum, we have not specified what the agreement must contain, although we suggest that States include the functions to be performed by each agency, the SESA's charges as agreed upon, and the duration of the agreement. Because we believe it is important to establish a withholding program that is expected to be cost-effective, we have specified cost-effectiveness as a key consideration in negotiating IV-D/SESA agreements under paragraph (b) of the regulations.

Paragraph (c) of § 302.65 contains the functions that the IV-D agency must perform with respect to the process of withholding unemployment compensation. Three of these functions are set forth in section 2335 of Pub. L. 97-35 and four have been developed by OCSE to improve the administration and management of the withholding process.

The statutorily imposed functions are the following. First, under paragraph (c), the IV-D agency must periodically determine whether individuals applying for, or receiving unemployment compensation own support obligations which are being enforced by the IV-D agency. This determination is to be made from information available from the SESA under section 508 of Pub. L 94-566, the Unemployment Compensation Amendments of 1976. Under section 508, the IV-D agency may obtain (1) information about whether an individual is receiving, has received, or has made application for, unemployment compensation and the amount of any compensation being received; (2) the individual's current or most recent home address; and (3) information about whether an individual has refused an offer of employment and, if so, a description of the employment offered, including terms, conditions and rate of pay.

The second statutory requirement incorporated in paragraph (c) is that the IV-D agency must enforce unmet support obligations via the process of withholding unemployment compensation through a voluntary agreement with the individual who owes the support or through legal process. The IV-D agency must pursue cases which meet the specific case selection criteria established under paragraph (c)(3) and discussed later. Under section 2335, the IV-D agency must give the SESA a copy of the voluntary agreement.

The third statutory requirement in paragraph (c) is that the IV-D agency reimburse the SESA for the administrative costs that are attributable to the process of withholding unemployment compensation for support purposes. We have added the provision that reimbursement must be made only insofar as the actual, incremental costs have been agreed upon by the SESA and the IV-D agency.

To complement the IV-D functions specified by the statute, OCSE has added four functions in paragraph (c) of § 302.65 that are necessary for proper implementation of the withholding process. First, the IV-D agency must provide a receipt at least annually to an individual who requests a receipt for the amount of unemployment compensation withheld for purposes of support.

Second, the IV-D agency must process its withholding cases through the SESA in its own State or through the IV-D agencies in other States. The SESA will forward all amounts it withholds to the appropriate State or local child support enforcement agency in its own State. If a IV-D agency receives a payment on behalf of an IV-D agency in another State, it must forward that payment to the appropriate IV-D agency in the other State.

Third, States must establish and use written criteria for the selection of cases for withholding. The IV-D agency must design and implement case selection criteria to insure maximum referral of cases and to avoid uncertainty and excessive discretion on the part of the selecting caseworker because of the lack of clear guidance. We are not imposing specific requirements concerning cases the IV-D agency must refer to the SESA under this paragraph, nor are we specifying how often the IV-D agency must make the referrals. Although there is no federally imposed limit on the amount of unemployment compensation which the State may withhold, there may be State laws which impose limits on the amount which can be withheld.

Case selection criteria might include, for example, that the individual whose unemployment compensation will be withheld will be eligible for continued receipt of benefits for a specified period of time, or that withholding of any amount of unemployment compensation should not reduce the amount of benefits below a specified amount per week. Case selection criteria should also address cases which may not be excluded solely on the basis of one particular circumstance, for example, the fact that the indivdual has a current responsibility to a spouse and additional children.

Fourth, the IV-D agency must review and document, at least annually, program operations, including case selection criteria established under paragraph (c)(3), and costs of the withholding process versus amounts collected. Based on this review, the IV-D agency must modify its procedures

and renegotiate the services provided by the SESA, as necessary, to improve program and cost-effectiveness.

**Changes to Proposed Regulations**

Section 302.65 of the proposed regulations required States to enforce unmet support obligations first by attempting to arrange for the withholding of unemployment compensation based on a voluntary agreement. If a voluntary agreement could not be obtained, the State could then use legal process. In response to comments received, we revised § 302.65 of the regulations to permit States more flexibility in choosing procedures for effecting the withholding process. (See discussion under Response to Comments.) Section 302.65 of the final regulation requires the State to withhold unemployment compensation benefits based on a voluntary agreement or, in appropriate cases, through legal process pursuant to State or local law. We believe this change will permit States to choose the more efficient and effective procedure for withholding based on circumstances which exist within the State. Whether or not the State attempts to obtain a voluntary agreement, any legal process must be pursuant to State or local law.

**Response to Comments**

We received nine comments, all from State agencies, in response to the Notice of Proposed Rulemaking published in the **Federal Register** on January 19, 1983. A discussion of these comments and our responses follow.

1. *Comment*: Three State agencies commented that the use of legal process to withhold unemployment benefits in interstate cases is not always feasible. This is particularly true for situations where one State is paying unemployment benefits to an absent parent who resides in another State and a third State requests the withholding. The State paying the withholding may not have authority to enforce the withholding unless a new court order is established because neither the absent nor custodial parent is a resident of the State. Establishing a court order is a very time consuming and expensive procedure and the individual may have ceased to receive unemployment benefits before the new court order is obtained. In addition, States have various prerequisites for legal process, for example, residency, which an interstate case may not meet.

*Response:* In the situation described by the commenters, States may be unable to withhold unemployment compensation benefits through legal process because the case does not meet certain prerequisites under State garnishment laws or the State cannot effect necessary legal procedures in a timely manner. However, § 302.65(c)(3) requires the IV–D agency to establish and use written criteria for selecting cases to pursue via the withholding of unemployment benefits. This permits a State discretion in establishing case selection criteria under which only those cases which are expected to result in withholding are pursued. We expect that States will work together on interstate cases to ensure that withholding is authorized in as many cases as possible and to improve the cost effectiveness of this procedure. In addition, States are encouraged to use expedited judicial or administrative procedures where possible to accomplish this withholding. These procedures may be less costly than the court legal process and would most likely lead to a greater total recovery.

2. *Comment:* One State agency asked if the use of debt setoff processes is permitted under the definition of "legal process."

*Response*: The definition of legal process at section 462(e) of the Act is broad enough to include debt setoff processes because the definition does not require garnishment action per se, but permits legal action by "similar process." Therefore, if a State has a debt setoff process which is broad enough to include unemployment compensation withholding, it may be used for that purpose.

3. *Comment*: One State agency recommended that collections should flow from the responding court to the initiating court in interstate cases rather than from State IV–D agency to State IV–D agency.

*Response:* Section 302.65(c)(5)(ii) requires that the IV–D agency receive all amounts withheld by the SESA in its own State and forward any amounts withheld on behalf of IV–D agencies in other States to those agencies. The IV–D agency must be responsible for maintaining direct contact with the SESA in its State in order to monitor the SESA activities being pursued under the IV–D/SESA agreement. This precludes the need for interstate IV–D/SESA agreements and costly variations in procedures.

4. *Comment:* Two State agencies commented that the Unemployment Compensation Intercept (UCI) program should be optional.

*Response:* Section 2335 of Pub. L. 97–35 is mandatory for States effective October 1, 1982. Both the IV–D agency and the SESA are required under this statute to implement the withholding process.

5. *Comment:* Two State agencies commented on the treatment of administrative costs incurred by IV–D agencies for interstate cases. One State recommended that the initiating State reimburse the State that does the withholding. The other State asked if a responding State may deduct the administrative cost of withholding from incentive payments due the initiating State.

*Response:* In order to be in compliance with the State plan requirement at section 454(9) of the Act, a State must cooperate with other States. Neither section 454(9) of the Act nor implementing regulations at 45 CFR 302.36 provide for charging expenses to other States. Under the current regulations, a responding State is entitled to incentive payments in interstate AFDC cases under section 453 of the Act and may recover costs from non-AFDC collections. There are no provisions in the regulations to permit the responding State to deduct costs from incentive payments due the initiating State.

6. *Comment:* One State agency commented that the establishment of case selection criterial is superfluous because such criteria are already included in its existing State policy and statute.

*Response:* Section 302.65(c)(3) of the regulation requires States to establish and use written criteria for selecting cases to pursue via the withholding of unemployment compensation for support purposes. The State must provide clear, complete instructions to be used in the selection process. States may use criteria already existing in State policy and statute if these criteria are clearly applicable for selecting cases to pursue via the withholding of unemployment compensation for support purposes and the State can produce, for audit purposes, written criteria for selecting cases to pursue via unemployment compensation withholding.

7. *Comment:* Two State agencies commented on the requirement to provide a receipt to an individual who requests one for the support paid through withholding of unemployment benefits. One State supports the requirement. The other State asks what constitutes a receipt, why the receipt must distinguish the source of payment, and if a billing statement would satisfy this requirement.

*Response:* Any statement that provides the individual with verification that support has been paid in the amount of the unemployment compensation withheld would be

acceptable. The receipt must specify the amount withheld to guarantee that the individual can verify to appropriate authorities, such as the Court or the IRS, that support has been paid in the amount of the unemployment compensation withheld. The format of the receipt provided to an individual upon request is determined by the State. A billing statement issued showing an aggregate amount of support paid or due would not satisfy the requirement to provide a receipt for the support paid via withholding unless it identified the amount of unemployment compensation withheld.

8. *Comment:* One State recommended that we delete our requirement that State attempt to obtain a voluntary agreement or conduct face-to-face interviews before using legal process because such a requirement would be unnecessarily costly and burdensome if the State has a statute that allows automatic withholding.

*Response:* Section 454(19)(B) of the Act requires States to obtain a voluntary agreement for the withholding of unemployment compensation for support purposes, or, in the absence of an agreement, to use legal process. In the proposed regulation, our purpose in requiring States to attempt to obtain a voluntary agreement was to ensure timeliness and cost-effectiveness because, given the length of time unemployment compensation benefits are available, legal process can be more time consuming and costly. However, the statute can be interpreted to allow use of legal process without first attempting to obtain a voluntary agreement. If a State statute authorizes automatic withholding, it would be more costly and time consuming to require attempts to obtain voluntary agreements in that State. As long as the process of automatic withholding is pursuant to State or local law, we believe it would meet the statutory requirement in section 454(19)(B) of the Act.

In order to assist States in implementing an effective and efficient withholding program, we have revised § 302.65(c)(2) of the proposed regulation to require States to withhold unemployment compensation benefits either based on a voluntary agreement or, in appropriate cases, through legal process pursuant to State or local law.

9. *Comment:* One State asked if the custodial parent has a right to be a party to determining the amount of unemployment compensation that is deducted and about the rights of the current wife of an obligor.

*Response:* The regulations at § 302.65(b) require the State IV-D agency and the SESA to negotiate an agreement for the purpose of withholding unemployment compensation from individuals with unmet support obligations being enforced by the IV-D agency. Neither the statute nor the regulation requires State agencies to include the custodial parent as a party to determining the amount of unemployment compensation that is deducted.

The regulations do not address the current wife of an obligor. It is the State's responsibility to determine the amount to be withheld from an individual's unemployment compensation benefits. Cases should not be excluded from withholding solely because the individual has a current responsibility to a spouse and additional children. However, this does not preclude the State from establishing criteria for amounts withheld that may include consideration of the number of dependents, particularly if the number of dependents increases the amount of the unemployment compensation benefit. These specifications should be part of the IV-D/SESA agreement to ensure that both agencies are aware of the criteria for determining the amounts to be withheld.

### Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (Pub. L. 96-511), the State plan amendment that is required by this regulation has been approved by the Office of Management and Budget (OMB) under existing OMB number 0960-0253.

### Regulatory Burden

Section 1(b) of Executive Order 12291 states that a major rule is one that is likely to result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

(3) Significant adverse effects 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.

This regulation does not meet the criteria for a major rule because the purpose of this regulation is to provide States with an additional process for collecting unmet child support payments and, as a result, increase the effectiveness of the IV-D program. It will not have a significant effect on the national economy.

The Department estimates that implementation of section 2335 of Pub. L. 97-35 will result in an additional $12 million as the Federal share of child support collections for FY '83, net of administrative costs. This is far below the $100 million criteria for a major rule. The other two criteria for a major rule are not met either. The withholding process does not increase costs or prices for consumers or individual industries. Some State and local child support enforcement agencies will increase administrative costs, but the costs incurred will be offset by the amounts collected. This regulation has no 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. For the above reasons, we have determined that this regulation does not meet the criteria for a major rule and, because it applies to States and will not have a significant economic impact on a substantial number of small entities, does not require a regulatory impact analysis as provided in Pub. L. 96-354, the Regulatory Flexibility Act of 1980.

### List of Subjects in 45 CFR Part 302

Child welfare, Grant programs/social programs.

## PART 302—[AMENDED]

45 CFR Part 302 is amended by adding a new § 302.65 to read as follows:

### § 302.65 Withholding of unemployment compensation.

The State plan shall provide that the requirements of this section are met.

(a) *Definitions.* When used in this section:

"Legal process" means a writ, order, summons or other similar process in the nature of a garnishment, which is issued by a court of competent jurisdiction or by an authorized official pursuant to an order of such court or pursuant to State or local law.

"State employment security agency" or "SESA" means the State agency charged with the administration of the State unemployment compensation laws in accordance with title III of the Act.

"Unemployment compensation" means any compensation payable under State unemployment compensation law (including amounts payable in accordance with agreements under any Federal unemployment compensation law). It includes extended benefits, unemployment compensation for Federal employees, unemployment compensation for ex-servicemen, trade readjustment allowances, disaster unemployment assistance, and

payments under the Redwood National Park Expansion Act.

(b) *Agreement.* The State IV–D agency shall enter into a written agreement with the SESA in its State for the purpose of withholding unemployment compensation from individuals with unmet support obligations being enforced by the IV–D agency. The IV–D agency shall agree only to a withholding program that it expects to be cost-effective and to reimbursement for the SESA's actual, incremental costs of providing services to the IV–D agency.

(c) *Functions to be performed by the IV–D agency.* The IV–D agency shall:

(1) Determine periodically from information provided by the SESA under section 508 of the Unemployment Compensation Amendments of 1976 whether individuals applying for or receiving unemployment compensation owe support obligations that are being enforced by the IV–D agency.

(2) Enforce unmet support obligations by arranging for the withholding of unemployment compensation based on a voluntary agreement with the individual who owes the support, or in appropriate cases which meet the case selection criteria established under paragraph (c)(3), through legal process pursuant to State or local law. If a voluntary agreement is obtained, the IV–D agency must give the SESA a copy of the voluntary agreement.

(3) Establish and use written criteria for selecting cases to pursue via the withholding of unemployment compensation for support purposes. These criteria must be designed to insure maximum case selection and minimal discretion in the selection process.

(4) Provide a receipt at least annually to an individual who requests a receipt for the support paid via the withholding of unemployment compensation, if receipts are not provided through other means.

(5) Maintain direct contact with the SESA in its State:

(i) By processing cases through the SESA in its own State or through IV–D agencies in other States; and

(ii) By receiving all amounts withheld by the SESA in its own State and forwarding any amounts withheld on behalf of IV–D agencies in other States to those agencies.

(6) Reimburse the administrative costs incurred by the SESA that are actual, incremental costs attributable to the process of withholding unemployment compensation for support purposes insofar as these costs have been agreed upon by the SESA and the IV–D agency.

(7) Review and document, at least annually, program operations, including case selection critieria established under paragraph (c)(3), and costs of the withholding process versus the amounts collected and, as necessary, modify procedures and renegotiate the services provided by the SESA to improve program and cost effectiveness.

(Sec. 1102 of the Social Security Act (42 U.S.C. 1302) and sec. 454(20) of the Social Security Act (42 U.S.C. 654(20))

(Catalog of Federal Domestic Assistance Program No. 13.679, Child Support Enforcement Program)

Dated: October 17, 1983.

**Martha A. McSteen,**

*Acting Director, Office of Child Support Enforcement.*

Approved: January 10, 1984.

**Margaret M. Heckler,**

*Secretary.*

[FR Doc. 84-6478 Filed 3-8-84; 8:45 am]

BILLING CODE 4190-11-M

## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

### 49 CFR Part 217

**[FRA Docket RSSI-81-1]**

### Small Railroad Safety Inquiry; Grant of Temporary Waiver of Compliance

**AGENCY:** Federal Railroad Administration, DOT.

**ACTION:** Small Railroad Safety Inquiry; Grant of Temporary Waiver of Compliance.

**SUMMARY:** Notice is hereby given that the Federal Railroad Administration (FRA) has granted a temporary waiver of compliance with its Railroad Operating Rules (49 CFR Part 217) to small railroads. Section 217.13 requires that all railroads submit by March 1 of each year a report describing the conduct of their operational testing program during the preceding year. The operational testing programs of the individual railroads are designed to ensure that railroad employees whose activities are governed by the railroad's operating rules understand those rules and act in accordance with them. The temporary waiver of compliance will permit the affected small railroads to delay filing the annual report required by section 217.13 for a period of six months.

**EFFECTIVE DATE:** March 1, 1984.

**ADDRESS:** Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, 400 Seventh Street, SW. Washington, D.C. 20590.

**FOR FURTHER INFORMATION CONTACT:** Michael Chase, Office of Chief Counsel, Federal Railroad Administration, Washington, D.C. 20590, (202) 426–8285.

**SUPPLEMENTARY INFORMATION:** The decision to grant this temporary waiver is an outgrowth of a Special Safety Inquiry begun in 1981 (46 FR 39461) in which FRA sought information on the compliance problems encountered by small railroads. Based on the information received in that proceeding and its own analysis, FRA has tentatively concluded that the cost and time burdens imposed by this requirement are disproportionately severe for small railroads and that revision of the requirement may be appropriate. Since the annual report is due on March 1, 1984, and FRA has concluded that there is good reason to propose a regulatory change to eliminate this requirement for some railroads, FRA has granted a temporary waiver to extend the compliance date until September 1, 1984, to permit sufficient time to conduct a rulemaking proceeding in which a substantive change to the regulation can be considered.

FRA has granted this waiver of compliance to all railroads having 15 or fewer employees subject to the Hours of Service Act (45 U.S.C. 61 *et seq.*). In determining the scope of this interim relief, FRA concluded that railroads employing between one and 15 employees subject to the Act normally experience the greatest relative burden in meeting this requirement and therefore should be considered for ultimate relief in the rulemaking proceeding. Use of this size criterion is also consistent with the policies of the Regulatory Flexibility Act (5 U.S.C. 610 *et seq.*) and the considerations balanced by Congress in adopting the Hours of Service Act.

The Railroad Safety Board of the FRA, which has been delegated authority by the Federal Railroad Administrator, has granted this temporary waiver on the basis of the prior public comment in this proceeding and with the intent to review its decision in light of any public comments received in response to this notice. Consequently, interested persons are invited to participate in this proceeding by submitting written data, views, or comments. FRA does not anticipate scheduling an opportunity for oral comment on this waiver since the facts do not appear to warrant it. All communications concerning this proceeding must identify the Docket Number and should be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, 400 Seventh Street, SW., Washington, D.C. 20590.

Communications concerning this waiver proceeding should be submitted before April 6, 1984. All communications will

be available for examination both before and after the closing date for comments during regular business hours (9:00 a.m.–5:00 p.m.) in Room 5101, Nassif Building, 400 Seventh Street, SW., Washington, D.C. Since comments on this waiver proceeding may be relevant to the rulemaking proceeding concerning a regulatory change, a copy of all comments received in response to this notice will also be placed in the rulemaking docket and considered by FRA before final action is taken.

(Sec. 202, Federal Railroad Safety Act of 1970 (45 U.S.C. 431); § 1.49(m) of the Regulations of the Secretary of Transportation (49 CFR 1.49(m))

Issued in Washington, D.C., on March 2, 1984.

**Joseph W. Walsh,**

*Associate Administrator for Safety.*

[FR Doc. 84-6232 Filed 3-8-84; 8:45 am]

BILLING CODE 4910-06-M

## National Highway Traffic Safety Administration

### 49 CFR Part 575

**[Docket No. 80-14, Notice 8 and Docket No. 25, Notice 54]**

## Federal Motor Vehicle Safety Standards Consumer Information Regulations; Uniform Tire Quality Grading

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

**ACTION:** Final rule.

**SUMMARY:** This notice amends the Uniform Tire Quality Grading Standards (UTQGS) by revising the procedure used to establish tire loads under which temperature resistance tests are conducted. This amendment is being issued to make test loads under the temperature resistance test consistent with test loads specified for the high speed test in Federal Motor Vehicle Safety Standard (FMVSS) 109. It is anticipated that this amendment will assure that UTQGS temperature resistance tests and FMVSS 109 high speed tests may, to the maximum possible extent, be conducted together.

**DATE:** This document is effective July 1, 1984 except the amendments to Table 2A and the reference to the ASTM method which are effective March 9, 1984.

**FOR FURTHER INFORMATION CONTACT:** Dr. F. Cecil Brenner, Office of Market Incentives, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, D.C. 20590, (202–426–1740).

**SUPPLEMENTARY INFORMATION:** On December 17, 1981, NHTSA amended FMVSS 109, which establishes performance requirements for new automobile tires, by deleting the tire tables in Appendix A of that standard. Information in these tables was previously used, among other purposes, to specify tire test loads under the UTQGS. Therefore, with the deletion of the tire tables of FMVSS 109, it was necessary to establish alternate procedures for determining UTQGS test loads. Interim procedures were established by NHTSA on June 15 and August 12, 1982, in 47 FR 25930 and 34990, and public comment was invited on the adopted technical approaches. On August 19, 1982, the agency issued a notice of proposed rulemaking inviting further public comment on other possible approaches to be used in specifying test loads under the UTQGS. See 47 FR 36260. This notice establishes these procedures in final form.

The UTQGS establish procedures for testing tires to evaluate their traction, temperature resistance, and treadwear performance. (On February 7, 1983, NHTSA suspended the treadwear portion of the UTQGS, pending the completion of research intended to determine the causes of the high levels of test variability found in treadwear test results, and to reduce that variability. (See 48 FR 5690.)) The test procedures specify loads to be placed on the tire. Those loads differ for each of the three types of tests. Prior to the deletion of the FMVSS 109 tire tables, temperature resistance tests were conducted at the maximum load specified in those tables for a tire pressure 8 pounds per square inch (psi) below the tire's maximum inflation pressure. Treadwear tests were conducted at 85 percent of the load for temperature resistance testing. Traction tests were conducted at 85 percent of the maximum load specified in the tire tables for tire pressures of 24 psi or 180 kilopascals, as appropriate.

With the deletion of the tire tables, the agency developed a range of numerical factors which relate a tire's maximum load rating, as stated on the tire's sidewall, to the appropriate test load. Rather than relying on the tables, manufacturers or others conducting tests under the UTQGS would simply multiply the maximum load by the factor to determine the test load. This procedure resulted in at most a 10 pound change in the load at which tests were conducted, for all but a small number of tires. For these remaining tires, the agency provided that tests would be conducted at the same load as was done prior to June 15 (relying on the tire tables), until July 1, 1984. After that date, test loads would be determined by using the load factors.

Shortly after the load factor procedure was established, the Rubber Manufacturers Association and the Cooper Tire Company raised objections to it. These parties pointed out that prior to the deletion of the tire tables, a single test could be used to demonstrate compliance with high speed requirements under FMVSS 109 and temperature resistance testing under the UTQGS. However, after the deletion of the tire tables, slightly different loads would be specified for those two purposes. (When the tire tables were deleted, NHTSA specified a single test load factor of 88 percent of the tire's maximum load for high speed testing under FMVSS 109.)

On August 19, 1982, NHTSA issued a notice of proposed rulemaking, inviting comment on methods for restoring equivalent load specifications for purposes of high speed testing under FMVSS 109 and temperature resistance testing under the UTQGS. The agency proposed three possible methods for achieving this result, and requested that commenters present any other alternatives they felt appropriate. The three NHTSA alternatives were:

(1) To amend the UTQGS temperature resistance test by deleting the load factors and specifying a single 88 percent factor, as was done with FMVSS 109.

(2) To amend the FMVSS 109 high speed test by deleting the 88 percent factor and adopting the series of load factors used in the UTQGS temperature resistance test.

(3) To amend FMVSS 109 and the UTQGS by relying on load information published by industry standardization organizations such as the Tire and Rim Association and The European Tyre and Rim Technical Organisation. This approach would be much the same as the procedure previously followed by the agency in relying on the FMVSS 109 tire tables.

Virtually all comments received on the agency's notice of proposed rulemaking recommended adopting the third alternative, since it is the closest to past practice and would assure that test data derived under the pre-June 15 procedures would still be valid. Also, some tire manufacturers felt this option would minimize the "load range creep" phenomenon, in which tire manufacturers were encouraged by vehicle manufacturers to increase

incrementally the load rating of a tire, thus permitting the use of a smaller, less expensive tire for a given automobile. These increases could ultimately result in overloaded tire operation. The tire manufacturers felt that the existence of tabulated load information would discourage the load creep phenomenon. On the other hand, the European Tyre and Rim Technical Organisation favored the first alternative (testing at 88 percent of maximum load), due to the simplicity of that approach.

NHTSA has concluded that the first alternative is preferable, and is herein amending the UTQGS accordingly. That alternative has the advantage of being the simplest to use, and has been shown to work well in FMVSS 109. The agency is concerned that adoption of Alternative 3 could result in the re-institution of NHTSA tire tables. Information on tires not listed by one of the standardization organizations would be submitted to NHTSA under that alternative. However, commenters requested that information on such tires be published by NHTSA to make it available to all interested parties, thereby resulting in new tire tables, albeit on a smaller scale. The possibilities also exist of inconsistent data entries for tires appearing in more than one table and omissions of certain tires from all tables. The undesirability of this unwieldy system is clear and the disadvantages of the continued reliance on tire tables was discussed fully in the notices involving the deletion of the FMVSS 109 tire tables.

With regard to the load range creep phenomenon, the agency does not agree that the third alternative would discourage such actions to any greater degree than would the other alternatives. Under the third option, all a manufacturer would have to do to change a tire's load rating would be to submit new information to a standardization organization. Further, the agency has ample authority to deal with this problem and will take appropriate action to prevent such actions where safety would be jeopardized.

In the case of the second option, amending FMVSS 109 to adopt varying load factors would disrupt testing programs under that standard which have worked well for the past year using the 88 percent load criterion. Further, adopting the varying load factors is slightly more complex than using the single 88 percent factor. Therefore, the agency considers option 1 to be the preferable alternative.

Adopting Alternative 1 will produce no changes in tire testing under FMVSS 109. However, the Rubber Manufacturers Association points out that adoption of this alternative will increase tire test loads for UTQGS purposes by from 1 to 3 percent for certain tires.

For the vast majority of currently produced tires (p-metric sizes with maximum inflation pressure of 240 kilopascals), the increase in test load is approximately 1.6 percent. An increase in load of this small magnitude is insufficient to impact temperature resistance grades. Also, the majority of tires are graded "C" for temperature resistance, a grade which merely signifies minimum compliance with the high speed test of FMVSS 109. Therefore, increasing the test loads for UTQGS temperature resistance purposes (which should theoretically make that test more stringent) will not affect the grades of those tires. Therefore, the amendments promulgated herein should impact only a very small number of tires. To the extent that the adoption of identical test loads for the FMVSS 109 high speed test and the UTQGS temperature resistance test permits the two tests to be run together, this amendment will produce an overall reduction in testing costs.

This amendment is being made effective on July 1, 1984, to coincide with the effective date for test load factors for traction and treadwear testing for all tires, as specified in the August 12, 1982 **Federal Register** notice.

Two minor amendments are also being promulgated in this notice for which, due to their technical nature, the agency finds good cause for making effective immediately. The first of these adds three size designations to Table 2A of the UTQGS, as requested by the Japanese Automobile Tire Manufacturers Association. This addition will avoid (until July 1, 1984) having to test these tires at significantly different test loads than those specified through the FMVSS 109 tire tables. The second technical amendment clarifies that the traction test pavement wetting procedure is that specified in the 1979 version of American Society for Testing and Materials Method E 274.

Since this rule should not cause any significant change in implementation of the UTQG regulation, NHTSA has determined that this proceeding does not involve a major rule within the meaning of Executive Order 12291 or a significant rule within the meaning of the Department of Transportation regulatory procedures. Further, there are no significant economic impacts of this action so that preparation of a full regulatory evaluation is unnecessary.

The agency has also considered the impacts of this rule in accordance with the Regulatory Flexibility Act. I certify that this action will not have a significant economic impact on a substantial number of small entities. As noted above, this action will make essentially no change in the implementation of the UTQG regulation.

NHTSA has concluded that this action will have essentially no environmental consequences and therefore that there will be no significant effect on the quality of the human environment.

**List of Subjects in 49 CFR Part 575**

Consumer protection, Labeling, Motor vehicle safety, Motor vehicles, Rubber and rubber products, Tires.

(Secs. 103, 112, 119, 201, 203, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1401, 1407, 1421, 1423); delegation of authority at 49 CFR 1.50)

Issued: March 5, 1984.

**Diane K. Steed,**

*Administrator.*

## PART 575—CONSUMER INFORMATION REGULATIONS

In consideration of the foregoing, 49 CFR Part 575 is amended as follows:

1. Section 575.104 is amended by revising paragraphs (g)(6) and (h)(1) to read as follows:

**§ 575.104 Uniform tire quality grading standards.**

* * * * *

(g) * * *

(6) Press the tire against the test wheel with a load of 88 percent of the tire's maximum load rating as marked on the tire sidewall.

* * * * *

(h) *Determination of test load.* (1) To determine test loads for purposes of paragraphs (e)(2)(iii) and (f)(2)(viii), follow the procedure set forth in paragraphs (h) (2) through (5) of this section.

* * * * *

2. Table 2 of § 575.104 is amended by deleting the words "and temperature resistance" from the heading of the middle column of the Table.

3. Table 2A of § 575.104 is amended by adding the following new entries at the bottom of the table:

| Tire size designation | Temperature resistance (maximum pressure) | | | Traction | Treadwear (maximum pressure) | | |
|---|---|---|---|---|---|---|---|
| | 32 | 36 | 40 | | 32 | 36 | 40 |
| 5.20-14 | 695 | 785 | 855 | 591 | 591 | 667 | 727 |
| 165-15 | 915 | 1,015 | 1,105 | 779 | 779 | 863 | 939 |
| 185/60 R 13 | 845 | 915 | 980 | 719 | 719 | 778 | 833 |

4. The references to "ASTM Method E 274-70" in § 575.104 (f)(1)(iii) and

(f)(1)(iv) are deleted and replaced by "ASTM Method E 274–79."

[FR Doc. 84–6383 Filed 3–8–84; 8:45 am]
BILLING CODE 4910–59–M

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### 50 CFR Part 672

[Docket No. 40302–21]

### Groundfish of the Gulf of Alaska

**AGENCY:** National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Emergency interim rule.

**SUMMARY:** The North Pacific Fishery Management Council has determined that an emergency exists in the domestic sablefish fishery in parts of the fishery conservation zone within the inner coastal waters of the Southeast Outside District of the Eastern Regulatory Area and, therefore, the Secretary of Commerce issues this rule temporarily closing the sablefish fishery for vessels of the United States in these areas. This action is necessary to preserve the traditional sablefish fishing season in the inner coastal waters of southeast Alaska and avoid the disruption to the fishing industry that would otherwise occur. This action is intended to promote an orderly fishery, managed in coordination with that of the State of Alaska.

**DATES:** This emergency rule is effective from 12:00 noon Alaska Standard Time (AST), March 6, 1984 until 11:59 p.m. AST, June 4, 1984.

**ADDRESS:** Copies of the environmental assessment prepared for this rule are available from Robert W. McVey, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, AK 99802.

**FOR FURTHER INFORMATION CONTACT:** Ronald J. Berg (Fishery Management Biologist, NMFS, Alaska Region), 907–586–7230.

**SUPPLEMENTARY INFORMATION:**

#### Background

The domestic and foreign groundfish fishery in the fishery conservation zone (FCZ) of the Gulf of Alaska is managed under the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP). The FMP was developed by the North Pacific Fishery Management Council (Council), approved by the Assistant Administrator for Fisheries, NOAA (Assistant Administrator), on February 24, 1978, and implemented by final rule, effective December 1, 1978 (43 FR 52709, November 14, 1978). It has since been amended eleven times.

When the FMP was first implemented in 1978, five statistical areas were established for purposes of managing groundfish, two of which were designated as the Southeastern (132°40′—137°00′ W. longitude) and Yakutat (137°00′ to 147°00′ W. longitude) statistical areas. These two areas were subsequently combined and redesignated as the Eastern Regulatory Area (132°40′—147°00′ W. longitude) by amendment to the FMP (44 FR 50042, August 27, 1979). To prevent fishermen from overfishing local sablefish stocks when harvesting the optimum yield, the Eastern Regulatory area was divided into three, and then four, regulatory districts by Amendment 8 (45 FR 73486, November 5, 1980) and Amendment 11 (48 FR 43044, September 21, 1983), respectively. Optimum yields were specified for each district. Two of these districts, the Southeast Outside and Southeast Inside, were defined under Amendment 8 as follows:

Southeast Outside District—All waters of the FCZ east of 137°00′ W. longitude.

Southeast Inside District—All waters of the territorial sea (shoreward of three miles) east of 137°00′ W. longitude and north of 54°30′ W. longitude.

The Southeast Outside District, by definition, includes certain FCZ waters that intrude as cul-de-sacs into coastal waters of the Southeast Alaska archipelago. These intrusions are described as follows:

1. Those waters of the FCZ in Cross Sound east of a line extending from Cape Spencer Light (58°11.9′ N. latitude, 136°38.3′ W. longitude) to Yakobi Rock (58°05.2′ N. latitude, 136°33.6′ W. longitude).

2. Those waters of the FCZ in Sitka Sound east of a line extending from Cape Edgecumbe (56°59.9′ N. latitude, 135°51.3′ W. longitude) to Point Woodhouse (56°50.0′ N. latitude, 135°32.4′ W. longitude) on Biorka Island.

3. Those waters of the FCZ in Lower Chatham Strait and Frederick Sound north and east of a line extending from Cape Ommaney Light (56°09.6′ N. latitude, 134°39.6′ W. longitude) to Nation Point (55°54.5′ N. latitude, 134°20.7′ W. longitude on Coronation Island).

4. Those waters of the FCZ in Iphigenia Bay and Sumner Strait north and east of a line extending from Helm Point Light (55°49.6′ N. latitude, 134°16.1′ W. longitude on Coronation Island) to Cape Ulitka (55°33.7′ N. latitude, 133°43.6′ W. longitude).

The policy of the Council and of the National Marine Fisheries Service (NMFS) is that Federal management of fisheries in these intrusions should be coordinated, to the extent possible, with State management of fisheries in the Southeast Inside District. Under Federal regulations, the season for all groundfish, including sablefish, in the FCZ, including the intrusions, is January 1 to December 31. However, under State regulations, the sablefish season in the Inside District that is adjacent to the intrusions described in items 1, 2, and 3 above, is September 1 to November 15. The sablefish season in the Inside District adjacent to the intrusion described in item 4 above is March 15 to December 31. In past years, fishermen did not harvest sablefish in the FCZ intrusions except during these State seasons. In January, 1984, however, six vessels began harvesting sablefish in the FCZ intrusion that lies in lower Chatham Strait and Frederick Sound which is known as State Statistical Area 109 and described in item 3 above. As of February 17, 1984, these vessels had landed 110,000 pounds.

Until 1984, no sablefish fishery had been conducted in Chatham Strait prior to May since 1947 or prior to September since 1972. This new winter fishery is creating the following problems:

- Vessels fish for sablefish in State waters that are closed under State regulations, but report their catches as having come from the FCZ intrusion, thus creating an enforcement burden for the State, which otherwise would only have to monitor landings to ascertain that no sablefish were included with landings of other groundfish, the season for which is open year round;
- Alaska Department of Fish and Game (ADF&G) personnel must fund monitoring programs earlier than planned to document the progress of the fishery;
- A data base does not exist to manage a winter fishery compared to the eight years' record of data compiled since 1976, which is used to manage the fall fishery;
- Confusion has resulted among some fishermen who are reportedly fishing the State-managed enclaves, i.e., waters beyond three miles from shore that are surrounded by State waters, believing them to be open under Federal regulations. The enclaves were placed under State jurisdiction in 1983 by amendments to the Magnuson Fishery Conservation and Management Act (Magnuson Act); and
- Concentration of fishing effort in the FCZ intrusion in Chatham Strait could result in localized over harvest of

sablefish stocks. Based on historical fishery data, the desired sablefish harvest from this area is 114,000 pounds, the harvest of which is imminent.

The Council addressed this issue at its February 1–3, 1984, meeting. After hearing testimony from fishermen and representatives of their associations, and in recognition of the above factors, the Council voted unanimously to request the Secretary of Commerce to promulgate an emergency rule to terminate sablefish fishing in those portions of the FCZ that intrude into the inner coastal waters of southeast Alaska.

Because of the unanimous vote, section 305(e) of the Magnuson Act, requires the Secretary to promulgate emergency regulations to close the areas described above to sablefish fishing for the times specified. This emergency rule will be in effect for 90 days. Repromulgation of this emergency rule is anticipated for a subsequent period.

### Classification

The Assistant Administrator for Fisheries, NOAA, has determined that this rule is necessary to respond to an emergency situation and that it is consistent with the Magnuson Act and other applicable law. This action will avoid the adverse consequences of fishing at this time in the intrusions described above.

The Assistant Administrator also finds that, because achieving the desired harvest level of sablefish is imminent in the inner coastal areas being closed, and because the infrastructure needed to enforce and monitor this fishery would be too burdensome should they remain open, it would be impracticable and contrary to the public interest to provide notice and a prior opportunity for public comment, or to delay for 30 days the effective date of the rule under the provisions of 5 U.S.C. 553 (b) and (d) of the Administrative Procedure Act.

The Assistant Administrator prepared an environmental assessment (EA) for this action and concluded that no significant impact on the human environment will occur. A copy of the EA is available from the Regional Director at the address above.

The Assistant Administrator has determined that this rule will be implemented in a manner consistent to the maximum extent practicable with the Alaska Coastal Management Program; this determination has been submitted for review by the responsible state agency.

This emergency rule is exempt from the normal review procedures of Executive Order 12291 as provided in section 8(a)(1) of that order. This rule is being reported to the Director of the Office of Management and Budget, with an explanation of why it is not possible to follow the regular procedures of that order.

This rule is exempt from the procedures of the Regulatory Flexibility Act because the rule is issued without opportunity for prior public comment.

This rule does not contain a collection of information requirement and therefore is not subject to the provisions of the Paperwork Reduction Act.

### List of Subjects in 50 CFR Part 672

Fish, Fisheries, Reporting and recordkeeping requirements.

**William G. Gordon,**

*Assistant Administrator for Fisheries, National Marine Fisheries Service.*

For the reasons set out in the preamble, 50 CFR Part 672 is amended as follows:

## PART 672—GROUNDFISH OF THE GULF OF ALASKA

1. The authority citation for Part 672 reads as follows:

**Authority:** 16 U.S.C. 1801 *et seq.*

2. Section 672.23 is added to read as follows:

**§ 672.23 Seasons.**

(a) Groundfish may be taken in the regulatory areas, districts, or parts thereof, of the Gulf of Alaska from January 1 through December 31, subject to adjustment by the Secretary under § 672.22, except as provided by paragraph (b) and (c) of this section.

(b) Sablefish may not be taken in those waters of the FCZ identified in paragraphs (b) (1) through (3) of this section from March 6, 1984 until June 4, 1984 subject to adjustment under § 672.22 of this part.

1. Cross Sound east of a line extending from Cape Spencer Light (58°11.9′ N. latitude, 136°38.3′ W. longitude) to Yakobi rock (58°05.2′ N. latitude, 136°33.6′ W. longitude).

2. Sitka Sound east of a line extending from Cape Edgecumbe (56°59.9′ N. latitude, 135°51.3′ W. longitude) to Point Woodhouse (56°50.0′ N. latitude, 135 32.4′ W. longitude) on Biorka Island.

3. Lower Chatham Strait and Frederick Sound north and east of a line extending from Cape Ommaney Light (56°09.6′ N. latitude, 134°39.6′ W. longitude) to Nation Point (55°54.5′ N. latitude, 134°20.7′ W. longitude) on Coronation Island.

(c) Sablefish may be taken in those waters of the FCZ in Ipghigenia Bay and Sumner Strait north and east of a line extending from Helm Point Light (55°49.6′ N. latitude, 134°16.1′ W. longitude) on Coronation Island to Cape Ulitka (55°33.7′ N. latitude, 133°43.6′ W. longitude) only from 12:00 noon, March 15 through June 4, 1984, subject to adjustment under § 672.22 of this part.

[FR Doc. 84–6346 Filed 3–6–84; 12:44 pm]

BILLING CODE 3510–22–M

# Proposed Rules

Federal Register
Vol. 49, No. 48
Friday, March 9, 1984

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF AGRICULTURE

### Rural Electrification Administration

### 7 CFR Part 1700

### Criteria for Rate and Margin Stabilization Plans; Electric Wholesale Rates

**AGENCY:** Rural Electrification Administration, USDA.

**ACTION:** Advance notice of proposed rulemaking.

**SUMMARY:** Rural Electrification Administration (REA) is reviewing for possible revision its existing policies and procedures for review and approval of proposed changes in electric wholesale rates of its power supply borrowers. Generally, wholesale electric rates of the power supply borrowers are designed to achieve a specified margin level or Times Interest Earned Ratio (TIER). Borrowers' revenues or costs may vary widely from budget estimates because of uncertainties in projections of sales, plant availabilities, and other factors, and thereby cause the end of period margins or TIER to be considerably different from planned. Some borrowers are considering rate and margin stabilization plans to reduce wide variations in margin and TIER. For purposes of this advance notice, "rate and margin stabilization plans" refer to borrowers' provisions and policies designed to reduce fluctuations from budget estimates in yearly margins or TIER. These plans would generally provide for year-end adjustment of member revenue from wholesale rates for over or undercollection of amounts needed to minimize differences from specified margin or TIER levels. These plans might also provide for minimizing monthly fluctuations in wholesale rates such as caused by unplanned generation outages or other factors.

In connection with the use of rate and margin stabilization plans, REA and the borrowers have raised concerns such as: need and desirability, terms and conditions, accounting for stabilization adjustments, consistency with borrowers' by-law provisions, possible tax consequencs, effects on member-consumer capital credits, and consistency of REA approval criteria. Suggestions and comments are now being requested.

**DATE:** Public comments must be received by REA no later than April 9, 1984.

**ADDRESS:** Persons interested in addressing these concerns may submit written data, views, suggestions or comments to Charles R. Weaver, Director, Electric Borrowers Management Division, Rural Electrification Administration, Room 3342, South Building, U.S. Department of Agriculture, Washington, D.C. 20250. All written submissions made pursuant to this action will be available for public inspection during regular business hours at the above address.

**FOR FURTHER INFORMATION CONTACT:** Mr. David J. Lessels, Rate Policy Specialist, Electric Borrowers Management Division, at the above address, telephone number (202) 382-1929.

**SUPPLEMENTARY INFORMATION:** REA, as well as its borrowers, have been concerned in the past that the REA review of proposed power supply borrower wholesale rate changes have not been performed consistently with respect to criteria for rate and margin stabilization plans. REA is currently reviewing this issue for possible revision. Basic questions being considered include:

1. Are rate and margin stabilization plans for power supply borrowers needed and/or desirable under specific operating characteristics? These considerations encompass the power suppliers, their member systems, and the retail member-consumers.

2. What terms and conditions should the stabilization plans contain?

3. What provisions should stabilization plans contain for periodic review of the wholesale rate by boards of directors of the power supply borrowers? How should stabilization plans be affected by the requirement that REA approval is required for any rate change?

4. What accounting practices should be followed by the power supply borrowers and their member systems to reflect stabilization plan adjustments? Should all member systems of a power supply borrower have consistent accounting practices for these adjustments?

5. Are there tax considerations involved with such stabilization plans?

6. What effects would stabilization plans have on the patronage capital of the retail member-consumer? How should changes in retail member-consumers or changes in their loads from period to period be affected by stabilization plans, ensuring fairness in allocation of capital credits? Are plans consistent with borrowers' by-law provisions?

7. What additional factors should be considered where power supply borrowers and/or one or more of their member systems are subject to rate regulations by state regulatory authorities?

This program is listed in the Catalog of Federal Domestic Assistance as 10.850, Rural Electrification Loans and Loan Guarantees. Further public comment will be solicited when and if specific proposed rules are published.

*Indexing terms:* As required by 1 CFR 18.20, the following are the indexed terms and list of subjects for this regulation:

**List of Subjects in 7 CFR Part 1700**

Electric utilities, Loan programs—energy, Rural areas.

Dated: March 6, 1984.

**Joe S. Zoller,**

*Assistant Administrator—Electric.*

[FR Doc. 84-6477 Filed 3-8-84; 8:45 am]
BILLING CODE 3410-15-M

### 7 CFR Part 1736

### Electric Standards and Specifications

**AGENCY:** Rural Electrification Administration, USDA.

**ACTION:** Proposed rule.

**SUMMARY:** The Rural Electrification Administration (REA) proposes to amend 7 CFR Part 1736, Electric Standards and Specifications, by adding §§ 1736.10—1736.70. The proposed rule will set forth the rules and procedures to be followed by REA and manufacturers when REA approval is being sought for material and equipment items for general use by REA borrowers. Currently, this material is set forth in REA Bulletin 44-7, "Acceptance of

Standards, Specifications, Drawings, Materials and Equipment, and Timber Inspection Programs and Agencies." The primary purpose of this proposed rulemaking action is to codify the regulations.

**DATE:** Public comments must be received by REA no later than May 8, 1984.

**ADDRESS:** Submit written comments to the Director, Engineering Standards Division, Room 1256–S, U.S. Department of Agriculture, Washington, D.C. 20250.

**FOR FURTHER INFORMATION CONTACT:** Mr. Vikramaditya Railan, Electrical Engineer, Distribution Branch, Engineering Standards Division, Rural Electrification Administration, Room 1256–S, Washington, D.C. 20250, telephone (202) 382–0095. The Draft Impact Analysis describing the options considered in developing this proposed rule and the impact of implementing each option is available on request from Mr. Railan, at the above address.

**SUPPLEMENTARY INFORMATION:** Pursuant to the Rural Electrification Act of 1936, as amended (7 U.S.C. 901 et seq.), the Rural Electrification Administration (REA) proposes to amend 7 CFR Part 1736, Electric Standards and Specifications, by adding sections which will provide rules and procedures to be followed for REA acceptance of standards and specifications and for material and equipment items for use on REA borrowers' electric systems. These rules were previously contained in REA Bulletin 44–7, "Acceptance of Standards, Specifications, Drawings, Materials and Equipment, and Timber Inspection Programs and Agencies."

Several minor changes and clarifications are proposed.

This proposed action has been reviewed in accordance with Executive Order 12291, Federal Regulation. This action will not (1) have an annual effect on the economy of $100 million or more; (2) result in a major increase in costs or prices for consumers, individual industries, Federal, state or local government agencies; or (3) result in significant adverse effects on competition, employment, investment or productivity, and, therefore, has been determined to be "not major." This action does not fall within the scope of the Regulatory Flexibility Act. This program is listed in the Catalog of Federal Domestic Assistance as 10.850, Rural Electrification Loans and Loan Guarantees.

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3507), the reporting and recordkeeping provisions that are included in this proposed rule will be submitted for approval to the Office of Management and Budget (OMB). They will not be effective until approved by OMB.

## Background

The Rural Electrification Administration (REA) maintains regulations pertaining to design and construction of electric power systems for REA electric borrowers. REA is codifying these regulations, which are presently contained in REA bulletions listed in Appendix A of 7 CFR Part 1701. The regulations for System Design and Construction will be contained in Subchapter F of 7 CFR Chapter XVII. Part 1736 of Subchapter F, Electric Standards and Specifications, will contain rules and procedures to be followed by REA, its borrowers, and manufacturers for REA acceptance of material and equipment items for general use by REA borrowers.

Part 1736 will contain all REA standards and specifications. Section 1736.97 contains a list of standards and specifications which have been incorporated by reference. Part 1736 will also contain sections which will set out complete specifications for certain other items of material and equipment. These complete specifications will be published at a later date. Construction standards, and materials and equipment specifications are needed by REA and its borrowers to ensure uniform qualify and performance of system components and to limit the total cost of construction and operation of the resulting electric power system. REA uses existing voluntary standards wherever they are practical for use on rural electric system; however, where there are no standards or where the existing standards are not appropriate for REA's unique requirements, REA develops standards and specifications of its own.

The proposed rules are presently contained in REA Bulletin 44–7, "Acceptance of Standards, Specifications, Drawings, Materials, and Equipment, and Timber Inspection Programs and Agencies.

REA proposes to revise these rules in coordination with a separate revision of the timber program specifications by eliminating the REA listing of timber treating plants and independent inspection agencies. Although REA will no longer list timber plants and inspection agencies, REA borrowers would be required to select timber products in compliance with REA timber specifications in accordance with proposed Rule 7 CFR 1736 appearing on page 2115, Vol. 49, No. 12, of the **Federal Register** (January 18, 1984).

The proposed rule would also establish a one-year time limit on the technical acceptance of nondomestic materials and equipment (Nondomestic items are items which do not quality as domestic products pursuant to REA "Buy American" requirement which will be codified as Part 1790 of this chapter). After the expiration of one year, such technical acceptance must be renewed. This is to ensure that technical acceptance remains current.

## List of Subjects in 7 CFR Part 1736

Electric utilities, Engineering standards.

In view of the above, REA proposes to amend Part 1736 of 7 CFR Chapter XVII by adding §§ 1736.10 through 1736.70 to read as follows:

# PART 1736—ELECTRIC STANDARDS AND SPECIFICATIONS

Sec.

1736.10 General purpose and scope.
1736.20 Establishment of standards of specifications.
1736.30 Technical standards committees.
1736.40 Procedure for submission of a proposal.
1736.50 Removal of an item from listing or technical acceptance.
1736.60 List of materials and equipment.
1736.70 Prosurement of materials.

**Authority:** 7 U.S.C. 901 et seq. and 7 U.S.C. 1921 et seq.

### § 1736.10 General purpose and scope.

(a) The requirements of this part are based on contractual provisions between REA and the organizations which receive financial assistance from REA.

(b) In order to achieve the objectives of the Rural Electrification Act and ensure loan security, ERA will establish the specifications and standards for materials, equipment, and construction units that will be acceptable for REA financial assistance for the electric program. Materials and equipment purchased by the electric borrowers or accepted as contractor furnished material must conform to REA standards and specifications where they have been established and, if included in REA Bulletin 43–5, "List of Materials Acceptable for Use on Systems of REA Electrification Borrowers" (List of Materials), must be selected from that list or must have received technical acceptance from REA. REA, through its Technical Standards Committees, will evaluate materials, equipment and construction units, and will determine acceptance.

### § 1736.20 Establishment of standards and specifications.

(a) *National and other standards.* ERA will utilize standards of national

standardizing groups, such as the American National Standards Institute (ANSI), American Wood Preservers' Association (AWPA), the varius national engineering societies and the National Electrical Safety Code (NESC), to the greatest extent practical. When there are no national standards or where REA determines that the existing national standards are not adequate for rural electric systems, REA will prepare standards for material and equipment to be used on systems of electrification borrowers. ERA standards and specifications are listed in § 1736.97, Incorporation by Reference of Electric Standards and Specifications. REA will also prepare specifications for materials and equipment when it determines that such specifications will result in reduced costs, improved materials and equipment, or in the more effective use of engineering services.

(b) *Deviations from standards.* No member of the REA staff will be permitted to authorize deviations from the standard specifications, or to establish or change the technical standards, or to authorize the use of items that have not received acceptance by the Technical Standards Committees, except as provided for under § 1736.70, or by authorization and/or delegation of authority by the Administrator of REA.

(c) Items appearing in the List of Materials are listed by categories of generic items which are used in REA construction standards incorporated by reference in § 1736.97. REA will establish and define these categories and will establish all criteria for acceptability within these categories.

**§ 1736.30 Technical standards committees.**

(a) *Scope.* REA, through its Technical Standards Committees, will determine the acceptability of standards, standard specifications, standard drawings, and items of materials and equipment to be used in transmissions, distributions and general plant (excluding office equipment, tools, and work equipment, and consumer-owned electric service wiring facilities).

(b) *Address of committees.* All inquiries in regard to listing a product in the List of Materials must be addressed to Technical Standards Committee "A." The address of Technical Standards Committee "A" is: Chairman, Technical Standards Committee "A" (Electric), U.S. Department of Agriculture, Rural Electrification Administration, Washington, D.C. 20250. The address of Technical Standards Committee "B" is: Chairman, Technical Standards Committee "B" (Electric), U.S. Department of Agriculture, Rural Electrification Administration, Washington, D.C. 20250.

(c) *Technical Standards Committee "A"*—(1) *General.* This committee will receive, from the sponsor, all proposals of specifications, drawings, materials, or equipment in categories for which REA has established acceptability criteria. A sponsor may be a manufacturer, supplier, contractor or any other person or organization which has made an application for listing or has requested an action by the Committee. All Committee decisions must be unanimous. If the vote is not unanimous, the item shall be referred to Technical Standards Committee "B." Committee "A," by unanimous vote, may take one of the following actions:

(i) Accept an item for listing without conditions (domestic items only),

(ii) Reject an item (domestic or nondomestic [1]),

(iii) Accept an item for listing with conditions (domestic items only),

(iv) Table an item for a time period sufficient to allow the sponsor to be notified and furnish additional information (domestic or nondomestic),

(v) Remove an item from listing or withdraw technical acceptance, or

(vi) Grant technical acceptance with or without conditions for a period of one-year from the date of notification by REA for nondomestic items.

Items accepted without conditions by the Technical Standards Committees will be considered to be accepted on a general basis, whereas items accepted subject to certain conditions, such as limited use to gain service, or experience or limited use appropriate to certain areas and conditions, will be considered to be accepted on a conditional basis and the conditions will be cited as a part of the listing provided for in § 1736.60, or as part of the technical acceptance for nondomestic items. No restrictions as to quantity or application will be placed on items which have received general acceptance.

(2) *Appeal from rejection.* A sponsor may request a review of an adverse decision by Technical Standards Committee "A" within ten (10) days of notification of such decision by submitting a letter requesting such review to Technical Standards Committee "B" (Electric). In the event of an adverse decision by Committee "B," the sponsor may, within ten (10) days of notification of such decision, request a reveiw of this decision by submitting a letter to the Administrator requesting such a review.

(3) *Change of design.* REA acceptance of an item will be conditioned on the understanding that no design changes (material or dimensions) affecting the quality, strength, or electrical characteristics of the item shall be made without prior knowledge and concurrence of Technical Standards Committee "A."

**§ 1736.40 Procedure for submission of a proposal.**

(a) *Written request.* Consideration of an item of material or equipment will be obtained by the sponsor through the submission of a written request in an original and five copies addressed to the Chairman, Technical Standards Committee "A" (Electric). The letter must include the catalog number or other identifying number or code as well as a description of the item. In the event that an item being submitted is also intended for consideration by Technical Standards Committee "A" (Telephone), a separate request must be made to the telephone committee. (See Part 1772 of this chapter).

(b) *Technical and performance data.* Six copies of the specification of manufacture, drawings and test data must be submitted to the committee. If the product is an established item in the industry, six copies of the performance history should also be submitted.

(c) *Sample.* One sample of the item must be submitted to the Chairman, Technical Standards Committee "A," unless REA waives the requirement of the sample. In case of large, bulky or extremely heavy samples, the sponsor should contact the Chairman, Technical Standards Committee "A" (Electric), at the above address, before any sample is shipped.

(d) *Action on proposal.* REA will inform a sponsor of the action taken on the sponsor's proposal.

**§ 1736.50 Removal of an item from listing or technical acceptance.**

(a) *Removal actions.* An item of material or equipment may be removed from the listing or technical acceptance in accordance with the following procedures upon a finding that the item is unsatisfactory or has been misrepresented to the owner or REA.

(b) *Notification by the committee.* The sponsor will be notified in writing of the proposed action.

(c) *Supplemental information.* Within ten (10) days of receipt of such notification, the sponsor may submit to Committee "A" a letter expressing the sponsor's intent to submit written

[1] Nondomestic items are items which do not qualify as domestic products pursuant to REA "Buy American" requirements which will be codified as Part 1790 of this Chapter.

supplemental technical information relevant to Committee "A's" determination. The sponsor must submit such information within twenty (20) days from the submission of its letter to Committee "A." Committee "A" will have the discretion of making a decision following the expiration of the time periods provided in this paragraph.

(d) *Review by the committee.* Committee "A" will consider all relevant information presented in determining whether an item should be removed from the listing or technical acceptance. Formal rules of evidence and procedure shall not apply to proceedings before Technical Standards Committee "A."

(e) *Action by the Technical Standards Committee "A".* All Committee "A" decisions must be by unanimous vote. If the vote is not unanimous, the item will be referred to Technical Standards Committee "B." Committee "A," by unanimous vote, may take one of the following actions:

(1) Order the immediate removal of the item from the listing, or technical acceptance,

(2) Condition the item's continued listing, or technical acceptance,

(3) Recommend a basis of settlement which will adequately protect the interests of the Government, or

(4) Delay the effectiveness of its decision for a time period sufficient to allow the sponsor to appeal to Technical Standards Committee "B."

Written notice of Technical Standards Committee "A's" decision, stating the basis for the decision, shall be provided to the sponsor.

(f) *Additional opportunity to present information.* At the request of the sponsor, REA may decide to afford additional opportunity for consideration of relevant information including, without limitation, a meeting between REA and the sponsor in such a forum that REA may determine. In making this decision, REA will consider among other things the best interests of REA, its borrowers, and the sponsor, and the best manner to develop sufficient information relating to the proposed action.

(g) *Appeal to the Technical Standards Committee "B".* Within ten (10) days of notification of Committee "A's" decision, a sponsor may appeal in writing to Technical Standards Committee "B" to review Committee "A's" decision, specifying the reasons for such a request. Committee "B's" determination, in response to such request, shall be based on the record developed before Committee "A" and such additional information as Committee "B" may request. Formal rules of procedure and evidence shall not apply to proceedings before Committee "B."

(h) *Action by Technical Standards Committee "B".* Committee "B," by majority vote, may take one of the following actions:

(1) Order the immediate removal of the item from the listing, or technical acceptance,

(2) Condition the item's continued listing, or technical acceptance,

(3) Recommend a basis of settlement which adequately protects the interests of the Government, or

(4) Delay the effectiveness of its decision for a time period sufficient to allow the sponsor to appeal to the Administrator, REA.

Written notice of Committee "B's" decision stating the basis of the decision shall be provided to the sponsor.

(i) *Appeal to the Administrator.* Within ten (10) days of the receipt of Committee "B's" decision, a sponsor may appeal to the Administrator to review Committee "B's" decision. If an appeal is made, the sponsor shall submit a written request to the Administrator of REA at the address given in Part 1700 specifying the reasons to request reconsideration. The Administrator will have the option to decline the request, in which case the decision of Committee "B" shall stand. If a review is granted, the determination by the Administrator or the Administrator's designee shall be based on the record developed before Committee "A" and Committee "B" and such additional information as the Administrator may request. Formal rules of procedure and evidence shall not apply to the actions of the Administrator.

(j) *Action by the Administrator.* The Administrator will take one of the following actions:

(1) Order the immediate removal of the item from the listing, or technical acceptance,

(2) Condition its continued listing, or technical acceptance, or

(3) Recommend a basis of settlement which adequately protects the interests of the Government.

Written notice of the Administrator's determination, stating the basis for the decision, shall be provided to the sponsor. The Administrator's actions are final.

**§ 1736.60 List of materials and equipment.**

(a) *General.* Those items of material or equipment accepted by the Technical Standards Committees "A" and/or "B," with the exception of technically accepted nondomestic items, will be listed in the List of Materials. Items which do not qualify as domestic products may be accepted on a technical basis only (technical acceptance) for a period of one year as provided in § 1736.30 (c)(1) and will not be included in the List of Materials.

(b) *Publishing and revisions.* REA will reissue the List of Materials every year dated July, and issue supplements, if needed, dated October, January, and April of every year. The List of Materials will be updated every time changes are made by the Technical Standards Committees.

(c) *Dual listings.* REA, through its Technical Standards Committees, will accept for listing only one item of a particular type of material or equipment for each manufacturer. If a manufacturer submits an item to perform the identical function of a listed item, REA, through its Technical Standards Committees, may accept that item and remove the one previously listed.

REA will list only new items of material and equipment in the List of Materials. Used items will not be considered for listing.

**§ 1736.70 Procurement of materials.**

(a) *By owner.* REA borrowers must purchase materials listed in the List of Materials, or materials which have a current technical acceptance by REA, and meet the "Buy American" requirement which will be codified as Part 1790 of this chapter.

(b) *By contractor.* Contractors performing work for an REA borrower will be required to supply items from the general acceptance pages of the List of Materials, or they will obtain the borrower's concurrence prior to purchase and use of any technically accepted nondomestic item or any item listed on a conditional basis.

(c) *Procurement of unlisted items.* (1) The borrower shall request prior approval from REA for use of an item that does not fall in categories established by REA in the List of Materials for which acceptability has been established by the Technical Standards Committees.

(2) REA will also determine whether to allow use of an unlisted item in emergency situations and for experimental use on a case-by-case basis. An emergency is deffined as a situation wherein the supply of listed material and equipment from the industry it not readily available, or the standard designs are not applicable to the borrower's specific problem under consideration.

(3) REA will make arrangements for test or experimental use of newly

developed items requiring limited trial use. REA, working with the borrower and the manufacturer, will establish test locations for the items to facilitate installation and observation.

Dated: February 14, 1984.

Jack Van Mark,

*Acting Administrator.*

[FR Doc. 84-6476 Filed 3-8-84; 8:45 am]

BILLING CODE 3410-15-M

## FEDERAL TRADE COMMISSION

### 16 CFR Part 300

### Wool Products Labeling

**AGENCY:** Federal Trade Commission.

**ACTION:** Summary of comments.

**SUMMARY:** The Federal Trade Commission published a notice in the Federal Register on April 22, 1983 (48 FR 17360) that it was considering amending Part 300 of the Rules and Regulations under the Wool Products Labeling Act of 1939. The proposed amendment would have deleted the word "minimum" in § 300.29 and would have inserted, in lieu thereof, the word "average." Section 300.29 sets forth the manner of labeling wool products which consist of, or are made from, miscellaneous cloth scraps comprising manufacturing by-products and containing various fibers of undetermined percentages. The illustrations in § 300.29 show permissible labeling for wool products. Each of these illustrations requires the disclosure of the minimum percentage of recycled wool on labels. The amendment which was considered by the Commission would have required that the average, rather than the minimum, percentage of recycled wool be disclosed on labels. The Commission determined not to amend the rules and regulations under the mentioned act, because there was no evidence on the record to support any change.

**FOR FURTHER INFORMATION CONTACT:** Jerry R. McDonald, Attorney, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580, (202/376-2800).

**SUPPLEMENTARY INFORMATION:** On April 22, 1983, the Commission published in the Federal Register (48 FR 17360) an invitation to comment on what standard should apply to labeling the recycled wool content of wool products which consist of, or are made from, miscellaneous cloth scraps comprising manufacturing by-products and containing various fibers of undetermined percentages. Section 300.29 of the Rules and Regulations under the Wool Products Labeling Act of 1939 now requires that these products be labeled with the minimum percentage of recycled wool. The Rule contemplates that the minimum percentage will be determined through a series of fiber content tests.

It was announced that the Commission was considering changing the Rule to require that these products be labeled with the average percentage of recycled wool. It was thought that labeling with the average percentage of recycled wool may provide more accurate information to the consumer concerning the recycled wool content and that lowest percentage labeling may be as misleading as highest because it introduces a downward bias. On the other hand, labeling with the minimum standard assures that the consumer will receive at least the percentage of recycled wool stated on the label.

Fifteen industry members, trade associations and a fiber content testing firm responded to the Commission's invitation to comment on the proposed amendment. All of the commenters were opposed to the change. Several of those commenting were opposed to the amendment because it would, in their opinion, permit the mislabeling of recycled wool-blend products. Others thought that there would be problems with enforcing the Rule if it were amended as proposed. It was further commented that if manufacturers were permitted to average the amount of recycled wool in a product and label with the average, there would be less incentive to maintain quality controls.

The Commission has determined not to amend the rule because there is no evidence on the record to support the proposed change.

### List of Subjects in 16 CFR Part 300

Labeling, Textile, Trade practices, Warranties, Wool.

Dated: December 14, 1983.

By Direction of the Commission.

Emily H. Rock,

*Secretary.*

[FR Doc. 84-6231 Filed 3-8-84; 8:45 am]

BILLING CODE 6750-01-M

## COMMODITY FUTURES TRADING COMMISSION

### 17 CFR Parts 1 and 33

### Commodity Options; Margins

**AGENCY:** Commodity Futures Trading Commission.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Commodity Futures Trading Commission ("Commission") is proposing to amend Commission regulation § 33.4(a)(2), which currently requires contract markets applying for designation to trade commodity option contracts to provide that a clearing organization must receive from each of its clearing members, that each clearing member must receive from each other person for whom it clears commodity options contracts, and that each futures commission merchant must receive from each of its option customers, the full amount of each option premium at the time the option is purchased. Under the proposed rule amendment, contract markets could choose instead to adopt rules permitting their members to make a deposit with respect to the option premium, subject to the requirements that the system used by an exchange to determine the deposit required for a particular option be designed to assure that: (1) The deposit reflects, as closely as possible, the actual risk of holding the option contract; (2) a safety surcharge is imposed upon holders of a large number of option positions; and (3) the option positions of each customer are reported to the clearing organization on a daily basis. Public customers would still be required to make a deposit equal to 100% of the option premium and would not be permitted to withdraw that premium or any amount reflecting a subsequent increase in the value of the option position. This rule is being proposed in response to requests by the contract markets that the Commission consider modifying the current system for margining futures options in order to promote the economic efficiency of the commodity options markets. In addition, the Commission is proposing to amend Commission regulations §§ 1.3, 1.12 and 1.17 to reflect in its minimum financial requirements for futures commission merchants the margin treatment which may be accorded options positions under the proposed amendments to § 33.4(a)(2).

**DATE:** Comments must be submitted on or before April 9, 1984.

**ADDRESS:** Comments should be submitted to the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581.

**FOR FURTHER INFORMATION CONTACT:** Karen Matteson, Attorney Advisor, Division of Trading and Markets, at the above address. Telephone: (202) 254-8955.

**SUPPLEMENTARY INFORMATION:**

## I. Background

In designating exchanges as contract markets in options on futures contracts, the Commission approved certain exchanges' rules which provide special margin treatment for option positions held by floor traders.[1] These exchange margining systems generally permit the market value of a long option, adjusted by formula for the risk of one day's market move, to be used to reduce the aggregate margin obligations on certain short option positions and futures positions held in a floor trader's account. Under these systems, the amount of margin required on a single short option position is calculated using two components. The first component is the payment or receipt of the option premium, which represents the value of the option position. The second component assesses the risk in carrying the option position. These exchanges calculate risk using a "delta" factor, which is based on a theoretical model which approximates the amount the value of the option, as measured by the premium, will change when the value of the underlying futures contract changes one dollar.[2] The delta factor is calculated by the exchanges on a daily basis using settlement prices under the approved delta margining systems. The delta factor is multiplied by the applicable futures margin to arrive at the risk component of the required margin. The resulting risk margin component is then added to the equity margin component (the short option premium) in order to derive the total amount of margin owed on a single short option contract. The option writer receives the option premium in cash, which reduces the net cash required to carry the position.

Margin calculations for combinations of positions are performed by first assessing spread margins against futures spreads and then assigning positive or negative delta factors to remaining long or short futures and option positions held in an account and netting the aggregate of the assigned deltas.[3] The net delta is multiplied by the applicable futures margin and the resulting risk margin component is then added to the equity margin requirement (short option premiums received minus long option premiums paid) for the combination positions. In certain instances, however, the exchanges may apply a minimum requirement against certain out-of-the-money option positions before netting those positions.[4]

In March of 1983, the Commission issued a Notice and Request for Comment which solicited comments concerning the system for assessing and collecting margin on futures option contracts. 48 FR 10857 (March 15, 1983). In that Notice, the Commission set forth specific inquiries designed to elicit information which would help the Commission determine whether current margin requirements affecting floor traders who may perform certain market-making functions differ unnecessarily from requirements pertaining to securities option marketmakers, resulting in reduced liquidity and reduced effeciency of the futures option markets. The Commission specifically requested comments regarding:

1. The advantages and disadvantages of adopting a rule similar to [Securities and Exchange Commission ("SEC") rule] 15c3–1(c)(2)(x) governing securities options which would allow inclusion of the market value of a long futures option contract minus an appropriate risk factor as part of a firm's current assets.

2. Whether the Commission should consider adopting any other aspects of the margining system which applies to securities options.

3. The advantages and disadvantages of permitting margining of option premiums paid by floor brokers.

4. The advantages and disadvantages of extending the separate floor trader margining systems, like that of CME, approved by the Commission beyond active floor traders to all members of a contract market [where] the instrument is traded.

5. Whether a system of margining premiums for floor traders can be designed which eliminates potential pyramiding, and if so how such a system would operate.

6. What the best approach would be under the current regulatory scheme for options to assign long futures options collateral value. Commenters supporting a system which assigns collateral value to long futures options should also address what "haircuts" or "safety factor [charges]" should be applied to reduce the value at which such options are includable in a firm's current assets.

In response to comments received regarding the fourth issue,[5] the Commission notified the exchanges and the public that it would consider proposed amendments to existing exchange option margin rules in order to allow extension of margin systems which permit floor traders trading for their own accounts to pay reduced margin to certain additional categories of exchange members.[6] 48 FR 50073 (October 31, 1983).

The Commission has now evaluated comments received regarding the other five questions on which comment was requested. Two basic means of revising the margining of options were addressed by these specific questions: a capital charge system which permits use of the long option value (less a safety factor), and a system which permits the direct margining of premiums. Assigning collateral value to long options and permitting risk-valued deposits with respect to premiums are both ways of reducing the cost for market professionals of maintaining net long positions. The Commission has considered these and other methods for reducing such payment obligations and the alternatives presented by commentators or otherwise considered by the Commission are discussed in Part II, *infra*.[7] As the result of its review of

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[1] These exchanges are the Chicago Mercantile Exchange ("CME") and the New York Futures Exchange ("NYFE"). The Commodity Exchange, Inc. ("Comex") subsequently adopted, and the Commission has approved, such a system.

[2] *See* Black, "The Pricing of Commodity Contracts," *Journal of Financial Economics*, January/March (1976). *See also* Phillips and Tosini, *A Comparison of Margin Requirements for Options and Futures*, Financial Analysts Journal (Nov.–Dec. 1982). The exchanges could also have proposed systems based upon some other type of risk component. At present, however, the three exchanges which do have special margining systems for exchange members employ delta systems. A fourth exchange, the Chicago Board of Trade ("CBT"), requires no margin on futures positions held by floor traders. Thus, the futures component of a CBT floor trader's options margin requirement (premium plus futures margin) is zero. Such a system would have to be modified if only a premium deposit were required.

[3] The delta for a long or short futures position will be minus or plus one, respectively, while the delta for an option position on the long side of the market (long calls or short puts) will be between zero and minus one while opitions on the short side of the market (short calls or long puts) will have deltas between zero and plus one.

[4] *See, e.g.*, CME, *Floor Trader Margins: Calculations for Options on Standard and Poor's 500 Stock Index Futures* at 6, Example 1; Comex, *Option Margin Requirements for Floor Traders* at 5 (November 21, 1983).

[5] The Commission received thirteen comment letters regarding the above six issues. With the exemption of the Chicago Board Options Exchange, all of the commentators favored reducing option margin obligations of market professionals through one or more of the methods suggested in the Commission's Request for Comment.

[6] On December 15, 1983, the Commission approved such an amendment which was proposed by NYFE. By letter dated January 25, 1984, the Commission's Division of Trading and Markets remitted proposed CME rule amendments because CME's submission did not meet the form and content requirements of Commission regulation § 1.41(b), (*See* 17 CFR 1.41a(a)(1)), and the proposed CME rules did not appear to reflect the guidelines set forth by the Commission in 48 FR 50073. Comex has not proposed a similar amendment to its margin rules.

[7] In addition to considering the views expressed in letters received by the Commission in response to

Continued

these alternatives, the Commission has determined to propose amendment of its regulation 33.4(a)(2), as explained in Part III, *infra*.

## II. Alternative Methods for Reducing Option Margin Obligations of Market Professionals

### *A. Requirements for Securities Option Marketmakers*

The Commission specifically solicited comment regarding the advantages and disadvantages of adopting a rule similar to SEC rule 15c3–1(c)(2)(x), which governs securities options and permits the use of a portion of the long option value in a trader's account to purchase additional option positions. Under the securities options margin system, full payment of the option premium is required. SEC rule 15c3–1(c)(2)(x) provides, however, that with respect to any exchange option transaction for which a securities broker or dealer acts as a guarantor, endorser or carrying broker or dealer for options purchased or writteh by a specialist, such broker or dealer may treat the option as a current asset but must adjust its net worth by deducting an amount equal to fifty percent of the market value of each long option contract and seventy-five percent of the market value of each short option contract. The Commission considered proposing a similar provision which would have allowed inclusion of the market value of a long futures option contract minus an appropriate risk factor as part of a carrying futures commission merchant's ("FCM's") current assets.

The Commission's consideration of a provision similar to SEC Rule 15c3–1(c)(2)(x) was prompted in part by a petition for rulemaking which was submitted by the CBT on November 19, 1982.[8] The proposed amendment to Commission regulation § 1.17(c)(2) provided that a firm's current asset would:

> Include receivables from individual members of a contract market resulting from the purchase of commodity options, to the extent of the market value of such commodity options.

The CBT's proposed amendment was intended, among other things, to permit FCMs to make loans of the option premium secured by the market value of the option purchased. Under the proposal these loans would be deemed secured by the full amount of the market value of the option. CBT therefore argued that no "haircuts" should be taken on the value of such options.[9] If the option decreased in value, the member would be required to deposit additional funds. Otherwise, a portion of the loan would be unsecured, resulting in the FCM receiving a capital charge for the deficiency. An increase in the value of the option would not have resulted, however, in disbursement of funds to the member or in the member being permitted to use such an increase in value to purchase additional options.[10]

CBT itself stated that it was making its proposal in an attempt to gain some interim relief from the requirement of full payment of the option premium imposed by Commission regulation § 33.4(a)(2). CBT therefore subsequently joined with other exchanges in proposing a system permitting payment of deposits with respect to option premiums.[11] In contrast to CBT's original petition, however, the joint exchange proposal charaterizes the securities industry's system as inefficient, pointing out that a system permitting payment of deposits with respect to option premiums would be preferable because:

> It makes little sense to have a buyer pay the premium and then finance the purchase [of the option], while simultaneously giving the seller the premium and making him put it back up as margin. It makes better sense just to eliminate the premium and have both parties deposit margin.[12]

In addition, the exchange contend that the options margining system should be made similar to the existing futures margining system in order to minimize customer and FCM confusion.[13]

The Commission recognizes that a futures-style margin system may be easier for exchanges to implement and more familiar to market professionals. Such a system might eliminate current market inefficiencies which may discourage purchase of in-the-money options, and might be less likely to inhibit arbitrage between the futures and options markets than would a capital charge system. Moreover, it may well be difficult to design a capital charge system which assigns different market values to options held by customers and market professionals. For these reasons, which are more fully discussed below, the Commission is not proposing a rule similar to SEC Rule 15c3–1(c)(2)(x) at this time, but rather proposes an alternative margin provision. The Commission would, however, welcome any further comments on the appropriateness of such a rule.

### *B. Requiring a Minimum Deposit*

A second alternative considered by the Commission was to require adoption by the exchanges of specified minimum levels of deposit with respect to each option premium. The Commission has also determined for several reasons not to proposed such a minimum deposit system at this time. First, a minimum deposit system fails to account for the exchanges' current practice, when determining the margin for short option positions, of netting the premiums and deltas for combination positions and for positions carried in each clearing member's account. Second, requiring the exchanges to implement a minimum deposit system would constitute a departure from the Commission's past practice in the pilot program of permitting the exchanges themselves in the first instance to determine the level

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its March 15, 1983 Notice and Request for Comment, the Commission has considered the views expressed by the Chicago Board of Trade in its November 19, 1982 Petition for Rulemaking, and CBT's December 13, 1982 and January 26, 1983 correspondence regarding that petition, discussed in Part II A *infra*; CME, *Floor Trader Margins: Calculations for Options on the Standard and Poor's 500 Stock Index Futures*; Comex, *Option Margin Requirements for Floor Traders—Description and Examples* (November 21, 1983); Phillips and Tosini, *A Comparison of Margin Requirements for Options and Futures*, Financial Analysts Journal (Nov.–Dec. 1982); Chandrasekar, *The Case for "Future-Style" Options*, The Financial Exchange (published by CBT) (Fourth Quarter 1983); Goodman; *New Options Market*, Fed. Reserve Bank of New York Quarterly Rev. (Autumn 1983); Phillips and Zecher, *The Delta Factor—Implications for Risk Management, Market Making, and the Monitoring of Credit Usage and Financial Stability* (unpublished monograph) (1978); the Chicago Board of Trade's November 17, 1983 comments regarding proposed expansion of the Commission's pilot program to include domestic agricultural commodities; a September 9, 1983 letter from Cargill to Commission Kalo Hineman regarding the Commission's proposed expansion of the pilot program to include options on agricultural commodities; and additional comments in response to the Commission's March 15, 1983 Notice which were submitted by the CME on December 20, 1983. All of these items are available for public inspection at the Office of the Secretariat.

[8] The CBT simultaneously submitted a proposed amendment to section 211 of its Appendix 4B FCM capital requirements for Commission approval pursuant to section 5a(12) of the Act. The Exchange has agreed to waive Commission consideration of its rule submission for at least sixty days after conclusion of this rulemaking proceeding.

[9] In this regard, CBT stated that "haircuts," which would result in less than 100% of the value of the option being counted as security for the loan, traditionally have been imposed on collateral to account for illiquidity of such collateral. CBT asserts that, because the options markets are relatively liquid, such haircuts should not be required. January 26, 1983 letter from CBT to Andrea M. Corcoran, Director of the Commission's Division of Trading and Markets, at 5–6. *But see* SEC Rule 15c–3–1(c)(2)(x), which permits the use of only 25% to 50% of the market value of an option.

[10] *See* CBT's January 26, 1983 letter at 4 for CBT's explanation of its proposal.

[11] This Joint Exchange Letter was submitted on behalf of the CBT; CME; the Coffee, Sugar & Cocoa Exchange, Inc.; Comex; the MidAmerica Commodity Exchange and NYFE.

[12] Joint Exchange Letter at 11.

[13] *Id.* at 12.

of margin necessary to protect adequately against risk. Although a particular minimum deposit system proposed by a contract market may satisfy the terms of the Commission's proposed exemption to § 33.4(a)(2), the Commission notes that the delta systems currently employed by CME, NYFE and Comex, if adjusted to apply to long option positions and to meet the requirements of this proposed rule, would be somewhat more refined. The Commission does not wish to mandate a system which would discourage possible research and identification by the exchanges of margining systems which most accurately reflect the risk of all possible option positions.

*C. The Exchanges' Proposal*

In their comment letter, the six exchanges proposed what is, in essence, a futures—style margining system for options. While public customers would be required to deposit an amount equal to 100% of any option permium at the time an option is purchased,[14] professional traders would be permitted to deposit less than 100% of the option premium. Such deposits would be held in segregation by each trader's FCM, just as original futures margin is segregated by each customer's FCM. In all cases—even with respect to customers, where 100% of the premium is collected in the first instance—premiums would not flow through the clearing system from the purchasers to the grantors as they do at present. Instead, the deposit with respect to the premium would be treated as futures margin is treated, with only the deposit portion of the premium flowing to the clearing organization. With respect to customers—who would continue to deposit the entire premium with an exchange member—the clearing member would be required only to deposit with the clearing organization the amount required to be deposited on members' positions. Open option positions would be marked to the market, as measured by the settlement premiums, on a daily basis. Variation payments would be made through the clearing organization from holders of positions incurring net losses to the holders of positions incurring net gains as they are in futures, but customers would not be permitted to withdraw any increase in an option's value.

In conjunction with their proposal, the Exchange proposed that the Commission amend its regulations § 33.4(a)(2) to state that each exchange applying for designation as a contract market to trade commodity options must provide:[15]

> That the clearing organization must receive from each of its clearing members, that each clearing member must receive from each other person for whom it clears commodity option transactions, and that each futures commission merchant must receive from each of its option customers, *a payment or deposit in respect* [the full amount] of each option premium [at the time the option is purchased] *in accordance with such rules as the Commission may approve.*

The Commission is now proposing to amend its regulation § 33.4(a)(2) to permit exchanges to adopt, with Commission approval, systems which permit market professionals to make deposits with respect to option premiums as suggested in the exchanges' proposal. The Commission believes, however, that it is necessary to set forth explicitly in regulation § 33.4(a)(2) the standards which it will apply in determining whether to approve exchanges' proposed systems for accepting deposits with respect to option premiums.[16] In particular, the Commission is concerned that exchange rules provide for a system of determining the amount of deposit to be made with respect to the premium which reflects the risk of the position as accurately as possible, including the increased risk inherent in holding a large number of positions or out-of-the-money positions. In addition, the Commission is concerned that the clearinghouse have adequate data regarding the number of open option positions, and that such positions therefore be reported on a gross, rather than a net, basis.[17] The Commission also notes that, while the exchange indicated that customers would continue to be required to deposit an amount equal to 100% of the option premium, the exchanges' proposed revised version of Commission regulation § 33.4(a)(2) does not contain language to this effect.

The Commission is now proposing amendments to regulation § 33.4(a)(2) to address each of these concerns.

**III. The Commission's Proposed Amendments to Commission Regulation § 33.4(a)(2)**

Commission regulation § 33.4(a)(2) currently requires that each clearing organization must receive from each of its clearing members, that each clearing member must receive from every other person for whom it clears commodity option transactions, and that each FCM must receive from each of its option customers, the full amount of the option premium at the time the option is purchased. The proposed amendment to § 33.4(a)(2) would permit exchanges to apply to the Commission pursuant to section 5a(12) of the Act and Commission regulation 1.41(b) [18] for an exemption from the above requirement of full payment of the option premium at each level at which the premium must be collected. Specifically, an exchange would be permitted to request Commission approval of a system which requires the exchange's clearing organization to receive from each of its clearing members and each clearing member to receive from each person for whom it clears commodity option transactions a deposit with respect to the option premium collected from each option customer rather than the full premium amount.

Notwithstanding this provision, however, the Commission intends to continue to require each clearing member and FCM to collect the full amount of each option premium from customers which are not members of the exchange on which the option is traded. In addition, such deposits would be required to be made in accordance with certain Commission-approved requirements regarding the relationship of the deposit to the risk of holding the position involved, daily adjustments to the required deposit which reflect changes in the risk of holding the option

[14] The Commission is not considering eliminating the requirement that public customers pay 100% of the option premium at this time. The Commission continues to believe that this requirement is necessary in order to ensure the safety of customer funds and in order to ensure that customers not be misled into believing that they have fulfilled their obligation on the option contract when, in fact, they have only paid a portion of the option premium. The Commission understands that some exchanges believes that the single payment limited risk feature of a long option position is an attractive feature of options to many customers and is thus useful in marketing these new products.

[15] Bracketed language would be deleted from the current regulation whereas italicized language would be added to the regulation.

[16] While section 4c(c) of the Commodity Exchange Act ("Act") provides the Commission with plenary authority to review options margin rules in a manner that would not otherwise be applicable with respect to futures margins under section 5a(12) of the Act, governing Commission review of exchange rules, section 4c(c) itself does not set forth any objections criteria pursuant to which the Commission could review exchange rules proposals.

[17] Such position information may be necessary not only for monitoring the potential financial exposure of exchange members, but also to assure that clearing members are not paying more margin into the clearing organization than they are collecting from the accounts which they carry. *Cf.* Commission regulation § 1.17(c)(5)(x).

[18] 17 CFR 1.41(a)(2)(viii), 48 FR 49003, 49008 (October 24, 1983), defines provisions relating to "payment or collection of commodity option premiums or margins" as "terms and conditions" of exchange contracts which must be submitted for Commission approval in accordance with the requirements of section 5a(12) of the Act and Commission regulation § 1.41(b) prior to their implementation.

position, and gross reporting of option positions.

The Commission believes that permitting deposits to be made with respect to option premiums may eliminate certain market inefficiencies which result from the application of current futures margin levels and the required full payment of options premiums on similar or related futures and options positions. For example, the current requirements of full payment of the option premium on in-the-money options may act as a disincentive to purchase in-the-money options. Because the premium on such options frequently is large relative to the margin on the underlying future.[19] a market user has a strong incentive to purchase the futures contract rather than the option. In addition, under the current system, an option grantor can generate cash by establishing a short option position and earning interest on that cash during the life of the option. Specifically, if cash is needed to finance a premium on a long option purchase, the sale of risk-free "box" spreads with generate such cash. A box spread consists of a long call/short put with the same exercise price coupled with a short call/long put with the same exercise price, where all four options have the same expiration date. The collateral value of the long option may be employed under most exchange systems to margin the spread. Use of such box spreads to generate cash is inefficient for several reasons, however. First, creating a box spread requires taking four options positions which have the sole purpose of generating cash for collateral. Second, such spreads are really not totally risk free because of early exercise considerations. Finally, boxes must be established and liquidated, necessitating the payment of bid-ask spreads and commissions on four options.[20]

In addition to potentially prejudicing the decision whether to be in the futures market or to purchase out-of-the-money options, the current requirement of full payment of the option premium inhibits arbitrage between the futures and options markets. For example, if a market user establishes a risk-neutral position consisting of a short call, a long future and a long put,[21] that user must still pay the net option premium, even though no margin is required. If the futures contract increases in price, settlement variation margin must be paid for the futures contract. Because no offsetting settlement variation is available on the options positions, however, the settlement variation on the future must be paid in full or the futures position reduced even though the risk of the position remains zero. These positions and combinations thereof are typically used in the equity options markets in the performance of market making functions while minimizing market making risk. The requirement of full payment of this option premium, without the opportunity to use the value of such premiums (or a portion thereof) to hold or acquire additional positions, however, inhibits efficient arbitrage between the options market and the futures market, in which only the payment of margin reflecting the risk of the futures position is required. This inhibition thus encourages traders to take positions which have the opposite cash flow characteristics in order to carry their desired positions.

In order to reduce these inefficiencies, the Commission is proposing to permit exchanges to adopt systems permitting payment of a deposit with respect to the option premium, rather than full payment of the premium. The Commission is proposing, however, that such payments be subject to certain requirements which will ensure the reduction of the market inefficiencies described above by rendering the requirements for purchase of an option similar to those for purchase of a futures contract as well as providing adequate safeguards for public customers and for the integrity of the market.

*A. Relationship Between Deposit Amount and the Risk of Carrying a Particular Option Position*

The basic requirement for establishment of a system which requires payment of a deposit with respect to the option premium rather than full payment of the premium is that the amount of such deposits must be based upon the risk of holding the option position. By explicitly requiring that an exchange implement some specific formula or procedure for establishing the amounts of all deposits made with respect to option premiums, the Commission believes that it can better assure that those exchanges which may choose to implement a system for margining of option premiums will do so in a generally uniform manner.

The Commission recognizes, however, that no system or formula for determining the risk of holding a particular option position can be absolutely accurate. The Commission is particularly concerned that to the extent a formula does not completely measure the risk of a particular option position, the inaccuracy of such a formula is magnified in accounts which contain large positions.[22] Furthermore, weakness in such risk evaluation systems may be particularly prevalent with respect to out-of-the-money option positions that are close to expiration. With such positions, in a delta system, for example, the delta factor close to expiration becomes increasingly unstable (subject to rapid changes between zero and plus or minus one), and minor changes in the price of the commodity or future underlying the option may result in major changes in the amount of deposit required of the holders of positions in such options. Therefore, the Commission is proposing to require that the exchanges provide for a surcharge upon the deposit which would recognize and compensate for the additional risk of carrying a large number of positions and of carrying positions which may be subject to rapid changes in risk.[23] Thus, the clearing organization of each exchange would be required to collect and maintain deposits of at least the amount of the surcharge for each option position which its clearing members hold.

[19] For example, on January 26, 1984, with the Comex April gold futures settlement price at $372.00, April 340 calls settled at $33.00 per ounce. A purchaser of an April 340 call would have been required to pay a premium of approximately $3,300; by comparison, margin on the futures position would have been only $1,200. The risk characteristics of the in-the-money April 340 call option at that time, however, would have been similar to those of the April futures contract.

[20] *See* CME, *Further Comments on Futures Style Margining* at 2 (December 20, 1983).

[21] Such positions are termed "conversions." "Reverse conversions," which are also risk neutral, consist of simultaneously taking short put, short future, and long positions.

[22] The Commission notes that in systems which require the full payment of premiums, the amount of short option premiums retained with the clearing organization and with clearing members provides an additional buffer or insurance against the potential impact of inaccuracies in the assessment of a position's risk.

[23] In order for such surcharges to be effective in compensating for the additional risks of carrying a large number of option contracts, such surcharges would have to be applied and collected on the basis of the gross number of contracts held in a member's account. Gross collection of such surcharges would assist in assuring that, to the extent an exchange's estimation of the risk factor to be applied to option positions may be inaccurate, member FCMs will not be using option customer funds to offset the liabilities of other option customers. The Commission anticipates that such a requirement would not be different to implement inasmuch as Commission regulation 16.00(a) already requires the contract markets to receive from their clearing members position information on a gross basis, without netting positions either within or among accounts. (Clearing members are similarly required to obtain this information pursuant to regulation 1.37(b)).

*B. Daily Marking to Market*

As discussed above, the Commission is proposing to permit the exchanges to adopt deposit systems for options which are based on an evaluation of the risk of carrying a particular position. A margin or deposit system based on the evaluation of such risk must recognize that the risk of carrying a position is subject to continuous changes. Thus, in order to provide finanmcial protection which accurately reflects the risk of carrying an option position, deposit levels must be adjusted on at least a daily basis. The Commission notes that all exchanges futures margining systems recognize that daily marking to the market of margin is essential to ensuring that the required level of margin reflects the actual risk of carrying a position. Therefore, the Commission is proposing to require that deposits with respect to option premiums be marked to the market daily based on the change in value of the option as identified by daily changes in the amount of the premium.

Deposits with respect to option premiums would be treated in the same manner that performance margin for futures contracts is treated. Neverthless, an eligible purchaser would be establishing a position in a contract which conveys the right, but not the obligation, to purchase or sell the underlying futures contract or physical commodity at a fixed price on or before a specified date in the future, just as under the current system requiring full payment of the option premium. Similarly, eligible option grantors would continue to realize the same total profit or loss under the mark-to-the-market provision as under the current system. Such profits or losses would simply accrue on a daily basis rather than at expiration or exercise. The grantor would, however, give up the receipt of interest on the full premium received under the current system. Conversely, the purchaser would not bear the borrowing and opportunity cost of putting up the full premium. This change would affect and be reflected in the pricing of the option itself.

The Commission is aware that adoption of the requirement that deposits with respect to option premiums be marked to the market daily also may be relevant to the tax treatment of futures options. Specifically, under current law "regulated futures contracts" are accorded tax treatment pursuant to which 40% of any gain or loss on such contracts is treated as short-term capital gain or loss, whereas the remaining 60% of such gain or loss is treated as long-term capital gain or loss.[24] The Commission understands that there is not uniform agreement as to whether futures options contracts currently constitute "regulated futures contracts" as defined by the Internal Revenue Code.[25] The Commission notes, however, that the Technical Corrections Act of 1982, signed into law on January 12, 1983, amended the definition of a "regulated futures contract." The statutory amendment had been initiated originally in order to include cash settlement contracts as regulated futures contracts. However, the amendment to the definition appears to have the broader effect of providing "60/40" and mark-to-market treatment to *any* contract traded on a commodity exchange (and any other exchange or board of trade, if approved by the Secretary of the Treasury) with respect to which variation margin passes to both the holders and writers of option contracts. As a result of the amendment, it would appear that holders of exchange-traded options should be accorded "60/40" treatment if they receive and pay variation margin.[26]

If the Commission adopts this proposal, and if the commodity exchanges seek and obtain approval for implementing a complete variation margin system, holders and writers of commodity options apparently would receive and pay variation margin and, thus, apparently be entitled to 60/40 and mark-to-market treatment under the law, as amended. The collateral tax consequences which this proposal may have, however, are not the Commission's basis for including within this proposal a daily mark-to-the-market requirement but would be merely an unintended incidental effect. As discussed above, the Commission's purpose in proposing this requirement is to assure the efficiency of the futures options markets through permitting deposit systems which reflect as closely as possible the risk of carrying an option position and to avoid to the extent possible superimposing a collateral-based margining system on a performance-based system. Because of the tax consequences which may result from adopting the amendments to § 33.4(a)(2) in their proposed form, however, the Commission is specifically soliciting the comments of the Department of the Treasury.

[24] I.R.C. section 1256(a).

[25] I.R.C. section 1256(b).

[26] The Commission notes, however, that on March 1, 1984, the Ways and Means Committee of the House of Representatives voted favorably on H.R. 4170 which, among other things, would explicitly apply "60/40" treatment to exchange-traded options.

*C. Reporting Requirements*

Because full payment of the premium would no longer be required, it is much more important that the clearing members and clearing organizations be aware of each and every position they are carrying. As discussed above, a concentration surcharge would be required to be imposed upon members carrying large numbers of positions or out-of-the-money positions. It appears to the Commission that this provision cannot be enforced unless each position is reported so that the clearing organization is aware of which individuals and entities are carrying large numbers of positions or out-of-the-money positions.

*D. Implementation*

The Commission is aware that implementation of the proposed deposit-with-respect-to-premium system for collecting futures option margin will change the pricing characteristics of options on futures contracts from the characteristics currently in existence. Nonetheless, the Commission is proposing that exchanges be permitted, rather than required, to adopt this alternative system for assessing margin on members' options trading. The Commission requests specific comment, however, on whether the implementation of this alternative system on a contract by contract, or exchange by exchange basis will create regulatory or operational problems and, if so, specific suggestions as to how such problems might be avoided or mitigated. In a similar regard, the Commission invites comments as to the feasibility, from an operational and regulatory standpoint, of extending the proposed alternative system to customer accounts at such time as the options pilot program has matured further and public customers have acquired greater familiarity with options trading.

The Commission also requests comment on the accounting systems which may be applied to those FCMs which carry option accounts which include positions on exchanges which may adopt rules pursuant to the § 33.4(a)(2) exemptive provision. In particular, the Commission requests exchanges and other interested persons to address the desirability of the Commission requiring such FCMs to employ a single specified accounting system and whether the same system could be applied to both customer and member option accounts. Such comments should include numerical examples which illustrate how current accounting systems operate, how such

systems (or alternatives) might operate if the Commission's rule proposal is adopted, and how such systems would apply to both customer and member accounts.

### IV. Amendments to Minimum Financial Requirements

When the Commission adopted its final rules governing the options pilot program, it recognized that a financial system which required the full payment of option premiums required modification of the Commission's prescribed method for computing minimum adjusted net capital. Accordingly, the commission amended regulations § 1.12 and 1.17 to provide that the minimum adjusted net capital requirement for most FCMs must exceed, among other factors, four percent of the customer funds required to be segregated by the Act and Commission regulations less the market value of exchange-traded commodity options purchased by an option customer, with the amount deducted with respect to each option customer not to exceed the amount of customer funds in such option customer's account.

If the Commission adopts the exemptive provision to § 33.4 and subsequently approves futures-type margining for members of one or more exchanges designated to trade commodity options, §§ 1.3(gg), 1.12 and 1.17 will require conforming amendments. For example, the Commission believes that simply excluding options positions held pursuant to exchange rules adopted under the exemptive provisions from the § 1.14(a)(1)(i)(B) calculation of adjusted minimum net capital will adequately reflect the capital consequences of such positions. Similar conforming amendments to §§ 1.3(gg), 1.12 and other relevant subparagraphs of § 1.17 are also being proposed. Under this system, deposits paid with respect to options premiums will be treated as customer funds required to be segregated, in the same manner as futures margin deposits. In addition, consistent with this approach, if the amendments to §§ 1.3(gg), 1.12 and 1.17 are adopted, the Commission's Division of Trading and Markets will not apply Financial and Segregation Interpretation No. 8 to firms which hold options positions acquired on exchanges which have adopted rules under the exemptive provision of § 33.4(a)(2) and will revise Financial and Segregation Interpretation No. 8 accordingly. The Commission will also make appropriate revisions to the standard financial reporting form for FCMs (Form 1–FR). Financial and Segregation Interpretation No. 8 and Form 1–FR, as they would be revised if the proposed amendments are adopted by the Commission, are available from the Office of the Secretariat.

### V. Regulatory Flexibility Act

The Regulatory Flexibility Act ("RFA"), 5 U.S.C. 601 *et seq.*, requires that agencies, in adopting rules, consider their impact on small businesses. The proposed rule amendment will affect contract markets, FCMs transacting business in option contracts and non-FCM members of contract markets. Analysis of the effects of the proposed rule amendment upon contract markets and FCMs is not required, however, since the Commission has previously determined that contract markets and FCMs are not "small entities" for purposes of the RFA.[27] With regard to non-FCM members of contract markets the proposed rule amendment will permit contract markets to propose a system for making deposits on option premiums where full payment of the premium was formerly required. Thus, any economic impact on those non-FCM members who are small businesses would be positive. For these reasons, the Chairman certifies pursuant to section 3(a) of the RFA, 5 U.S.C. 605(b), that these rules will not have a significant negative economic impact on a substantial number of small entities.

### List of Subjects

*17 CFR Part 1*

Financial requirements, Reporting and recordkeeping requirements, Customer protection, Segregated funds.

*17 CFR Part 33*

Commodity exchanges, Option margin, Commodity futures.

In consideration of the foregoing, and pursuant to the authority contained in the Commodity Exchange Act and, in particular sections 4c, 4d, 4f, 5, 5a, and 8a(5) thereof, 7 U.S.C. 6c, 6d, 6f, 7, 7a, and 12a(5) (1982), the Commission hereby proposes to amend Chapter I of Title 17 of the Code of Federal Regulations by revising §§ 1.3, 1.12, 1.17, and 33.4 as follows:

## PART 1—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT

1. Section 1.3 is proposed to be amended by revising paragraph (gg)(2)(iv) to read as follows:

**§ 1.3 Definitions.**

* * * * *

(gg) * * *

(2) * * *

(iv) Representing accruals (including, for purchasers of a commodity option which has not been exempted from the provisions of § 33.4(a)(2) of this chapter, the market value of such commodity options) to an option customer.

* * * * *

2. Section 1.12 is proposed to be amended by revising paragraph (b)(2) to read as follows:

**§ 1.12 Maintenance of minimum financial requirements by futures commission merchants and introducing brokers.**

* * * * *

(b) * * *

(2) 6 percent of the following amount: the customer funds required to be segregated pursuant to Section 4d(2) of the Act and these regulations less the market value of commodity options purchased by option customers on or subject to the rules of a contract market which have not been exempted from the provisions of § 33.4(a)(2) of this chapter: *Provided, however,* the deduction for each option customer shall be limited to the amount of customer funds in such option customer's account; or,

* * * * *

3. Section 1.17 is proposed to be amended by revising paragraphs (a)(1)(i)(B), (c)(5)(iii), (e)(1), (h)(2)(vi)(C) through (h)(2)(viii), (h)(3)(ii) and (h)(3)(v) to read as follows:

**§ 1.17 Minimum financial requirements for futures commission merchants and introducing brokers.**

(a) * * *

(1) * * *

(i) * * *

(B) Four percent of the following amount: the customer funds required to be segregated pursuant to the Act and these regulations less the market value of commodity options purchased by option customers on or subject to the rules of a contract market which have not been exempted from the provisions of § 33.4(a)(2) of this chapter: *Provided, however,* the deduction for each option customer shall be limited to the amount of customer funds in such option customer's account, or

* * * * *

(c) * * *

(5) * * *

(iii) In the case of a futures commission merchant, four percent of the market value of commodity options granted (sold) by option customers on or subject to the rules of a contract market which have not been exempted from the provisions of § 33.4(a)(2) of this chapter;

* * * * *

(e) * * *

[27] 47 FR 18618 (April 30, 1982).

(1) Either adjusted net capital of any of the consolidated entities would be less than the greatest of: (i) 120 percent of the appropriate minimum dollar amount required by paragraphs (a)(1)(i)(A) or (a)(1)(ii)(A) of this section; (ii) for a futures commission merchant or applicant therefor, 7 percent of the following amount: the customer funds required to be segregated pursuant to the Act and these regulations less the market value of commodity options purchased by option customers on or subject to the rules of a contract market which have not been exempted from the provisions of § 33.4(a)(2) of this chapter: *Provided, however,* The deduction for each option customer shall be limited to the amount of customer funds in such option customer's account; or (iii) for an applicant or registrant which is also a securities broker or dealer, the amount of net capital specified in Rule 15c3–1(e) of the Securities and Exchange Commission (17 CFR 240.15c3–1(e)); or

* * * * *

(h) * * *

(2) * * *

(vi) * * *

(C) The secured demand note agreement may also provide that, in lieu of the procedures specified in the provisions required by paragraph (h)(2)(vi)(B) of this section, the lender, with the prior written consent of the applicant or registrant and the designated self-regulatory organization, or, if the applicant or registrant is not a member of a designated self-regulatory organization, then the Commission, may reduce the unpaid principal amount of the secured demand note: *Provided,* That after giving effect to such reduction the adjusted net capital of the applicant or registrant would not be less than the greatest of: (*1*) 120 percent of the appropriate minimum dollar amount required by paragraphs (a)(1)(i)(A) or (a)(1)(ii)(A) of this section; (*2*) for a futures commission merchant or applicant therefor, 7 percent of the following amount: the customer funds required to be segregated pursuant to the Act and these regulations less the market value of commodity options purchased by option customers on or subject to the rules of a contract market which have not been exempted from the provisions of § 33.4(a)(2) of this chapter: *Provided, however,* the deduction for each option customer shall be limited to the amount of customer funds in such option customer's account; or (*3*) for an applicant or registrant which is also a securities broker or dealer, the amount of net capital specified in Rule 15c3–1d(b)(6)(iii) of the Securities and Exchange Commission (17 CFR 240.15c3–1d(b)(6)(iii)): *Provided, further,* That no single secured demand note shall be permitted to be reduced by more than 15 percent of its original principal amount and after such reduction no excess collateral may be withdrawn.

(vii) *Permissive prepayments and special prepayments.* (A) An applicant or registrant at its option, but not at the option of the lender, may, if the subordination agreement so provides, make a payment of all or any portion of the payment obligation thereunder prior to the scheduled maturity date of such payment obligation (hereinafter referred to as a "prepayment"), but in no event may any prepayment be made before the expiration of one year from the date such subordination agreement became effective: *Provided, however,* That the foregoing restriction shall not apply to temporary subordination agreements which comply with the provisions of paragraph (h)(3)(v) of this section nor shall it apply to "special prepayments" made in accordance with the provisions of paragraph (h)(2)(vii)(B) of this section. No prepayment shall be made if, after giving effect thereto (and to all payments of payment obligations under any other subordination agreements then outstanding, the maturity or accelerated maturities of which are scheduled to fall due within six months after the date such prepayment is to occur pursuant to this provision, or on or prior to the date on which the payment obligation in respect to such prepayment is scheduled to mature disregarding this provision, whichever date is earlier) without reference to any projected profit or loss of the applicant or registrant, the adjusted net capital of the applicant or registrant is less than the greatest of: (*1*) 120 percent of the appropriate minimum dollar amount required by paragraphs (a)(1)(i)(A) or (a)(1)(ii)(A) of this section; (*2*) for a futures commission merchant or applicant therefor, 7 percent of the following amount: the customer funds required to be segregated pursuant to the Act and these regulations less the market value of commodity options purchased by option customers on or subject to the rules of a contract market which have not been exempted from the provisions of § 33.4(a)(2) of this chapter: *Provided, however,* the deduction for each option customer shall be limited to the amount of customer funds in such option customer's account; or (*3*) for an applicant or registrant which is also a securities broker or dealer, the amount of net capital specified in Rule 15c3–1d(b)(7) of the Securities and Exchange Commission (17 CFR 240.15c3–1d(b)(7)). Notwithstanding the above, no prepayment shall occur without the prior written approval of the designated self-regulatory organization and the Commission.

(B) An applicant or registrant at its option, but not at the option of the lender, may, if the subordination agreement so provides, make a payment at any time of all or any portion of the payment obligation thereunder prior to the scheduled maturity date of such payment obligation (hereinafter referred to as a "special prepayment"). No special prepayment shall be made if, after giving effect thereto (and to all payments of payment obligations under any other subordination agreements then outstanding, the maturity or accelerated maturities of which are scheduled to fall due within six months after the date such special prepayment is to occur pursuant to this provision, or on or prior to date on which the payment obligation in respect to such special prepayment is scheduled to mature disregarding this provision, whichever is earlier) without references to any projected profit or loss of the applicant or registrant, the adjusted net capital of the applicant or registrant is less than the greatest of: *(1)* 200 percent of the appropriate minimum dollar amount required by paragraphs (a)(1)(i)(A) or (a)(1)(ii))A) of this section; *(2)* for a futures commission merchant or applicant therefor, 10 percent of the folliwing amount: the customer funds required to be segregated pursuant to the Act and these regulations less the market value of commodity options purchased by option customers on or subject to the rules of a contract market which have not been exempted from the provisions of § 33.4(a)(2) of this chapter: *Provided, however,* The deduction for each option customer shall be limited to the amount of customer funds in such option customer's account; or *(3)* for an applicant or registrant which is also a securities broker or dealer, the amount of net capital specified in Rule 15c3–1d(c)(5)(ii) of the Securities and Exchange Commission (17 CFR 240.15c3–1d(c)(5)(ii)): *Provided further,* That no special prepayment shall be made if pre-tax losses during the latest three-month period were greater than 15 percent of current excess adjusted net capital. Notwithstanding the above, no special prepayment shall occur without the prior witten approval of the designated self-regulatory organization and the Commission.

(viii) *Suspended repayment.* (A) The payment obligation of the applicant or registrant in respect of any subordination agreement shall be suspended and shall not mature if, after giving effect to payment of such

payment obligation (and to all payments of payment obligations of the applicant or registrant under any other subordination agreement(s) then outstanding which are scheduled to mature on or before such payment obligation), the adjusted net capital of the applicant or registrant would be less than the greatest of: *(1)* 120 percent of the appropriate minimum dollar amount required by paragraphs (a)(1)(i)(A) or (a)(1)(ii)(A) of this section; *(2)* for a futures commission merchant or applicant therefor, 6 percent of the following amount: the customer funds required to be segregated pursuant to the Act and these regulations less the market value of commodity options purchased by option customers on or subject to the rules of a contract market which have been exempted from the provisions of §33.4(a)(2) of this chapter: *Provided, however,* The deduction for each option cutomer shall be limited to the amount of customer funds in such option customer's account; or *(3)* for an applicant or registrant which is also a securities broker or dealer, the amount of net capital specified in Rule 15c3–1d(b)(8)(i) of the Securities and Exchange Commission (17 CFR 240.15c3–1d(b)(8)(i)): *Provided,* That the subordination agreement may provide that if the payment obligation of the applicant or registrant thereunder does not mature and is suspended as a result of the requirement of this paragraph (h)(2)(viii) for a period of not less than six months, the applicant or registrant shall then commence the rapid and orderly liquidation of its business, but the right of the lender to receive payment, together with accrued interest or compensation, shall remain subordinate as required by the provisions of this section.

* * * * *

(3) * * *

(ii) *Notice of maturity or accelerated maturity.* Every applicant or registrant shall immediately notify the designated self-regulatory organization and the Commission if, after giving effect to all payments of payment obligations under subordination agreements then outstanding which are then due or mature within the following six months without reference to any projected profit or loss of the applicant or registrant, its adjusted net capital would be less than: (A) 120 percent of the minimum dollar amount required by paragraphs (a)(1)(i)(A) or (a)(1)(ii)(A) of this section; (B) for a futures commission merchant or applicant therefor, 6 percent of the following amount: the customer funds required to be segregated pursuant to the Act and these regulations less the market value of commodity options purchased by option customers on or subject to the rules of a contract market which have not been exempted from the provisions of § 33.4(a)(2) of this chapter: *Provided, however,* The deduction for each option customer shall be limited to the amount of customer funds in such option customer's account; or (C) for an applicant or registrant which is also a securities broker or dealer, the amount of net capital specified in Rule 15c3–1d(c)(2) of the Securities and Exchange Commission (17 CFR 240.15c3–1d(c)(2)).

* * * * *

(v) *Temporary subordinations.* To enable an applicant or registrant to participate as an underwriter of securities or undertake other extraordinary activities and remain in compliance with the adjusted net capital requirements of this section, an applicant or registrant shall be permitted, on no more than three occasions in any 12-month period, to enter into a subordination agreement on a temporary basis which has a stated term of no more than 45 days from the date the subordination agreement became effective: *Provided,* That this temporary relief shall not apply to any applicant or registrant if the adjusted net capital of the applicant or registrant is less than the greatest of: (A) 120 percent of the appropriate minimum dollar amount required by paragraphs (a)(1)(i)(A) or (a)(1)(ii)(A) of this section; (B) for a futures commission merchant or applicant therefor, 7 percent of the following amount: the customer funds required to be segregated pursuant to the Act and these regulations less the market value of commodity options purchased by option customers on or subject to the rules of a contract market which have not been exempted from the provisions of § 33.4(a)(2) of this chapter: *Provided, however,* the deduction for each option customer shall be limited to the amount of customer funds in such option customer's account; (C) for an applicant or registrant which is also a securities broker or dealer, the amount of net capital specified in Rule 15c3–1d(c)(5)(i) of the Securities and Exchange Commission (17 CFR 240.15c3–1d(c)(5)(i)); or (D) the amount of equity capital as defined in paragraph (d) of this section is less than the limits specified in paragraph (d) of this section. Such temporary subordination agreement shall be subject to all the other provisions of this section.

* * * * *

## PART 33—[AMENDED]

4. Section 33.4 is proposed to be amended by revising paragraph (a)(2) to read as follows:

**§ 33.4 Designation as a contract market for trading of commodity options.**

* * * * *

(a) Such board of trade—

* * * * *

(2) Provides that the clearing organization must receive from each of its clearing members, that each clearing member must receive from each other person for whom it clears commodity option transactions, and that each futures commission merchant must receive from each of its option customers, the full amount of each option premium at the time the option is purchased, except that such board of trade may apply for an exemption from this paragraph (a)(2) by submitting for Commission approval rules which would establish the following conditions:

(i) Each futures commission merchant must continue to receive from each of its option customers which is not a member of the board of trade a deposit with respect to the premium for each option purchased which is equal to the full amount of each option premium at the time the option is purchased, and shall not permit any increase in the market value of an option held by such customer to be withdrawn from the option customer's account;

(ii) The deposit with respect to the premium for members trading for their own accounts must:

(A) Be based upon a system which reflects the risk of carrying the option positions with respect to which the deposit is made, which will adequately protect firms and the clearing organization from a member's failure to make variation payments, and which provides for the collection of a surcharge or other appropriate amount designed to compensate for any imprecisions in the risk evaluation system and the additional risk of carrying a large number of positions;

(B) Be marked to the market each day to reflect changes in the amount of premium subsequent to the purchase of the option; and

(C) Provide that each futures commission merchant must report to its clearing member, and each clearing member must report to the clearing organization, on a daily basis the total gross number of open option positions which it holds by underlying futures contract for options on futures contracts and by underlying physical for options

on physicals, and by put, by call, by expiration date and by the strike price.

(iii) The rules submission constituting the application for the exemption must include the text of appropriate rules necessary to implement the system, submitted in accordance with section 5a(12) of the Act and § 1.41(b) of this chapter and, in addition, the following:

(A) A complete description of the system with numerical examples. If the system uses any formula(s) to evaluate the risk of positions, the formula(s) must be specified and a description of any exemptions to the formula(s) must be provided. If there are no exemptions, this must be clearly stated;

(B) An explanation, including numerical examples, of why the system satisfies the conditions of this exemption provision, including an economic analysis of the system's risk evaluation performance and safety factor charges under different market conditions and with different position concentrations.

* * * * *

Issued in Washington, D.C., on March 5, 1984, by the Commission.

**Jane K. Stuckey,**

*Secretary of the Commission.*

[FR Doc. 84-6444 Filed 3-8-84; 8:45 am]

BILLING CODE 6351-01-M

## DEPARTMENT OF OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

### 21 CFR Part 161

**[Docket No. 83N-0357]**

### Quick-Frozen Fillets of Cod and Haddock; Termination of Consideration of the Codex Standard

**AGENCY:** Food and Drug Administration.

**ACTION:** Advance notice of proposed rulemaking; termination of consideration.

**SUMMARY:** The Food and Drug Administration (FDA) is terminating consideration of the establishment of a U.S. standard for quick-frozen fillets of cod and haddock based on the Codex Alimentarius Commission Standard for Quick-Frozen Fillets of Cod and Haddock (Codex standard) because there is neither sufficient interest nor need to warrant proposing a U.S. standard for this food.

**FOR FURTHER INFORMATION CONTACT:** Johnnie G. Nichols, Bureau of Foods (HFF-215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-485-0101.

**SUPPLEMENTARY INFORMATION:** In the **Federal Register** of November 15, 1983 (48 FR 51932), FDA published an advance notice of proposed rulemaking which offered interested persons an opportunity to review the Codex standard and to comment on the desirability of, and need for, a U.S. standard of identity for quick-frozen fillets of cod and haddock. The Codex Standard was submitted to the United States for consideration of acceptance by the Joint Food and Agriculture Organization/World Health Organization's Codex Alimentarius Commission.

One comment was received in response to the advance notice of proposed rulemaking. The comment expressed the opinion that the proposed standard for quick-frozen fillets of cod and haddock would be desirable only if extensively modified. The comment concluded that any attempt to regulate on the basis of the standard would be "meaningless and confusing not only to major users but to the general public as well."

Having considered the comment received and the provisions of the standard, FDA has concluded that there is neither sufficient interest nor need to warrant proposing a U.S. standard at this time for quick-frozen fillets of cod and haddock under the authority of section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341).

Therefore, under the procedures in 21 CFR 130.6, notice is given that the Commissioner of Food and Drugs has terminated consideration of developing a U.S. standard for quick-frozen fillets of cod and haddock based on the Codex standard. This action is without prejudice to further consideration of the development of a U.S. standard for quick-frozen fillets of cod and haddock upon appropriate justification.

FDA will inform the Codex Alimentarius Commission that an imported food which complies with the requirements of the Codex standard may move freely in interstate commerce in this country, providing it complies with applicable U.S. laws and regulations.

Dated: March 5, 1984.

**William F. Randolph,**

*Acting Associate Commissioner for Regulatory Affairs.*

[FR Doc. 84-6321 Filed 3-8-84; 8:45 am]

BILLING CODE 4160-01-M

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### Office of the Assistant Secretary for Housing—Federal Housing Commissioner

### 24 CFR Part 3280

**[Docket No. R-84-1068; FR-1637]**

### Cost Impact Analysis; Comments and Availability

**AGENCY:** Assistant Secretary for Housing- Federal Housing Commissioner, HUD.

**ACTION:** Notice—Comment due date and availability of Cost Impact Analysis.

**SUMMARY:** On August 16, 1983, HUD proposed to revise the Manufactured Home Construction and Safety Standards to improve the safety, quality and durability of manufactured homes (48 FR 37136). The Department initially requested that comments be submitted by October 17, 1983, if the Department's Cost Impact Analysis to accompany the rule was available for review before this date. Since the Cost Impact Analysis was not available, the Department, on October 26, 1983 extended the comment period indefinitely (48 CFR 49520). The Cost Impact Analysis is now available for review. Accordingly, the comment period on the entire proposed rule will end 30 days from the date of this Notice. Copies of the analysis are available on request from the Rules Docket Clerk. Additional copies may be requested from the HUD USER service after the comment period closes. (See address below).

This notice also advises the public that the Department has determined that it will be in the public interest to give priority to development and publication of a final rule on the formaldehyde emission control and fire safety sections of the proposed standards. It is, therefore, particularly unlikely that the Department will consider comments on these aspects of the proposed standards after the comment due date.

**DATE:** *Comment due date:* April 9, 1984.

**ADDRESS:** Interested persons are invited to submit comments to, or request copies of the analysis from the Office of the General Counsel Rules Docket Clerk, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410. Communications should refer to the above docket number and title. A copy of each communication will be available for public inspection and copying during regular hours at the above address.

Following the comment period, additional copies of the analysis will be available from: The HUD USER, P.O. Box 280, Germantown, Maryland 20847

**FOR FURTHER INFORMATION CONTACT:** Richard A. Mendlen, Standards Officer, telephone (202) 755-5798. (This is not a toll-free number.)

Dated: March 5, 1984.

Shirley M. Wiseman,

*General Deputy, Assistant Secretary for Housing.*

[FR Doc. 84-6360 Filed 3-8-84 8:45 am]

BILLING CODE 4210-27-M

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 86

[AMS-FRL 2483-4]

### Control of Air Pollution From New Motor Vehicles and New Motor Vehicle Engines; Selective Enforcement Auditing of New Gasoline-Fueled and Diesel Light-Duty Vehicles

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** EPA is proposing several technical and procedural amendments to the regulations governing Selective Enforcement Auditing (SEA) of new gasoline-fueled and diesel light-duty vehicles (LDVs). Regulations which will be affected by this rulemaking are codified in Subparts A and G of this Part.

The main purpose of these amendments is to propose that the "batch" sampling plans used in current SEAs be replaced by "sequential" sampling plans. The sequential sampling plan is already in effect for SEA testing of light-duty truck (LDTs) under Subpart K beginning in the 1984 model year. *See* 45 FR 1406 (January 12, 1983).

In addition, these amendments are intended to clarify specific aspects of the existing regulations and to improve the efficiency of the LDV SEA program.

Each amendment and the reason for its proposal are described in the accompanying chart. The more significant amendments are described in detail in the **SUPPLEMENTARY INFORMATION** section.

**DATES:** *Public Hearing:* A public hearing will be scheduled if a request is received by April 9, 1984. If a hearing is scheduled, EPA will announce its time and place by a separate notice in the Federal Register.

*Effective Date:* EPA proposes to make these amendments effective 30 days after the date of promulgation of the final rule in the Federal Register.

*Public Comment:* In its formulation of the final rule, EPA will consider all comments received on or before May 8, 1984 or within 30 days following the conclusion of a public hearing, if held, whichever is later.

The final rule will be promulgated as soon as practical following due consideration of all comments.

**ADDRESSES:** Send written comments to: Public Docket EN-80-8, Central Docket Section (A-130), Environmental Protection Agency, West Tower Lobby/Gallery 1, 401 M Street SW., Washington, D.C. 20460. If possible, a copy of the written comments should be submitted to the EPA contact listed below.

*Public Docket:* Copies of materials relevant to this rulemaking proceeding are contained in Public Docket EN-80-8 at the Central Docket Section of the U.S. Environmental Protection Agency, West Tower Lobby/Gallery 1, 401 M Street SW., Washington, D.C. 20460, and are available for public inspection between 8:00 a.m. and 4:00 p.m., Monday through Friday. As provided in 40 CFR Part 2, a reasonable fee may be charged for copying services.

**FOR FURTHER INFORMATION CONTACT:** Mr. Robert Montgomery, Manufacturers Operations Division [EN-340], Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460. Phone: (202) 382-4104.

**SUPPLEMENTARY INFORMATION:**

#### I. More Significant Amendments

The following proposed changes include paragraph citations adjacent to each of the headings. These citations refer to the proposed amendment discussed under that heading.

*A. Sampling Plans (§ 86.610, Appendix XIII, Miscellaneous Paragraphs)*

The objective of a Selective Enforcement Audit (SEA) is to determine, on a probabilistic basis, whether a certain minimum percentage of the manufacturer's production of a specific light-duty vehicle (LDV) configuration is meeting the appropriate emission standards over the designated useful life. Because of the statistical nature of this decision, there is some chance that a manufacturer who is actually in compliance will fail an audit, and likewise it is possible that a manufacturer who is largely out of compliance will pass. The SEA sampling plan has been designed to control these risks at the following levels: A manufacturer with no more than 40 percent of its vehicles exceeding a standard will have no more than a 5 percent chance of failing with respect to the standard (5 percent "producer's risk" at a 40% noncompliance rate). A manufacturer with 65 percent or more of its vehicles exceeding a standard will have no more than a 10 percent chance of passing (10 percent "consumer's risk" at a 65% noncompliance rate).

EPA proposes to implement new sampling plans for SEA testing under Subpart G that may significantly decrease a manufacturer's emission testing burden while maintaining the statistical confidence in the decision reached. Attendant costs both to the Agency and the manufacturers should be lowered. An EPA analysis of 1982 and 1983 model year SEA emission tests indicates that approximately 27% fewer tests would have been conducted under the proposed sequential sampling technique. This analysis, entitled "Potential Test Savings Using a Sequential Sampling Plan for Conducting Selective Enforcement Audits", is available in the Public Docket for this rulemaking.

Presently, the sampling plan requires that the population of test vehicles be subdivided into "batches". Under the proposed sampling plan the test vehicles may be selected all at once or a few at a time, resulting in a more efficient use of manufacturer and EPA resources.

Under the proposed sequential sampling plan it is possible to make a "pass/fail" decision regarding the outcome of the audit after testing each vehicle in the test sample, although a minimum number of vehicles must be tested. The proposed sampling plans thus employ "sequential" decision rules. These plans are identical to those presently in effect for testing heavy-duty engines (HDEs) and LDTs under Subpart K.

The proposed sampling plans have several advantages over the fixed size ("batch") plans currently specified in Appendix VIII and used in the current Subpart G program. An audit decision can often be made after conducting fewer tests than would be required for a fixed size sampling plan of comparable statistical validity. The need to have large sample populations of the desired configuration available in order to select the requisite number of batches is eliminated. The possibility of holding large numbers of test vehicles for the duration of the audit, most of which will not normally require testing, will be diminished. The proposed sampling plans also have simpler decision rules

than do the fixed size plans, thereby easing administration.

Tables for determining the audit outcome are given in Appendix XIII and are used as follows: First, the appropriate sampling plan code letter will be selected on the basis of the projected annual sales of the configuration to be tested. Vehicles are then selected from the production line or storage facility and tested in this same sequence at the laboratory. After each test, the number of vehicles with emission test results (with deterioration factor applied) exceeding the standard are compared to the pass and fail numbers appropriate to the number of vehicles tested. On the basis of this comparison, a decision will be made to pass, fail, or to select another vehicle for testing. A minimum number of vehicles, however, must be tested before a pass or fail audit decision can be reached. All the decision rules have a maximum test sample size and will usually terminate before that point.

A support document entitled "An Analytical Development of Sampling Plans for Selective Enforcement Auditing of Light-Duty Vehicles and Light-Duty Trucks" is available in the Public Docket for this rulemaking.

*B. Entry and Access (§§ 86.084–30(d)(1)(v), 86.606)*

The entry and access requirements related to Selective Enforcement Auditing are proposed to be amended to allow EPA Enforcement Officers to enter a facility through the voluntary consent of the party controlling the facility or under the authority of a warrant or court order. This warrant or court order may be sought *ex parte*, without first requesting permission to enter a plant. Neither suspension or revocation of a certificate of conformity nor assessment of a civil penalty may be imposed if permission to enter or have access is refused, unless authority to conduct these activities is specifically provided for in a warrant or court order.

These amendments are intended to implement that portion of the Supreme Court decision in *Marshall* v. *Barlow's, Inc.*, 436 U.S. 307 (1978), which requires in most cases that a Federal agency obtain a duly authorized warrant or court order to conduct inspection activities if entry has been denied.

The proposed revision of §86.606 also deletes old paragraph §86.606(e)(5), which provided that a test order issued without 24 hours prior notice to the manufacturer must be authorized by the EPA Assistant Administrator for Enforcement, as compared to "* * * the Assistant Administrator . . . or his designee * * *" under §86.603(b). (Paragraph §86.603(b) has been changed to designate the Assistant Administrator for Air and Radiation because of an Agency reorganization.) Regardless of which EPA official signs this type of test order, manufacturers are protected against unreasonable entry by the warrant or court order requirements of the revised §86.606. In addition, this deletion establishes consistency with the already promulgated Subpart K version of this section (§86.1006–84, 45 FR 63774 (September 25, 1980)) and may ease some paperwork burdens for EPA.

*C. Entry and Access in Foreign Jurisdictions (§ 86.084–30(d)(1)(vi))*

Foreign testing and manufacturing facilities should be located in jurisdictions that will permit entry and access of Agency personnel for SEA purposes. The proposed amendment authorizes the Administrator to suspend a certificate of conformity when a manufacturer locates a facility in a foreign jurisdiction where EPA has been informed that local law prohibits entry and access for EPA Enforcement Officers. In this situation, EPA can not be assured that testing is being performed properly and that test results are being reported accurately, and thus can not be asssured that production vehicles are being manufactured in conformance with the regulations with respect to which a certificate of conformity was issued. No warrant or equivalent court order need be procured before the Administrator may suspend the relevant certificate for this reason.

*D. Manufacturer's Test Data (§ 86.605(c), Appendix XIV)*

The proposed amendments do not impose any requirement that a LDV manufacturer conduct an internal quality audit program on the emissions of production vehicles; however, if a manufacturer does conduct this type of program, Section 208(a) of the Clean Air Act authorizes the Administrator to require the submission of data generated in this program. Manufacturers currently conducting such a program are submitting their data to EPA voluntarily.

The data from these programs, when submitted to EPA, assist in providing the Agency with the assurance that manufacturers are producing engines and vehicles in compliance with applicable emission regulations.

EPA is formalizing this practice by proposing that these data, whether or not from full FTP testing, be submitted by the manufacturer on a quarterly basis. Additionally, the proposed amendments would require the submission to be in a standardized format on an Automatic Data Processing (ADP) storage device. Small-volume manufacturers (as defined in § 86.082–1(e)) will be exempt from the requirement to submit the data on an ADP storage device (however, they must submit paper copies). EPA analysis indicates that this requirement to submit data on ADP storage devices is too burdensome for the small manufacturers considering the few vehicles tested in previous submissions of data. Also, EPA is proposing to provide a manufacturer a waiver or modification of the requirement to submit the data on ADP equipment based upon a request accompanied by a satisfactory justification. Smaller foreign or domestic manufacturers may have unique ADP equipment and the cost to convert their data to Agency ADP equipment could be very burdensome.

Proposed Appendix XIV describes the appropriate ADP format and acceptable types of Agency ADP storage devices.

We specifically request the following comments on this proposed requirement to submit assembly-line test data in a standardized format on an ADP storage device:

1. Are the proposed ADP tape specifications (contained in Appendix XIV) compatible with manufacturers' computer equipment?

2. In the long term, will manufacturers experience a significant burden from submitting computer tapes instead of the current practice of submitting data in writing? Please quantify the changes, if any.

*E. Production Changes During SEA (§§ 86.607(b), 86.609(d)(6))*

To determine emission compliance during SEA, a representative sample of LDVs of a particular configuration is selected during the audit from the total population of that configuration which is manufactured during the model year. The selected units are then tested for emissions, according to the procedures specified in § 86.608. The design of both the current and proposed sampling plans allows EPA to deduce the overall emissions compliance of the population from the few units that are sampled and tested.

To ensure that vehicles tested during an audit are representative of normal production, EPA has placed certain restrictions on the selection of the test sample. These restrictions are specified in paragraphs (b) and (c) of §86.607: "The manufacturer shall have assembled the test vehicles of the configuration selected for testing using its normal production processes for vehicles to be distributed into commerce," and "No quality control,

testing, or assembly procedures will be used on the completed test vehicle or any portion thereof that has not been or will not be used during the production and assembly of all other vehicles of that configuration." The intent of these paragraphs is to assure that a manufacturer does not institute special assembly line procedures, such as increased quality control inspections, solely for the purpose of checking SEA test vehicles and thereby artificially increasing the chances of passing the audit.

Test sample data would provide little confidence in the emission compliance of the entire configuration if the test sample is unrepresentative of the procedures by which the test configuration is normally assembled. To provide EPA with a high degree of confidence that this situation will not occur, these amendments will require that a manufacturer notify the Agency if it makes any changes to production processes involving the test configuration, at any time between the receipt of the test order and the completion of test sample selection. Alternatively, the manufacturer must affirm in writing, as part of its SEA report endorsement statement, that no such changes have been made.

*F. Testing of Alternate Configurations (§ 86.603(c)(1))*

The present SEA program under Subpart G allows for the selection and testing of the alternate configuration, if any, specified in the test order only when the primary configuration is clearly not available. However, even under the more flexible sequential sampling plans, testing of the primary configuration may still cause delays in completing an audit if production of this configuration is lower than the minimum daily SEA testing requirement (four LDVs). In the interest of conserving both EPA and manufacturer resources, these amendments will allow the selection and testing of the alternate configuration if production of the primary configuration is below these minimum requirements.

*G. Sales Projections (§ 86.603(e), 86.610(c))*

Sales projections are used in the SEA program (1) to determine a manufacturer's annual quota of audits; and (2) to select the appropriate sampling plan (tables 2–5 in proposed Appendix XIII). For LDVs, sales projections were obtained from the manufacturer's Application for Certification submitted under 40 CFR Part 86, Subpart A. Subsequent revisions to the certification program have deleted the requirement that manufacturers provide sales projections in the Applications for Certification. However, manufacturers are currently required to submit sales projections under the Automobile Fuel Economy Regulations (40 CFR Part 600) and, therefore, EPA proposes to utilize the sales projections required in the Fuel Economy Regulations to obtain the desired sales projections, a practice which is now informally conducted.

These amendments also allow manufacturers to submit updated sales projections during the model year. This provision will permit audit quotas and sampling plan code letter selections to be based on the most up-to-date sales information available.

*H. Predelivery Preparations (§ 86.608(b)(1))*

These amendments delete the provision allowing manufacturers to automatically perform dealer or predelivery center preparation procedures. Dealer surveys conducted by EPA indicate that in several cases dealer preparations are not performed or are performed incorrectly. A support document entitled "Analysis of Dealer Surveys" is available in the Public Docket for this rulemaking.

By proposing this amendment, EPA endeavors to insure that test vehicles represent production vehicles at the point they are introduced into commerce. However, a dealer preparation procedure may be performed if it is approved in advance by the EPA Administrator. EPA approval will be facilitated if the manufacturer provides sufficient dealer survey data or other documented evidence to allow EPA to conclude that the procedures are actually being correctly performed at dealerships.

*I. Retesting (§§ 86.608(i), 86.612(b))*

The present paragraph (i) of § 86.608 allows a manufacturer to retest any test vehicle. Permitting a manufacturer to retest a test vehicle before an actual audit failure has occurred can delay the audit, increasing attendant costs to both the Agency and the manufacturer. However, in few other cases, it may be expeditious to allow retesting before a fail decision is reached particularly when using sequential sampling plans. The proposed revision of this paragraph allows for the latter situation.

EPA proposes to revise paragraph (b) of § 86.612 to allow EPA, at its discretion, to suspend or revoke a certificate based on a failure of a single test on each vehicle in the test sequence, i.e., before any retesting has begun. This proposed revision is intended to avoid unnecessary delays in the audit when the initial test results indicate that retesting will have little effect on the ultimate audit decision. For example, if the emission results after one test on each vehicle in the test sequence exceed the applicable emission standard by a large magnitude, such as two or three, then retesting and averaging the two tests on each vehicle could not lower the final emission result enough to "pass" the audit.

In all cases, the certificate of conformity may not be suspended before ten days after the audit failure. If the manufacturer needs additional time (beyond ten days) to rectify the nonconformity which produced the SEA failure, it is encouraged to notify the Agency.

**II. Less Significant Amendments**

In addition to the more significant amendments discussed in the previous section, EPA is proposing several less significant technical and procedural amendments. These amendments are intended to clarify specific aspects of the existing regulations and to improve the efficiency with which the LDV SEA program will be conducted in the future.

Each amendment contained in this NPRM and the reason for its proposal are described in the chart at the end of this preamble

**Administrative Designation**

Under Executive Order 12291, EPA must judge whether a regulation is "Major" and therefore subject to the requirement of a Regulatory Impact Analysis. The Agency has determined that this regulation is not "Major", for the following reasons:

(1) The proposed SEA amendments will not result in an annual effect on the economy of $100 million or more. The majority of these amendments are administrative and will have no measurable cost impact. Some amendments, such as those discussed in the **SUPPLEMENTARY INFORMATION** section under the headings of "sampling plans", "retesting", and "testing of alternate configurations", are intended to expedite the completion of audits through a reduced testing burden and should therefore save manufacturer and EPA resources.

(2) Because of the limited cost impact and expected cost savings of these amendments due to the reduced testing burden, this proposal will not, if finalized, result in a major increase in costs or prices for consumers, individual industries, Federal, state, or local governments, or geographic regions.

(3) Due to its limited cost impact and its applicability to all LDV manufacturers, both domestic and foreign, EPA does not expect this proposal to have any significant adverse effect on competition, employment, investment, productivity, innovation, or the ability of U.S. manufacturers to compete with foreign manufacturers in domestic or export markets.

Because of its "non-Major" classification, the Agency has not prepared a Regulatory Impact Analysis to accompany this proposal.

### Compliance With Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, EPA is required to perform a regulatory flexibility analysis of any regulation unless the Administrator certifies that the regulation will not have a significant impact on a substantial number of small entities. The SEA amendments in this proposal will not increase compliance costs for those manufacturers.

Therefore, I hereby certify, pursuant to 5 U.S.C. 605(b), that this rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. Accordingly, the Agency has not prepared a regulatory flexibility analysis to accompany this proposal.

### Office of Management and Budget Review

As required by Executive Order 12291, this Notice of Proposed Rulemaking has been reviewed by the Office of Management and Budget (OMB) for compliance with regulatory development criteria and for general content. Any OMB comments and EPA's response to those comments are available for inspection in the Public Docket for this rulemaking.

The proposed amendments require the submission of test data from internal quality audit programs and retention of these data. The Paperwork Reduction Act provides that reporting and recordkeeping requirements be approved by OMB before they can be imposed on the public. The information collection requirements in this proposed rule have been submitted to OMB under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* Comments on these requirements should be submitted to the Office of Information and Regulatory Affairs of OMB—marked, Attention: Desk Officer for EPA. The final rule package will respond to any OMB or public comments on the information collection provisions.

### List of Subjects in 40 CFR Part 86

Administrative practice and procedure, Labeling, Motor vehicle pollution, Reporting and recordkeeping requirements.

(Secs. 206(b), 208(a), 301(a), Clean Air Act, as amended (42 U.S.C. 7525(b), 7542(a), 7601(a))

Dated: February 3, 1984.

**William D. Ruckelshaus,**

*Administrator.*

SEA LDV AMENDMENTS.—EXPLANATION OF PROPOSED AMENDMENTS AND REVISIONS

| Section | Paragraph | Changes | Reason |
|---|---|---|---|
| 86.078-6 | (a)(1), (a)(3), (b)(1). | Reference to 86.084-30 becomes 86.084-30 (b) or (c) | Paragraph 86.084-30(d) refers to SEA, which has separate hearing procedures. |
| 86.084-30 | (d)(1)(v) | Added requirement for warrant or court order for entry and access (E&A) activities. | Requirements of Supreme Court decision in *Marshall* v. *Barlow's, Inc.* |
| | (d)(1)(vi) | Added suspension provision for facilities in foreign jurisdiction where SEA activities are prohibited. | Clarifies foreign location requirements. |
| | | Deleted specific entry and access activities in old (d)(1)(vi) | All E&A activities covered under new (d)(1)(v). |
| | (d)(1)(vii) | Deleted old (d)(1)(vii) | All E&A activities covered under new (d)(1)(v). |
| | | Revised section references in old (d)(1)(viii) | Section numbers changed because of new sampling plans. |
| | (d)(2), (3) | Revised paragraph (d)(1) references | Restructured sub-paragraphs under (d)(1). |
| | (d)(5) | Deleted references to paragraphs (d)(1), (vi), (vii) | Restructured sub-paragraphs under (d)(1). |
| | (d)(6)(i) | § 86.613 becomes § 86.614 | Change in section designations. |
| 86.084-30 | (d)(7) | New provision to allow manufacturer opportunity for hearing before voiding a certificate. | Provides manufacturer with opportunity for a hearing before a sanction may be imposed. |
| Table of Contents of Subpart G. | | Old § 86.610 and 86.611 combined into a new 86.610. New 86.611 is reserved. Old 86.613 is redesignated as new 86.614. New 86.613 is reserved. | Reorganization due to deletion of batch-type sampling plans. |
| 86.602 | (a), (b) | Deleted definitions related to batch-type sampling plans. Clarified definitions of "Test Sample", "Inspection Criteria", and "Vehicle". Added definitions of "Axle Ratio" and "Configuration". | New sampling plans being proposed.<br>Axle Rations within ±3% are expected to have similar emission characteristics.<br>Define "Configuration" for purpose of SEA Test Order. |
| 86.603 | (b) | Revised Assistant Administrator (AA) that can sign test orders: "Enforcement" becomes "Air and Radiation". | Environmental Protection Agency reorganization. |
| | | Revised old paragraph (e) and added to the end of paragraph (b) to require compliance with test order instructions. | CAA obligates manufacturers to comply with instructions in the test order. |
| | (b) | Added statement to allow for delivery of test order to assembly plants | Formalizes procedure EPA currently employs in practice. |
| | (c)(1) | Deleted references to batch selection | Not applicable to new sampling plans. |
| | | Added Assistant Administrator for Air and Radiation discretion in selecting alternate configuration if production of primary configuration is less than four vehicles per day. | Expedites audits by ensuring that at least four vehicles per day are available for testing. |
| | (c)(2) | Previously standardized test order instructions and information are being placed in the regulations. | EPA requirements for each audit are being formalized to greatest extent practical. |
| | (e) | Revision of old paragraph (f). Sales projections in the Fuel Economy Report will be used to determine annual limit on SEA test orders. | To provide a source of this information due to a change in the content of the manufacturer's Application for Certification. |
| | | New provision allowing manufacturers to update their annual sales projections. | The manufacturer's annual limit would be based on most current production trends. |
| | (e)(1) | Revision of old paragraphs (f) and (g) | Clarified intent of this provision. |
| | (e)(2) | Additional test orders issued on basis of noncompliance will include explanatory statement. | Provide explanation when issuing a test order beyond annual limit. |
| 86.604 | (a) | Selection procedure for testing by the Administrator conforms to § 86.607 | Clarification of EPA intent when selecting vehicles for its own testing purposes. |
| 86.605 | (a)(1), (a)(3) | "General Records" section only requires description of equipment used for SEA testing. The existing paragraph (a)(1)(iii)(E) moved to paragraph (a)(3). | Description of vehicles, emission control systems, and test procedures are already contained in Applications for Certification and regulations. |
| | (a)(2) | Reorganized paragraph for clarity. Deleted reference to batch sample selection. | New sampling plans. |
| | (a)(4) | Clarify requirement for description of each test cell used for SEA testing | EPA must be able to verify that equipment used for SEA testing conforms with Subpart B. |
| | (c) | New provision for submission of manufacturer's assembly line test data | Formalizes SEA administrative requirement which is currently in effect. Authorized under section 208 of CAA. |
| | (d), (e), (f) | Old §§ 86.605 (c), (d), (e) redesignated as new §§ 86.605 (d), (e), (f) | Restructuring of § 86.605. |

SEA LDV AMENDMENTS.—EXPLANATION OF PROPOSED AMENDMENTS AND REVISIONS—Continued

| Section | Paragraph | Changes | Reason |
|---|---|---|---|
| | (g) | New provision allowing manufacturer to claim confidentiality on information submitted for SEA purposes. | The Agency makes submitted information available for public review, except for "confidential" information. |
| 86.606 | | Section amended to require warrants or court orders for entry and access where voluntary consent is refused. Deleted old 86.606(e)(5) requirement that AA shall authorize any entry without 24 hour prior notification to manufacturer. | Ensures that regulations comply with requirements of Supreme Court decision in *Marshall v. Barlow's, Inc.* Makes consistent with proposed 86.603(b) which says AA or designee may sign test orders. |
| 86.607 | (a) | Deleted requirements of old paragraphs (a)–(d) and (g) relating to batches and random sampling. | Not required by new sampling plans. |
| | | Manufacturer allowed to request alternate selection procedure | May be required by new sampling plans or unusual situations. |
| | (b) | Manufacturer must inform EPA of any emissions related changes in production processes from issuance of test order until end of selection. | Expansion of old paragraph (e). Enables EPA to ensure that appropriate vehicles are being selected for testing. |
| | (c) | Revision of old paragraph (f) | Clarified intent of this provision. |
| | (e) | New provision: order of selection determines order of test results for making audit decision. | To provide an objective basis for applying test results to the sequential decision criteria. This provision is currently in the test orders. |
| | (f) | Revision of old paragraph (i): references to "batches" deleted | New sampling plans. |
| 86.608 | (a)(2)(i) | New provision allowing manufacturers to use diesel emission test fuel for mileage accumulation. | Formalizes procedure that is currently in effect for diesel vehicles. |
| | (b)(1) | Revised provision to allow manufacturer's pre-delivery inspection procedures only after EPA approval. | Ensure that vehicles tested are representative of vehicles introduced into commerce. |
| | (d), (f) | Deleted references to batch sample, vehicle substitution, or vehicle replacement. | New sampling plans. Malfunctioning vehicles are deleted from test sequence. |
| | (g) | Clarify requirements for EPA notification of manufacturer's test facility | EPA test order issued under § 86.604(a) is not applicable. |
| | (i) | Retests permitted only after fail decision is reached on first test, unless otherwise allowed by EPA. | Prevents unreasonable delays in reaching initial audit decisions and beginning retest except in unusual circumstances. |
| 86.609 | (d) | Deleted reference to batch sequence | New sampling plans. |
| | (d)(1) | Deleted reference to Subparts | Confusing and out of date. |
| | (d)(2) | Deleted old paragraph (d)(2). Substituted new requirement to list applicable standards in audit report. | Old paragraph (d)(2) inapplicable to new testing procedures. Standards changing in future model years, possible waivers. |
| | (d)(4) | Revision of old paragraph (d)(2); description of selection process required | New sampling plans. |
| | (d)(5) | Same as old paragraph (d)(4), except for sub-paragraphs (v), (vi), and (vii) | Reorganization of paragraph (d) by adding (d)(2). |
| | (d)(5)(v) | Added requirement for submission of CO2 values in audit report | Move requirement from test order to regulations. |
| | (d)(5)(vi) | Revised "replacement vehicle" provision to require reporting reason for elimination of any test vehicle. | Under sequential sampling plans, vehicles may be deleted from test sequence. |
| | (d)(6) | Added statement to audit report endorsement that no emission-related changes were made on the assembly line during the audit. | To verify that SEA test vehicles selected are representative of vehicles that are introduced into commerce. |
| 86.610 | | Replaces old § 86.610 and 86.611. Deleted all references to batch-type sampling plans and decision rules. Explains how to use new sampling and decision rules. | Reorganized sections due to new sampling plans and decision rules. |
| | (c) | The sampling plan to be used for SEA testing is based on sales projections from the manufacturer's Fuel Economy report. | Projected sales will no longer be provided in the manufacturer's Application for Certification. |
| 86.611 | | Removed and reserved | Reorganized sections due to new sampling plans and decision rules. |
| 86.612 | | Amendment of old § 86.612 | Reorganized sections due to new sampling plans and decision rules. |
| | (b) | Deleted references to batch sequence and batch sample. Allows for suspension based on first test results. | Not required by new sampling plans. Avoids possible delays in imposing sanctions when failure is imminent. |
| | (e) | Added statement that the proposed remedy for nonconformity shall be reported by manufacturer to EPA. | Clarification of existing paragraph. |
| | (f)(2) | Added 5-day time period for submitting failed vehicle report | Establishes a definite schedule for reporting remedies for vehicle nonconformities. |
| | (g)(2) | Deleted reference to batch selection | New sampling plans. New decision criteria for reaudits. |
| | (h) | Clarified language to correspond with intent of regulations | Cannot re-issue a certificate for a revoked configuration (must be modified, producing a new configuration). |
| | (h)(1), (2) | Added statements that fuel economy testing may also be required in conjunction with approving a design change. | For consistency with amendments to vehicle Fuel Economy program. |

## PART 86—[AMENDED]

For the reasons set forth in this preamble, Part 86, Subparts A and G, Chapter I of Title 40, Code of Federal Regulations is proposed to be amended as follows:

1. Section 86.078–6 is proposed to be amended by revising (a)(1), (a)(3) and (b)(1) as follows:

### § 86.078–6 Hearings on certification.

(a)(1) After granting a request for a hearing under §§ 86.084.22, 86.084–30(b), or 86.084–30(c), the Administrator shall designate a Presiding Officer for the hearing.

* * * * *

(3) If a time and place for the hearing have not been fixed by the Administrator under §§ 86.084–22, 86.084–30(b), or 86.084–30(c), the hearing shall be held as soon as practicable at a time and place fixed by the Administrator or by the Presiding Officer.

* * * * *

(b)(1) Upon his appointment pursuant to paragraph (a) of this section, the Presiding Officer will establish a hearing file. The file shall consist of the notice issued by the Administrator under §§ 86.084–22, 86.084–30(b), or 86.084–30(c) together with any accompanying material, the request for a hearing and the supporting data submitted therewith, and all documents relating to the request for certification and all documents submitted therewith, and correspondence and other data material to the hearing.

* * * * *

2. Section 86.084–30 is proposed to be amended by revising (d)(1)(v) through (d)(1)(vii), first sentence in (d)(2), (d)(3), (d)(5), (d)(6)(i), and by removing (d)(1)(viii), and by adding (d)(7) as follows:

### § 86.084–30 Certification.

* * * * *

(d) * * *

(1) * * *

(v) Any EPA Enforcement Officer is denied the opportunity to conduct activities related to entry and access as authorized in § 86.606 of this part and in a warrant or court order presented to the manufacturer or the party in charge of a facility in question; or

(vi) EPA Enforcement Officers are unable to conduct activities related to entry and access or to obtain "reasonable assistance" as authorized in § 86.606 of this part because a manufacturer has located its facility in a foreign jurisdiction where local law prohibits those activities; or

(vii) The manufacturer refuses to or in fact does not comply with §§ 86.604(a), 86.605, 86.607, 86.608, or 86.610.

(2) The sanction of suspending a certificate may not be imposed for the reasons in paragraph (d)(1) (i), (ii), or

(vii) of this section where the refusal is caused by conditions and circumstances outside the control of the manufacturer which render it impossible to comply with those requirements. * * *

(3) The sanction of suspending a certificate may be imposed for the reasons in paragraph (d)(1) (iii), (iv), or (v) of this section only when the infraction is substantial.

(4) * * *

(5) In any case in which certification of a vehicle is proposed to be suspended under paragraph (d)(1)(v) of this section and in which the Administrator has presented to the manufacturer involved reasonable evidence that a violation of § 86.606 in fact occurred, if the manufacturer wishes to contend that, although the violation occurred, the vehicle configuration or engine family in question was not involved in the violation to a degree that would warrant suspension of certification under paragraph (d)(1)(v) of this section, the manufacturer shall have the burden of establishing that contention to the satisfaction of the Administrator.

(6) * * *

(i) Be made only after the manufacturer concerned has been offered an opportunity for a hearing conducted in accordance with § 86.614; and

(ii) * * *

(7) Any voiding of a certificate of conformity under paragraph (d)(4) of this section will be made only after the manufacturer concerned has been offered an opportunity for a hearing conducted in accordance with § 86.614.

* * * * *

3. Section 86.602 is proposed to be amended by redesignating paragraph (a) as (b), adding a new (a), removing (a)(9) through (a)(16), and revising (b)(1) through (b)(8) as follows:

**§ 86.602 Definitions.**

(a) The definitions in this section apply to this subpart.

(b) As used in this subpart, all terms not defined herein have the meaning given them in the Act.

(1) "Acceptable Quality Level" (AQL) means the maximum percentage of failing vehicles that, for purposes of sampling inspection, can be considered satisfactory as a process average.

(2) "Axle Ratio" means all ratios within ±3% of the axle ratio specified in the configuration in the test order.

(3) "Configuration" means a subclassification of an engine-system combination on the basis of engine code, intertia weight class, transmission type and gear ratios, axle ratio, and other parameters which may be designated by the Administrator.

(4) "Test Sample" means the collection of vehicles of the same configuration which have been drawn from the population of vehicles of that configuration and which will receive exhaust emission testing.

(5) "Inspection Criteria" means the pass and fail numbers associated with a particular sampling plan.

(6) "Vehicle" means any new production light-duty vehicle as defined in Subpart A of this part.

(7) "Test Vehicles" means a vehicle in a test sample.

(8) "In the Hands of the Manufacturer" means that vehicles are still in the possession of the manufacturer and have not had their bills of lading transferred to another person for the purpose of transporting.

4. Section 86.603 is proposed to be amended by revising paragraphs (b), (c) and (e) as follows:

**§ 86.603 Test orders.**

* * * * *

(b) The test order will be signed by the Assistant Administrator for Air and Radiation or his designee. The test order will be delivered in person by an EPA Enforcement Officer to a company representative or sent by registered mail, return receipt requested, to the manufacturer's representative who signs the Application for Certification submitted by the manufacturer pursuant to the requirements of the applicable sections of Subpart A of this part. Upon receipt of a test order, the manufacturer shall comply with all of the provisions of this subpart and instructions in the test order.

(c)(1) The test order will specify the vehicle configuration selected for testing, the time and location at which vehicles must be selected, and the procedure by which vehicles of the specified configuration must be selected. The test order may include alternative configurations (primary, secondary, etc.) to be selected for testing in the event that vehicles of the first specified configuration are not available for testing because those vehicles are not being manufactured at the specified assembly plant, not being manufactured during the specified time, or not being stored at the specified assembly plant or associated storage facility. If the first specified configuration is not being manufactured at a rate of at least four vehicles per day over the expected duration of the audit, the Assistant Administrator for Air and Radiation or his designated representative may select vehicles of a primary alternate configuration for testing in lieu of the first specified configuration. Likewise vehicles may be selected of a secondary alternate configuration in lieu of the first specified or primary alternate configuration. In addition, the test order may include other directions or information essential to the adminstration of the required testing.

(2) The following instructions are applicable to each test order issued under this subpart:

(i) The manufacturers shall make the following documents available to an EPA Enforcement Officer upon request:

(A) A properly filed and current Application for Certification following the format prescribed by the EPA for the appropriate model year; and

(B) A copy of the shop manual, dealer service bulletins, and pre-delivery inspection procedures for the configuration being tested.

(ii) Only one mechanic at a time per vehicle shall make authorized checks, adjustments, or repairs, unless a particular check, adjustment, or repair requires a second mechanic as indicated in the shop manual or dealer service bulletins.

(iii) A mechanic shall not perform any check, adjustment, or repair without an Enforcement Officer present unless otherwise authorized.

(iv) The manufacturer shall utilize only those tools and test equipment utilized by its dealers when performing authorized checks, adjustments, or repairs.

* * * * *

(e) During a given model year, the Administrator shall not issue to a manufacturer more SEA test orders than an annual limit determined by dividing the projected sales bound for the U.S. market for that model year, as made by the manufacturer in its report submitted under paragraph (a)(2) of § 600.207–80 of the Automobile Fuel Economy Regulations, Title 40, Code of Federal Regulations, by 300,000 and rounding to the nearest whole number, unless the projected sales are less than 150,000, in which case the annual limit is one. However, the annual limit for SEA test orders will be recalculated if a manufacturer submits to EPA in writing prior to or during the model year a sales projection update.

(1) Any SEA test order for which the configuration fails in accordance with § 86.610 or for which testing is not completed does not count against the annual limit.

(2) When the annual limit has been met, the Administrator may issue additional test orders for those configurations for which evidence exists indicating noncompliance. An SEA test order issued on this basis will include a

statement as to the reason for its issuance.

5. Section 86.604 is proposed to be amended by revising paragraph (a) as follows:

**§ 86.604 Testing by the Administrator.**

(a) The Administrator may require by test order that vehicles of a specified configuration be selected in a manner consistent with the requirements of § 86.607 and submitted to him at such place as he may designate for the purpose of conducting emission tests. These tests shall be conducted in accordance with § 86.608 of these regulations to determine whether vehicles manufactured by the manufacturer conform with the regulations with respect to which the certificate of conformity was issued.

* * * * *

6. Section 86.605 is proposed to be amended by revising paragraphs (a)(1) and (a)(2), adding (a)(3) and (a)(4), redesignating (c) as (d), (d) as (e), and (e) as (f), and adding new (c) and (g) as follows:

**§ 86.605 Maintenance of records; submittal of information.**

(a) * * *

(1) *General records.* (i) A description of all equipment used to test vehicles in accordance with § 86.608 pursuant to a test order issued under this subpart, including the following information:

(A) Dynamometer.

(*1*) Inertia loading.

(*2*) Road load power absorption at 50 m.p.h.

(*3*) Manufacturer, model and serial number.

(B) Constant Volume Sampler.

(*1*) Pressure of the mixture of exhaust and dilution air entering the positive displacement pump, pressure increase across the pump, and the temperature set point of the temperature control system.

(*2*) Number of revolutions of the positive displacement pump accumulated while test is in progress and exhaust samples are being collected.

(*3*) Humidity of dilution air.

(*4*) Manufacturer, model, type and serial number.

(C) Instrumentation.

(*1*) Manufacturer, model and serial number for each analyzer.

(*2*) Pertinent information such as tuning, gain, ranges and calibration data.

(*3*) Identification of zero, span, exhaust gas and dilution air sample traces.

(*4*) Temperature set point of heated sample line and heated hydrocarbon detector temperature control system (for diesel vehicles only).

(D) Test cell.

(*1*) Barometric pressure, ambient temperature and humidity.

(*2*) Date and time of day.

(ii) In lieu of recording test equipment information, reference to a vehicle test cell number may be used, with the advance approval of the Administrator: Provided, the test cell records show the pertinent information.

(2) *Individual records.* These records pertain to each audit conducted pursuant to this subpart.

(i) The location where audit testing was performed, and the date and time for each emissions test.

(ii) The number of miles on the test vehicle when the test began and ended.

(iii) The names of supervisory personnel responsible for the conduct of the audit.

(iv) A record and description of any repairs performed prior to and/or subsequent to approval by the Administrator, giving the date and time of the repair, the reason for it, the person authorizing it, and the names of supervisory personnel responsible for the repair.

(v) The dates when the test vehicles were shipped from the assembly plant or the storage facility and when they were received at the testing facility.

(vi) The drive wheel tire pressure and the inertia weight class for each test vehicle, and the actual curb weight for each test vehicle required to be weighed pursuant to a test order.

(vii) A complete record of all emission tests performed pursuant to this subpart (except tests performed by EPA directly) including all individual worksheets and/or other documentation relating to each test, or exact copies thereof.

(viii) A brief description of all significant audit events, commencing with the test vehicle selection process, but not described by any other subparagraph under paragraph (a)(2) of this section, including such extraordinary events as vehicle accident.

(3) Additional required records for diesel vehicles.

(4) The manufacturer shall record test equipment description, pursuant to paragraph (a)(1) of this section, for each test cell that is used to perform emission testing under this subpart.

* * * * *

(c) Light-duty vehicle manufacturers who conduct emissions tests on production vehicles shall submit to the Administrator no later than thirty calendar days after the close of each calendar quarter, all emission data, whether or not from full FTP testing, from testing of production light-duty vehicles. The manufacturer shall provide the following information with respect to these vehicles:

(1) Description of quality audit or other program under which production vehicles are tested, including a description of sampling plans, method of sample selection, sampling rates, and emission test employed;

(2) Vehicle parameters:

(i) EPA engine family;

(ii) Complete vehicle identification number;

(iii) Vehicle model year and build date;

(iv) Number of miles accumulated on vehicle prior to testing;

(v) Engine displacement;

(vi) EPA engine code, indicating any revised code designation;

(vii) Equivalent test weight;

(viii) Transmission, including type and number of forward gears; and

(ix) Axle ratio;

(3) Test facility;

(4) Description of any preparation, maintenance, modifications or repairs on test vehicles;

(5) Deteriorated emission test results for each valid test; and

(6) The manufacturer shall submit the above information in a standardized format on Automatic Data Processing (ADP) storage devices compatible with the Agency's ADP equipment. The appropriate ADP format and types of EPA ADP storage devices acceptable are described in Appendix XIV. Small-volume manufacturers (as defined in § 86.082–1(e)) are exempt from submitting the information on an ADP storage device but still must provide the prescribed information in writing. Additionally, the Administrator may waive or modify any of the above requirements pertaining to submission of data in ADP form, based upon a request by the manufacturer accompanied by a satisfactory justification. EPA shall return ADP equipment submitted by the manufacturer or, upon a request by the manufacturer, furnish the necessary ADP storage devices. Information submitted once or duplicate information need not be submitted again if there are no subsequent changes.

(d) The manufacturer shall, pursuant to a request made by the Administrator, submit to the Administrator the following information with regard to vehicle production:

(1) Number of vehicles, by configuration and assembly plant, scheduled for production for the time period designated in the request.

(2) Number of vehicles, by configuration and assembly plant, produced during the time period designated in the request which are complete for introduction into commerce.

(e) Nothing in this section shall limit the Administrator's discretion to require the manufacturer to retain additional records or submit information not specifically required by this section.

(f) All reports, submissions, notifications and requests for approvals made under this subpart shall be addressed to:

Director, Manufacturer Operations Divisions (EN-340) U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460

(g) A manufacturer may assert a business confidentiality claim covering all or part of the information submitted pursuant to this subpart. To assert a business confidentiality claim, the manufacturer should do so in a manner consistent with the requirements of 40 CFR 2.203(b). If no claim accompanies business information when it is received by EPA, it may be made available to the public by EPA without further notice to the manufacturer. If a claim is received, the information covered by the claim will be disclosed by EPA only to the extent, and by means of the procedures, set forth in 40 CFR Part 2.

7. Section 86.606 is proposed to be amended by redesignating (e) as (h), revising the introductory text of (a), (a)(1), (b) through (d), and (h), and by adding a new (e), (f), and (g) as follows:

**§ 86.606 Entry and access.**

(a) In order to allow the Administrator to determine whether a manufacturer is complying with the provisions of this subpart and a test order issued thereunder, EPA Enforcement Officers may enter during normal operating hours, upon presentation of credentials, any of the following:

(1) Any facility where any vehicle to be introduced into commerce or any emission related component is or has been manufactured, assembled, or stored;

* * * * *

(b) Upon admission to any facility referred to in paragraph (a) of this section, EPA Enforcement Officers may:

(1) Inspect and monitor any part or aspect of vehicle manufacture, assembly, storage, testing and other procedures, and the facilities in which these procedures are conducted;

(2) Inspect and monitor any part or aspect of vehicle test procedures or activities, including, but not limited to, vehicle selection, preparation, mileage accumulation, preconditioning, emission tests, and maintenance; and verify calibration of test equipment;

(3) Inspect and make copies of any records or documents related to the assembly, storage, selection and testing of a vehicle in compliance with a test order; and

(4) Inspect and photograph any part or aspect of any vehicle and any component used in its assembly that is reasonably related to the purpose of the entry.

(c) EPA Enforcement Officers may obtain reasonable assistance without cost from those in charge of a facility to help them perform any function listed in this subpart and may request the recipient of a test order to arrange with those in charge of a facility operated for its benefit to furnish reasonable assistance without cost to EPA whether or not the recipient controls the facility.

(d) EPA Enforcement Officers may seek a warrant or court order authorzing the EPA Enforcement Officers to conduct activities related to entry and access as authorized in this section. EPA Enforcement Officers may proceed ex parte to obtain a warrant whether or not the Enforcment Officers first sought permission from the recipient of the test order or the party in charge of the facilities in question to conduct those activities related to entry and access.

(e) A recipient of a test order shall permit EPA Enforcement Officers who present a warrant or court order as described in paragraph (d) of this section to conduct activities related to entry and access as authorized in this section and as described in the warrant or court order. A recipient of a test order shall cause those in charge of its facility or a facility operated for its benefit to permit EPA Enforcement Officers to conduct these activities related to entry and access pursuant to a warrant or court order whether or not the recipient controls the facility. In the absence of such a warrant or court order, EPA Enforcement Officers may conduct those activities related to entry and access only upon the consent of either the recipient of the test order or the party in charge of the facilities in question.

(f) It is not a violation of this part or the Clean Air Act for any person to refuse to permit EPA Enforcement Officers to conduct activities related to entry and access as authorized in this section without a warrant or court order.

(g) A manufacturer is responsible for locating its foreign testing and manufacturing facilities in jurisdictions in which local foreign law does not prohibit EPA Enforcement Officers from conducting the entry and access activities specified in this section. EPA will not attempt to make any inspections which it has been informed that local foreign law prohibits.

(h) For purposes of this section:

(1) "Presentation of Credentials" means display of the document designating a person as an EPA Enforcement Officer.

(2) Where vehicle storage areas or facilities are concerned, "operating hours" means all times during which personnel other than custodial personnel are at work in the vicinity of the area or facility and have access to it.

(3) Where facilities or areas other than those covered by paragraph (h)(2) of this section are concerned, "operating hours" means all times during which an assembly line is in operation, vehicle assembly is occurring, or testing, repair, mileage accumulation, production or compilation of records, or any other procedure or activity related to testing, or to vehicle manufacture or assembly, is being conducted in a facility.

(4) "Reasonable assistance" includes, but is not limited to, providing clerical, copying, interpreting and translating services and, at the request of an EPA Enforcement Officer, making available personnel of the facility being inspected during their working hours to provide information relevant to the Enforcement Officer's activities authorized in this section. Any employee whom a manufacturer has instructed to appear at the request of an Enforcement Officer may be accompanied, represented, and advised by counsel.

8. Section 86.607 is proposed to be amended by removing paragraph (g), redesignating paragraphs (h) as (d) and (i) as (f), and revising (a) through (f) as follows:

**§ 86.607 Sample selection.**

(a) Vehicles comprising a test sample which are required to be tested, pursuant to a test order issued in accordance with this subpart, will be selected at the location and in the manner specified in the test order. If a manufacturer determines that the test vehicles cannot be selected in the manner specified in the test order, an alternative selection procedure may be employed: *Provided,* That the manufacturer requests approval of the alternative procedure in advance of the start of test sample selection and that the Administrator approves the procedure. Special order vehicles are exempt from sample selection unless a test sample cannot be completed otherwise.

(b) The manufacturer shall have assembled the test vehicles of the configuration selected for testing using

its normal mass production processes for vehicles to be distributed into commerce. During the audit, the manufacturer shall inform the Administrator of any change(s) implemented in its production processes, including quality control which may be reasonably expected to affect the emissions of the vehicles selected, between the time the manufacturer received the test order and the time the manufacturer finished selecting test vehicles.

(c) No quality control, testing, or assembly procedures will be used on the completed test vehicles or any portion thereof, including parts and subassemblies, that has not been or will not be used during the production and assembly of all other vehicles of that configuration.

(d) The test order may specify that EPA Enforcement Officers, rather than the manufacturer, will select the test vehicles according to the method described in paragraph (a) of this section.

(e) The order in which test vehicles are selected determines the order in which test results are to be used in applying the sampling plan in accordance with § 86.610.

(f) The manufacturer shall keep on hand all untested vehicles, if any, comprising the test sample until a pass or a fail decision is reached in accordance with paragraph (d) of § 86.610. The manufacturer may ship any tested vehicle which has not failed in accordance with paragraph (a) of § 86.610. However, once a manufacturer ships any vehicle from the test sample, it relinquishes the prerogative to conduct retests provided in paragraph (i) of § 86.608.

9. Section 86.608 is proposed to be amended by revising (a)(2)(i), (b)(1), (d), (f), the first sentence of (g), and (i) as follows:

**§ 86.608 Test procedures.**

(a) * * *

(2) * * *

(i) The manufacturer may use test fuel meeting the specifications of paragraph (a)(1) or (b)(2) of § 86.113–82 for mileage accumulation. Otherwise, the manufacturer may use fuels other than those specified in this section only with advance approval of the Administrator.

* * * * *

(b)(1) The manufacturer shall not adjust, repair, prepare, or modify the vehicles selected for testing and shall not perform any emission tests on vehicles selected for testing pursuant to the test order unless this adjustment, repair, preparation, modification, and/or tests are documented in the manufacturer's vehicle assembly and inspection procedures and are actually performed or unless these adjustments and/or tests are required or permitted under this subpart or are approved in advance by the Administrator.

* * * * *

(d) The manufacturer shall not perform any maintenance on test vehicles after selection for testing nor shall the Administrator allow deletion of any test vehicle from the test sequence, unless requested by the manufacturer and approved by the Administrator before any test vehicle maintenance or deletion.

* * * * *

(f) If a vehicle can not complete the mileage accumulation or emission tests because of vehicle malfunction, the manufacturer may request the Administrator to authorize the repair of that vehicle or its deletion from the test sequence.

(g) Whenever the manufacturer conducts testing pursuant to a test order issued under this subpart, the manufacturer shall notify the Administrator, within one working day of receipt of the test order, which test facility will be used to comply with the test order and the number of available test cells at that facility.

* * * * *

(i) The manufacturer may retest any test vehicle after a fail decision has been reached in accordance with paragraph (d) of § 86.610 based on the first test on each vehicle; *except*, that the Administrator may approve retesting at other times during the audit based upon a request by the manufacturer accompanied by a satisfactory justification. The manufacturer may test each vehicle a total of three times. The manufacturer shall test each vehicle the same number of times. The manufacturer may accumulate additional mileage on test vehicles before conducting retests, subject to the provisions of paragraph (c) of this section.

10. Section 86.609 is proposed to be amended by redesignating paragraphs (d)(2) as (d)(4), (d)(4) as (d)(5), and (d)(5) as (d)(6), adding a new (d)(2), and revising (d), (d)(1), and (d)(4) through (d)(6) as follows:

**§ 86.609 Calculation and reporting of test results.**

* * * * *

(d) Within five working days after completion of testing of all vehicles pursuant to a test order, the manufacturer shall submit to the Administrator a report which includes the following information:

(1) The location and description of the manufacturer's exhaust emission test facilities which were utilized to conduct testing reported pursuant to this section;

(2) The applicable standards against which the vehicles were tested;

* * * * *

(4) A description of the vehicle selection method used;

(5) For each test conducted,

(i) Test Vehicle description including:

(A) Configuration and engine family identification.

(B) Year, make, build date, and model of vehicle.

(C) Vehicle Identification Number.

(D) Miles accumulated on vehicle.

(ii) Location where mileage accumulation was conducted and description of accumulation schedule.

(iii) Test number, date, initial test results, final results and final deteriorated test results for all valid and invalid exhaust emission tests, and the reason for invalidation.

(iv) A complete description of any modification, repair, preparation, maintenance and/or testing which was performed on the test vehicle and (A) has not been reported pursuant to any other paragraph of this subpart and (B) will not be performed on all other production vehicles.

(v) Carbon dioxide emission values for all valid and invalid exhaust emission tests.

(vi) Where a vehicle was deleted from the test sequence by authorization of the Administrator, the reason for the deletion.

(vii) Any other information the Administrator may request relevant to the determination as to whether the new motor vehicles being manufactured by the manufacturer do in fact conform with the regulations with respect to which the certificate of conformity was issued.

(6) The following statement and endorsement:

This report is submitted pursuant to sections 206 and 208 of the Clean Air Act. This Selective Enforcement Audit was conducted in complete conformance with all applicable regulations under 40 CFR Part 86 et seq. and the conditions of the test order. No emission related change(s) to production processes or quality control procedures for the vehicle configuration tested have been made between receipt of this test order and conclusion of the audit. All data and information reported herein is, to the best of (Company Name) ———— knowledge, true and accurate. I am aware of the penalties associated with violations of

the Clean Air Act and the regulations thereunder.

(Authorized Company Representative)

11. Section 86.610 is proposed to be amended by revising the title and paragraphs (a) through (d), and by adding paragraph (e) as follows:

**§ 86.610 Compliance with acceptable quality level and passing and failing criteria for Selective Enforcement Audits.**

(a) The prescribed acceptable quality level is 40 percent.

(b) A failed vehicle is one whose final deteriorated test results pursuant to paragraph (c) of § 86.609, for one or more of the applicable exhaust pollutants, exceed the applicable emission standard.

(c) The manufacturer shall test vehicles comprising the test sample until a pass decision is reached for all pollutants or a fail decision is reached for one pollutant. A pass decision is reached when the cumulative number of failed vehicles, as defined in paragraph (b) of this section, for each pollutant is less than or equal to the pass decision number appropriate to the cumulative number of vehicles tested. A fail decision is reached when the cumulative number of failed vehicles for one pollutant is greater than or equal to the fail decision number appropriate to the cumulative number of vehicles tested. The pass and fail decision numbers associated with the cumulative number of vehicles tested are determined by use of the Tables in Appendix XIII of this part appropriate for the annual projected sales as made by the manufacturer in its report submitted under paragraph (a)(2) of § 600.207–80 of the Automobile Fuel Economy Regulations. In the Tables in Appendix XIII, sampling plan "stage" refers to the cumulative number of vehicles tested. Once a pass decision has been made for a particular pollutant, the number of vehicles whose final deteriorated test results exceed the emission standard for that pollutant shall not be considered any further for purposes of the audit.

(d) Passing or failing of an SEA audit occurs when the decision is made on the last vehicle required to make a decision under paragraph (c) of this section.

(e) The Administrator may terminate testing earlier than required in paragraph (c) of this section.

**§ 86.611 [Reserved]**

12. Section 86.611 is proposed to be removed and reserved.

13. Section 86.612 is proposed to be amended by revising paragraphs (a), (b), (e), (f)(2), (g)(2), (h), (h)(1), (h)(2), (j), and (k) as follows:

**§ 86.612 Suspension and revocation of certificates of conformity.**

(a) The certificate of conformity is suspended with respect to any vehicle failing pursuant to paragraph (b) of § 86.610 effective from the time that testing of that vehicle is completed

(b) The Administrator may suspend the certificate of conformity for a configuration which does not pass a Selective Enforcement Audit pursuant to paragraph § 86.610(c) based on the first test, or all tests, conducted on each vehicle. This suspension will not occur before ten days after failure to pass the audit.

* * * * *

(e) The Administrator may revoke a certificate of conformity for a configuration when the certificate has been suspended pursuant to paragaph (b) or (c) of this section if the proposed remedy for the nonconformity, as reported by the manufacturer to the Administrator, is one requiring a design change(s) to the engine and/or emission control system as described in the Application for Certification of the affected configuration.

(f) * * *

(2) Submit a written report to the Administrator within five working days after successful completion of testing which contains a description of the remedy and test results for the vehicle in addition to other information that may be required by this regulation.

(g) * * *

(2) Demonstrate that the vehicle configuration for which the certificate of conformity has been suspended does in fact comply with these regulations by testing vehilces selected from normal production runs of that vehicle configuration, at the plant(s) or the facilities specified by the Administrator, in accordance with the conditions specified in the initial test order; *except*, that if the Administrator has not revoked the certificate pursuant to paragraph (e) of this section and if the manufacturer elects to continue testing individual vehicles after suspension of a certificate, the certificate is reinstated for any vehicle actually determined to have its final deteriorated test results in conformance with the applicable standards through testing in accordance with the applicable test procedures.

(h) Once a certificate for a failed configuration has been revoked under paragraph (e) of this section and the manufacturer desires to introduce into commerce a modified version of that configuration, the following actions will be taken before the Administrator may isue a certificate for the new configuration:

(1) If the Administrator determines that the proposed change(s) in vehicle design may have an effect on emission performance deterioration and/or fuel economy, he shall notify the manufacturer within 5 working days after receipt of the report in paragraph (g) of this section whether subsequent testing under this subpart will be sufficient to evaluate the proposed change(s) or whether additional testing will be required; and

(2) After implementing the change(s) intended to remedy the nonconformity, the manufacturer shall demonstrate that the modified vehicle configuration does in fact conform with these regulations by testing vehicles selected from normal production runs of that modified vehicle configuration in accordance with the conditions specified in the initial test order. The Administrator shall consider this testing to satify the testing requirements of § 86.079–32 or § 86.079–33 if the Administrator has so notified the manufacturer. If the subsequent testing results in passing of the audit, the Administrator shall reissue or amend the certificate, if necessary, to include that configuration: *Provided*, That the manufacturer has satisfied the testing requirements specified in paragraph (h)(1) of this section. If the subsequent audit is failed, the revocation remains in effect. Any design change approvals under this subpart are limited to the modification of the configuration specified by the test order.

* * * * *

(j) After the Administrator suspends or revokes a certificate of conformity pursuant to this section or notifies a manufacturer of his intent to suspend, revoke or void a certificate of conformity under paragraph (d) of § 86.084–30, and prior to the commencement of a hearing under § 86.614, if the manufacturer demonstrates to the Administrator's satisfaction that the decision to suspend, revoke or void the certificate was based on erroneous information, the Administrator shall reinstate the certificate.

(k) To permit a manufacturer to avoid storing non-test vehices when conducting an audit of a configuration subsequent to suspension or revocation of the certificate of conformity for that configuration, resulting from failure of the initial audit of that configuration, he may request that the Administrator conditionally reinstate the certificate for that configuration. The Administrator may reinstate the certificate subject to the condition that the manufacturer consents to recall all vehicles of that configuration produced from the time

the certificate is conditionally reinstated if the configuration fails the subsequent audit and to remedy any noncomformity at no expense to the owner.

**§ 86.613 [Reserved]**

14. Section 86.613 is reserved, and the title and text are redesignated as § 86.614 and is proposed to be amended by revising paragraph (a), the first sentence of (c)(1), (c)(2)(ii), (c)(2)(ii) (C) and (D), (d)(1), (d)(2), and (t)(3)(ii) as follows:

**§ 86.614 Hearings on suspension, revocation, and voiding of certificates of conformity.**

(a) *Applicability.* The procedures prescribed by this section apply whenever a manufacturer requests a hearing under § 86.084–30(d)(6)(i), 86.084–30(d)(7), or 86.612(i).

* * * * *

(c) *Request for public hearing.* (1) If the manufacturer disagrees with the Administrator's decision to suspend, revoke, or void a certificate or disputes the basis for an automatic suspension under § 86.612(a), it may request a public hearing as described in this section.

* * * * *

(2)(ii) A concise statement of the issues to be raised by the manufacturer at the hearing for each vehicle configuration or engine family or vehicle for which the manufacturer has requested the hearing; Provided, however, that in the case of a hearing request under paragraph § 86.612(i), the hearing is restricted to the following issues:

* * * * *

(C) Whether sampling procedures specified in Appendix XIII of this part were followed; and

(D) Whether there exists a basis for distinguishing vehicles produced at plants other than the one from which vehicles were selected which would invalidate the Administrator's decision under § 86.612(c);

* * * * *

(d) *Summary decision.* (1) In the case of a hearing requested under § 86.612(i), when it clearly appears from the data and other information contained in the request for a hearing that there is no genuine and substantial question of fact with respect to the issues specified in § 86.614(c)(2)(ii), the Administrator shall enter an order denying the request for a hearing. In addition, if the original decision to suspend or revoke a certificate of conformity was made under § 86.612(d) prior to the decision to deny the request for a hearing, the order denying the request will reaffirm the suspension or revocation.

(2) In the case of a hearing requested under § 86.084–30(d)(6)(i), to challenge a proposed suspension of a certificate of conformity for the reasons specified in § 86.084–30(d)(1) (i) or (ii), when it clearly appears from the data and other information contained in the request for a hearing that there is no genuine and substantial question of fact with respect to the issue of whether the refusal to comply with the provisions of a test order or any other requirement of § 86.603 was caused by conditions and circumstances outside the control of the manufacturer, the Administrator will enter an order denying the request for a hearing, and suspending the certificate of conformity.

* * * * *

(t) * * *

(3) * * *

(ii) A specification of the issues intended to be urged: *Provided, however,* That in the case of a hearing requested under § 86.612(i), the brief shall be restricted to the issues specified in paragraph (c)(2)(ii) of this section;

* * * * *

15. Part 86 is proposed to be amended by adding Appendix XIII as follows:

**Appendix XIII—Sampling Plans for Selective Enforcement Auditing of Light-Duty Vehicles 40% AQL**

TABLE 1.—SAMPLING PLAN CODE LETTER

| Annual sales of configuration | Code letter |
|---|---|
| 59–99 | A. |
| 100–299 | B. |
| 300–499 | C. |
| 500 or greater | D. |

TABLE 2.—SAMPLING PLAN FOR CODE LETTER "A" 40% AQL

[Sample inspection criteria]

| Stage | Pass No. | Fail No. | Stage | Pass No. | Fail No. |
|---|---|---|---|---|---|
| 1 | (1) | (2) | 16 | 6 | 11 |
| 2 | (1) | (2) | 17 | 7 | 12 |
| 3 | (1) | (2) | 18 | 7 | 12 |
| 4 | 0 | (2) | 19 | 8 | 13 |
| 5 | 0 | (2) | 20 | 8 | 13 |
| 6 | 1 | 6 | 21 | 9 | 14 |
| 7 | 1 | 7 | 22 | 10 | 14 |
| 8 | 2 | 7 | 23 | 10 | 15 |
| 9 | 2 | 8 | 24 | 11 | 15 |
| 10 | 3 | 8 | 25 | 11 | 16 |
| 11 | 3 | 9 | 26 | 12 | 16 |
| 12 | 4 | 9 | 27 | 12 | 17 |
| 13 | 5 | 10 | 28 | 13 | 17 |
| 14 | 5 | 10 | 29 | 14 | 17 |
| 15 | 6 | 11 | 30 | 16 | 17 |

[1] Test sample passing not permitted at this stage.
[2] Test sample failure not permitted at this stage.

TABLE 3.—SAMPLING PLAN FOR CODE LETTER "B" 40% AQL

[Sample inspection criteria]

| Stage | Pass No. | Fail No. | Stage | Pass No. | Fail No. |
|---|---|---|---|---|---|
| 1 | (1) | (2) | 21 | 9 | 14 |
| 2 | (1) | (2) | 22 | 9 | 15 |
| 3 | (1) | (2) | 23 | 10 | 15 |
| 4 | (1) | (2) | 24 | 10 | 16 |
| 5 | 0 | (2) | 25 | 11 | 16 |
| 6 | 1 | 6 | 26 | 11 | 17 |
| 7 | 1 | 7 | 27 | 12 | 17 |
| 8 | 2 | 7 | 28 | 12 | 18 |
| 9 | 2 | 8 | 29 | 13 | 18 |
| 10 | 3 | 8 | 30 | 13 | 19 |
| 11 | 3 | 9 | 31 | 14 | 19 |
| 12 | 4 | 9 | 32 | 14 | 20 |
| 13 | 4 | 10 | 33 | 15 | 20 |
| 14 | 5 | 10 | 34 | 16 | 21 |
| 15 | 5 | 11 | 35 | 16 | 21 |
| 16 | 6 | 12 | 36 | 17 | 22 |
| 17 | 6 | 12 | 37 | 17 | 22 |
| 18 | 7 | 13 | 38 | 18 | 22 |
| 19 | 8 | 13 | 39 | 18 | 22 |
| 20 | 8 | 14 | 40 | 21 | 22 |

[1] Test sample passing not permitted at this stage.
[2] Test sample failure not permitted at this stage.

TABLE 4.—SAMPLING PLAN FOR CODE LETTER "C" 40% AQL

[Sample inspection criteria]

| Stage | Pass No. | Fail No. | Stage | Pass No. | Fail No. |
|---|---|---|---|---|---|
| 1 | (1) | (2) | 26 | 11 | 17 |
| 2 | (1) | (2) | 27 | 12 | 17 |
| 3 | (1) | (2) | 28 | 12 | 18 |
| 4 | (1) | (2) | 29 | 13 | 18 |
| 5 | 0 | (2) | 30 | 13 | 19 |
| 6 | 0 | 6 | 31 | 14 | 19 |
| 7 | 1 | 7 | 32 | 14 | 20 |
| 8 | 2 | 7 | 33 | 15 | 20 |
| 9 | 2 | 8 | 34 | 15 | 21 |
| 10 | 3 | 9 | 35 | 16 | 21 |
| 11 | 3 | 9 | 36 | 16 | 22 |
| 12 | 4 | 10 | 37 | 17 | 22 |
| 13 | 4 | 10 | 38 | 18 | 23 |
| 14 | 5 | 11 | 39 | 18 | 23 |
| 15 | 5 | 11 | 40 | 19 | 24 |
| 16 | 6 | 12 | 41 | 19 | 24 |
| 17 | 6 | 12 | 42 | 20 | 25 |
| 18 | 7 | 13 | 43 | 20 | 25 |
| 19 | 7 | 13 | 44 | 21 | 26 |
| 20 | 8 | 14 | 45 | 21 | 27 |
| 21 | 8 | 14 | 46 | 22 | 27 |
| 22 | 9 | 15 | 47 | 22 | 27 |
| 23 | 10 | 15 | 48 | 23 | 27 |
| 24 | 10 | 16 | 49 | 23 | 27 |
| 25 | 11 | 16 | 50 | 26 | 27 |

[1] Test sample passing not permitted at this stage.
[2] Test sample failure not permitted at this stage.

TABLE 5.—SAMPLING PLAN FOR CODE LETTER "D" 40 PERCENT AOL

[Sample inspection criteria]

| Stage | Pass No. | Fail No. | Stage | Pass No. | Fail No. |
|---|---|---|---|---|---|
| 1 | (1) | (2) | 31 | 14 | 20 |
| 2 | (1) | (2) | 32 | 14 | 20 |
| 3 | (1) | (2) | 33 | 15 | 21 |
| 4 | (1) | (2) | 34 | 15 | 21 |
| 5 | 0 | (2) | 35 | 16 | 22 |
| 6 | 0 | 6 | 36 | 16 | 22 |
| 7 | 1 | 7 | 37 | 17 | 23 |
| 8 | 2 | 8 | 38 | 17 | 23 |
| 9 | 2 | 8 | 39 | 18 | 24 |
| 10 | 3 | 9 | 40 | 18 | 24 |
| 11 | 3 | 9 | 41 | 19 | 25 |
| 12 | 4 | 10 | 42 | 19 | 26 |
| 13 | 4 | 10 | 43 | 20 | 26 |
| 14 | 5 | 11 | 44 | 21 | 27 |
| 15 | 5 | 11 | 45 | 21 | 27 |
| 16 | 6 | 12 | 46 | 22 | 28 |
| 17 | 6 | 12 | 47 | 22 | 28 |

TABLE 5.—SAMPLING PLAN FOR CODE LETTER "D" 40 PERCENT AOL—Continued

[Sample inspection criteria]

| Stage | Pass No. | Fail No. | Stage | Pass No. | Fail No. |
|---|---|---|---|---|---|
| 18 | 7 | 13 | 48 | 23 | 29 |
| 19 | 7 | 13 | 49 | 23 | 29 |
| 20 | 8 | 14 | 50 | 24 | 30 |
| 21 | 8 | 14 | 51 | 24 | 30 |
| 22 | 9 | 15 | 52 | 25 | 31 |
| 23 | 9 | 15 | 53 | 25 | 31 |
| 24 | 10 | 16 | 54 | 26 | 32 |
| 25 | 11 | 16 | 55 | 26 | 32 |
| 26 | 11 | 17 | 56 | 27 | 33 |
| 27 | 12 | 17 | 57 | 27 | 33 |
| 28 | 12 | 18 | 58 | 28 | 33 |
| 29 | 13 | 19 | 59 | 28 | 33 |
| 30 | 13 | 19 | 60 | 32 | 33 |

[1] Test sample passing not permitted at this stage.
[2] Test sample failure not permitted at this stage.

16. Part 86 is proposed to be amended by adding Appendix XIV as follows:

## Appendix XIV.—Assembly-Line Emission Test (ALT) Data Reports: Required Format for Computer Submission

The following is a list of information items includible in ALT report submissions to EPA. All submissions will be on nine track tape with 1600 or 6250 Byte per inch (BPI) density. In developing this format, EPA has attempted to include fields for all information items that it is anticipated will be required by California Air Resources Board (CARB) in reports to it. CARB presently requires manufacturers to submit reports of testing performed under the California Assembly Line Test Procedures. CARB intends to request future submissions of these reports to be in computer compatible form (as discussed at a 12/16/82 CARB workshop).

EPA has determined that not all the information that it is anticipated CARB will require is necessary for EPA purposes. These items have been included in the data base, however, so that a manufacturer so desiring may employ a single uniform format for both the EPA and CARB reports if advantageous in reducing cost or record keeping burden. Manufacturers not provided in the CARB required data in the EPA report will maintain the common format by listing zeros for all unused fields.

| Item | Number of characters; type | Comments |
|---|---|---|
| A. General Information | | |
| 1. Manufacturer Code | 5; numeric | To correspond to manufacturer's code designation in Certification data base. |
| 2. Model Year | 2; numeric | Last two digits of model year. |
| 3. Report Period | | Dated period began to date period ended: |
| Begin Date | 6; numeric | 2 digit year 2 digit month 2 digit day. |
| End Date | 6; numeric | 2 digit year 2 digit month 2 digit day, eg., 840101, 840331 is the report for the Jan. 1, 1984 to Mar. 31, 1984 period. |
| B. Engine Family Information | | |
| 1. Engine Family | 16; alphanumeric | To correspond to engine family designation in Certification data base. |
| 2. Report Period Engine Family Production | 7; numeric | Items 2 and 3 required by CARB; not specifically required by EPA. May be provided in combination with other required information items to satisfy 40 CFR 86.082-37 which may also be satisfied by providing information on an annual basis in the final model year ALT report. |
| 3. Report Period Model Production | 7; numeric | Items 2 and 3 required by CARB; not specifically required by EPA. May be provided in combination with other required information items to satisfy 40 CFR 86.082-37 which may also be satisfied by providing information on an annual basis in the final model year ALT report. |
| 4. Quality Audit Sample Size | 4; numeric | Required by CARB; not specifically required by EPA. |
| 5. Engine Family Hydrocarbon (HC) Deterioration Factor | 6; numeric | To correspond to Deterioration Factor in Certification data base. |
| 6. Engine Family Carbon Monoxide (CO) Deterioration Factor. | 6; numeric | To correspond to Deterioration Factor in Certification data base. |
| 7. Engine Family Oxides of Nitrogen ($NO_x$) Deterioration Factor. | 6; numeric | To correspond to Deterioration Factor in Certification data base. |
| 8. Engine Family Diesel Particulate Deterioration Factor | 6; numeric | To correspond to Deterioration Factor in Certification data base. |
| 9. Engine Family Hydrocarbon (HC) Applicable Standard | 4; numeric | As expressed in applicable regulation or waiver decision. |
| Total (THC) or Non-Methane (NMHC) Hydrocarbon | 4; alpha | THC will be reported for all Federal testing. |
| 10. Engine Family Carbon Monoxide (CO) Applicable Standard. | 4; numeric | As expressed in applicable regulation or waiver decision. |
| 11. Engine Family Oxides of Nitrogen ($NO_x$) Applicable Standard. | 4; numeric | As expressed in applicable regulation or waiver decision. |
| 12. Engine Family Diesel Particulate ($NO_x$) Applicable Standard. | 4; numeric | As expressed in applicable regulation or waiver decision. |
| C. Individual Vehicle Information | | |
| 1. Vehicle Identification Number | 17; alphanumeric | Complete VIN number. |
| 2. Vehicle Type | 1; numeric | 1 LDV: Light Duty Vehicle; 2 LDT I: Light Duty Truck, less than 6000# GVW; 3 LDT II: Light Duty Truck greater than 6000# GVW. |
| 3. Engine Displacement | 6; numeric | Required by CARB; not specifically required by EPA unless multiple displacement engine family. To correspond to engine displacement in Certification data base. |
| Engine Units | 1; alpha | E-English, M-Metric. |
| 4. Fuel System | 1; numeric | Required by CARB; not specifically required by EPA. If reported, provide code explanation with first ALT report. |
| 5. Model | 20; alpha | To correspond to model designation in Certification data base. |
| 6. Engine Code | 14; alphanumeric | To correspond to engine code designation in Certification data base. |
| 7. Transmission | 1; alphaumeric | To correspond to designation in Certification data base as follows: 1-A2, 2-M3, 3-M4, 4-M5, 5-SA (Semi-Auto), 6-A3, 7-L3 (LckpAuto), 8-A4, 9-L4, 0-C4 (Creep). |
| 8. Final Drive Ratio (Axle) | 4; numeric | Final Drive ratio to two decimal places. |
| 9. Equivalent Test Weight | 5; numeric | Enter the equivalent test weight in pounds at which the vehicle was tested. |
| 10. Actual Dynamometer Horsepower | 5; numeric | Actual dynamometer horsepower setting at which the vehicle was tested. |
| 11. Build Location | 5; alphabetic | Required by CARB; not specifically required by EPA. If provided: supply code explanation with first ALT report. |
| At the manufacturer's discretion, provide either item 12 or 13. | | |
| 12. Vehicle Build Date | 6; numeric | Required by CARB; not specifically required by EPA. If provided: numerical date code-year, year-month, month-day, day. |
| 13. Test Date | 6; numeric | Required by CARB; not specifically required by EPA. If provided: numerical date code-year, year-month, month-day, day. |
| 14. Manufacture Test Site | 5; alphabetic | Required by CARB; not specifically required by EPA. If provided, supply code explanation with first report. |
| 15. Odometer Reading | 6; numerical | Optional; if provided, specify time at which mileage recorded, eg. end of assembly line, before preconditioning, after test, etc. |

| Item | Number of characters; type | Comments |
|---|---|---|
| D. Test Results | | |
| 1. Hydrocarbons (HC) | 6; numeric | To include all completed FTP results in gram/mile even if test deemed invalid. Initial HC test result, rounded as specified in applicable CARB or EPA (§ 86.609(a)) regulation. |
| Total (THC) or Non-Non-methane (NMHC) Hydrocarbon. | 4; alpha | THC will be reported for all Federal testing. |
| 2. Carbon Monoxide (CO) | 6; numeric | Initial CO test result, rounded as specified in applicable CARB or EPA (§ 86.609(a)) regulation. |
| 3. Oxides of Nitrogen ($NO_x$) | 6; numeric | Initial $NO_x$ test result, rounded as specified in applicable CARB or EPA (§ 86.609(a)) regulation. |
| 4. Diesel Particulate | 6; numeric | Initial PART test result, rounded as specified in applicable CARB or EPA (§ 86.609(a)) regulation. |
| 5. Carbon Dioxide ($CO_2$) | 6; numeric | Required by CARB; not specifically required by EPA. If provided, express to four significant figures. |
| 6. Test Invalidation, Test Abort, and Vehicle Repair Codes. | 3; alphanumeric | Manufacturer shall provide code explanation with first report. a. All completed test results shall be provided even if test deemed invalid. b. All aborted tests shall be listed and an A entered for each test result. c. All repairs to test vehicles shall be listed and the after repair test results included. |

[FR Doc. 84-6293 Filed 3-8-84; 8:45 am]
BILLING CODE 6560-50-M

## 40 CFR Part 228

[WH-FRL 2542-2]

## Ocean Dumping; Proposed Designation of Site

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA today proposes to designate the existing dredged material disposal site located in the Atlantic Ocean offshore of Jacksonville Harbor as an EPA approved ocean dumping site for the dumping of dredged material. This action is necessary to provide an acceptable ocean dumping site for the current and future disposal of this material.

**DATE:** Comments must be received on or before April 23, 1984.

**ADDRESSES:** Send comments to: Mr. T. A. Wastler, Chief, Marine Protection Branch (WH-585), EPA, Washington, DC 20460.

The Environmental Impact Statement (EIS) and monitoring plan are available for public inspection at the following locations:

EPA Public Information Reference Unit (PIRU), Room 2904 (rear), 401 M Street Southwest, Washington, DC
EPA Region IV, 345 Courtland Street, NE., Atlanta, Georgia
U.S. Army Corps of Engineers Library, Jacksonville District, 400 West Bay Street, Jacksonville, Florida

**FOR FURTHER INFORMATION CONTACT:** Mr. T. A. Wastler, 202/755-0356.

**SUPPLEMENTARY INFORMATION:** Section 102(c) of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended, 33 U.S.C. 1401 et seq. ("the Act"), gives the Administrator of EPA the authority to designate sites where ocean dumping may be permitted. On September 19, 1980, the Administrator delegated the authority to designate ocean dumping sites to the Assistant Administrator for Water and Waste Management, now the Assistant Administrator for Water. This proposed site designation is being made pursuant to that authority.

The EPA Ocean Dumping Regulations (40 CFR Chapter I, Subchapter H, § 228.4) state that ocean dumping sites will be designated by publication in this Part 228. A list of "Approved Interim and Final Ocean Dumping Sites" was published on January 11, 1977 (42 FR 2461 et seq.) and was last extended on February 7, 1983 (48 FR 5557 et seq.). That list established the Jacksonville site as an interim site and extended its period of use until January 31, 1984. By separate action today, EPA is extending this interim designation until January 31, 1985, or until final rulemaking is completed, whichever is sooner.

The purpose of this notice is to provide the public with an opportunity to comment on the proposed final designation, as an EPA approved Ocean Dumping Site, of a site in the Atlantic Ocean offshore of Jacksonville Harbor for the continuing disposal of dredged material.

The location of the dredged material disposal site is approximately 5 nautical miles from the mouth of the St. Johns River positioned approximately in a rectangle with coordinates as follows:

30°21'30" N., 81°18'34" W.;
30°21'30" N., 81°17'26" W.;
30°20'30" N., 81°17'26" W.;
30°20'30" N., 81°18'34" W.

The site occupies an area of approximately 1 square nautical mile. Water depths within this area average 14 meters. This site has been used for dredged material disposal since at least 1952. The average annual amount of material dumped during the 19 years in which ocean disposal has occurred was nearly 855,000 cubic yards.

Section 102(c) of the National Environmental Policy Act of 1969, 42 U.S.C. 4321 et seq., ("NEPA") requires that Federal agencies prepare an EIS on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment. The object of NEPA is to build into the Agency decision-making process careful consideration of all environmental aspects of proposed actions. While NEPA does not apply to EPA activities of this type, EPA hia voluntarily committed to prepare EIS's in connection with ocean dumping site designations such as this. 39 FR 16186 (May 7, 1974).

EPA has prepared a draft and final EIS entitled "Environmental Impact Statement (EIS) for Jacksonville Harbor, Florida, Ocean Dredged Material Disposal Site Designation." On May 14, 1982, a notice of availability of the draft EIS for public review and comment was published in the **Federal Register** (47 FR 20854). The public comment period on this draft EIS closed June 28, 1982. On January 14, 1983, a notice of availability of the final EIS for public review and comment was published in the **Federal Register** (48 FR 1820). The public comment period on the final EIS closed February 14, 1983. Anyone desiring a copy of the EIS may obtain one from the address given above.

The action discussed in the EIS is the designation for continuing use of an ocean dredged material disposal site near Jacksonville, Florida. The purpose of the designation is to provide the most environmentally acceptable location for the ocean disposal of materials dredged from the Jacksonville Harbor Channel System when ocean disposal is found to be necessary for some dredged material. The need for ocean disposal is

determined on a case-by-case basis as part of the process of issuing permits for ocean disposal.

The EIS discusses the need for the action and examines ocean disposal site alternatives to the proposed action. The EIS presents the information needed to evaluate the suitability of ocean disposal areas for final designation for continuing use and is based on one of a series of disposal site environmental studies. The environmental studies and final designation process are being conducted in accordance with the requirements of the Act, the Ocean Dumping Regulations, and other applicable Federal environmental legislation.

Five general criteria are used in the selection and approval for continuing use of ocean disposal sites. Sites are selected so as to minimize interference with other marine activities, to keep any temporary perturbations from the dumping from causing impacts outside the disposal site, and to permit effective monitoring to detect any adverse impacts at an early stage. Where feasible, locations off the Continental Shelf are chosen. If at any time disposal operations at a site cause unacceptable adverse impacts, further use of the site will be restricted or terminated. These general critera are given in § 228.5 of the EPA Ocean Dumping Regulations, and § 228.6 lists 11 specific factors used in evaluating a proposed disposal site to assure that the general criteria are met.

EPA established these 11 criteria to constitute an environmental assessment of the impact of the site for disposal. The criteria are used to make critical comparisons between the alternative sites and are the bases for final site selection. The characteristics of the existing site are reviewed below in terms of these 11 criteria.

1. *Geographical position, depth of water, bottom topography and distance from coast.* [40 CFR 228.6(a)(1).]

The site is approximately a square of one square nautical mile area. Its corner coordinates are given above. Water depth ranges from 12 to 16 meters, and the bottom slopes an average of less than one degree to the east. Bottom topography is characterized by a large (up to nine feet) mound in the center of the site, probably the result of past disposal activities.

2. *Location in relation to breeding, spawning, nursery, feeding, or passage areas of living resources in adult or juvenile phases.* [40 CFR 228.6(a)(2).]

Areas for breeding, spawning, nursery and/or passage of commercially and recreationally important finfish and shellfish species occur on a seasonal basis in and near the St. Johns River.

Adult menhaden (coast herring) generally occur within 32 nautical miles off the coast, and young menhaden use the St. Johns River as a nursery area. Shrimp migrate through the St. Johns River during April through October of each year; thus, considerable efforts are made by the Corps of Engineers to schedule major dredging projects in the St. Johns River before April or after October. This is the case whether the dredged material is to be ocean dumped or disposed of otherwise. The proposed ocean disposal site is outside the migratory route of the St. Johns River, and its use during the shrimp or fish migration seasons would have no significant impact on migration into and out of the St. Johns River.

The overall effects of dredging operations on the nursery and passage areas of the St. Johns River have not been determined. However, past dredged material disposal at the existing site has not caused any detectable, significant, or irreversible adverse impacts on living resources.

3. *Location in relation to beaches and other amenity areas.* [40 CFR 228.6(a)(3).]

The major amenity areas in the vicinity of the exising site are the Jacksonville beaches and offshore fishing areas. The Jacksonville beaches are more than 4.5 nautical miles away from the disposal site. The dredged material has not been reported to have been transported onto the beaches after 28 years of the site's existence; accordingly, EPA has determined that disposal at the existing site will not affect the Jacksonville Beaches.

Popular fishing areas, including natural and artificial reefs, are east (seaward) of the existing site. The center of the disposal site is within a favorite angling area, receiving intense fishing pressure for surface-water species during the summer months. However, previous disposal operations at the site apparently have not prompted severe objection from local fishermen or interfered with the productivity of the fishery.

4. *Types and quantities of wastes proposed to be disposed of, and proposed methods of release, including methods of packing the waste, if any.* [40 CFR 228.6(a)(4).]

The material to be dumped at an offshore disposal site will result from dredging the Jacksonville Harbor Channel System. An annual average (based on 19 years of actual use) of 855,000 cubic yards of dredged material has been dumped at the existing site. However, the quantity of material to be dumped is highly variable and depends upon the requirements of the Jacksonville Harbor Channel System.

Sediments dredged from the outer entrance channel are predominantly sand and shell. Materials dredged from areas other than the outer entrance channel and bar range from sand to silty clay.

Hopper dredge, barge, and scow combinations are the usual vehicles of transport for the dredged material. None of the material is packaged in any manner.

Dredged material may not be approved for ocean dumping unless it meets the criteria in 40 CFR Part 227.

5. *Feasibility of surveillance and monitoring.* [40 CFR 228.6(a)(5).]

The United States Coast Guard is not currently conducting surveillance at the existing site; however, surveillance would be relatively easy because the site is close to Jacksonville. Either shore-based observers or day-use boats could be used for surveillance. Monitoring is feasible at the existing site.

A monitoring plan for the site has been developed and is available for inspection at the addresses given above. Monitoring by EPA, the Corps of Engineers, and permittees, as required, will continue for as long as the site is used. Reports of the monitoring operations will be made available by EPA to the public through notice in the **Federal Register.** Such reports will be made periodically as long as impacts at the site are at acceptable levels, and special reports will be prepared if evidence of significant adverse environmental effects is found.

6. *Dispersal, horizontal transport and vertical mixing characteristics of the area, including prevailing current direction and velocity, if any.* [40 CFR 228.6(a)(6).]

General surface circulation in the vicinity of the existing site is composed of a weak tidal current superimposed on a strong current. During autumn and winter the drift is southwesterly; during spring and summer it is northeasterly. Bottom currents are usually weak (averaging 2.1 centimeters per second), although velocities up to 31 cm/s have been measured. In general, transport of suspended solids from dredged material disposal will depend primarily upon the speed and direction of the wind and secondarily upon the direction of tidal currents.

Significant long-term accumulation or mounding of dredged material has been detected at the existing site by high-resolution profiling at the disposal site conducted before and after disposal operations. Mounds containing a high percentage of consolidated fine material

are not easily resuspended and may resist erosion under normal ambient current regimes occurring at the site.

7. *Existence and effects of current and previous discharges and dumping in the area (including cumulative effects).* [40 CFR 228.6(a)(7).]

Dredged material disposal has produced no significant adverse effects on the water quality at the existing site. Changes in water quality as a result of disposal operations have been of short duration (minutes) and have been confined to relatively small areas. No major differences in finfish and shellfish species or numbers were found in recent surveys within and adjacent to the existing site.

Past use of the existing site has created a localized mound and temporary disturbances of benthic infauna and demersal fish assemblages. High variability in diversity and density of benthic communities within the nearshore region normally exists. This natural variability may obscure the identification of impacts due to past use of the existing site. However, no adverse, cumulative affects are evident from previous disposal operations.

8. *Interference with shipping, fishing, recreation, mineral extraction, desalination, fish and shellfish culture, areas of special scientific importance and other legitimate uses of the ocean.* [40 CFR 228.6(a)(8).]

Shipping, fishing and recreational activities occur in the vicinity of the existing site. Previous dredged material disposal operations occasionally have interfered with fishing activities when the material was inadvertently dropped in transit to the disposal site.

Shipping fairways are not designated in the Georgia Bight. The existing site is situated southeast of the entrance channel, and no conflicts between shipping and disposal operations have been reported to the Corps of Engineers in the 28 years the site has been in existence.

No resource development occurs in the immediate vicinity of the existing site, and no mineral extraction or desalination projects are expected in the vicinity of the site. The existing site and surrounding area are not of special scientific importance. Aquaculture activities presently do not occur in the vicinity of the existing site.

9. *The existing water quality and ecology of the site as determined by available data or by trend assessment or baseline surveys.* [40 CFR 228.6(a)(9).]

Investigations of dredged material disposal operations at the existing site have indicated that disposal has had no significant adverse effects on water quality (e.g., dissolved nutrients, trace metals, dissolved oxygen, or pH).

Phytoplankton and zooplankton studies revealed natural seasonal differences in species composition. Diatoms usually dominate the phytoplankton community, although dinoflagellates are abundant during summer. Calanoid copepods dominate the zooplankton community, contributing up to 95% of the total numbers.

Fish and shrimp dominate the nekton community adjacent to the existing site, and species are typical of those reported from the coastal waters all along the Georgia Bight. Several of these species are commercially and recreationally important, including the brown and white shrimp and various reef fishes.

The benthic community in the vicinity of the existing site is characteristic of silty sand. The community is highly diverse in species but low in abundance and biomass; polychaetes are the dominant benethic species.

10. *Potentiality for the development or recruitment of nuisance species in the disposal site.* [40 CFR 228.6(a)(10).]

There are no components in the dredged material or its method of disposal which would attract or result in recruitment of nuisance species to the existing site. Previous surveys there did not detect the development or recruitment of nuisance species.

11. *Existence at or in close proximity to the site of any significant natural or cultural features of historical importance.* [40 CFR 228.6(a)(11).]

The Florida Historical Preservation Officer reported that no natural or cultural features of historical importance exist at or near the existing site.

The existing site is compatible with the criteria used for site evaluation. EPA considered whether it would be preferable to designate a deepwater site off the Continental Shelf. For the following reasons, EPA has determined that the existing site is the preferable site for the disposal of dredged material. These factors are discussed in greater detail in the EIS.

The existing site is 4.5 nautical miles from the mouth of the St. Johns River, whereas the deepwater site considered is more than 60 nautical miles from shore (Criterion 1). Disposal costs and energy consumption involved in use of the deepwater site would be significantly greater than for the existing site due to greater transportation demands.

Dredged material has been dumped at the existing site, and the effects of disposal have been localized. The bottom is silty sand, and the site is located beyond the northward extent of tropical coral formations on the Atlantic coast. The deepwater site has not been used for dredged material disposal (Criterion 7).

The final EIS includes the Agency's assessment of the three comments received during the comment period on the draft EIS. Comments correcting facts presented in the draft EIS were incorporated in the text and the changes noted in the final EIS. Specific comments which could not be appropriately treated as text changes were responded to point by point in the final EIS, following the letters of comment. The only comment on the final EIA was that the concerns expressed on the draft EIS has been satisfactorily addressed.

Based on the information reported in the EIS, EPA proposes to designate the existing Jacksonville site for continuing use for the ocean disposal of dredged material where the applicant has demonstrated compliance with EPA's ocean dumping criteria. The EIS is available for inspection at the addresses given above.

The designation of the existing Jacksonville dredged material disposal site as an EPA Approved Ocean Dumping Site is being published as proposed rulemaking. Management authority of this site will be delegated to the Regional Administrator of EPA Region IV. Interested persons may participate in this proposed rulemaking by submitting written comments within 45 days of the date of this publication to the address given above.

It should be emphasized that, if an ocean dumping site is designated, such a site designation does not constitute or imply EPA's approval of actual disposal of materials at sea. Before ocean dumping of dredged material at the site may commence, the Corps of Engineers must evaluate a permit application according to EPA's ocean dumping criteria. If a Federal project is involved, the Corps must also evaluate the proposed dumping in accordance with those criteria. In either case, EPA has the right to disapprove the actual dumping, if it determines that environmental concerns under the Act have not been met.

Under the Regulatory Flexibility Act, EPA is required to perform a Regulatory Flexibility Analysis for all rules which may have a significant impact on a substantial number of small entities. EPA has determined that this proposed action will not have a significant impact on small entities since the site designation will only have the effect of providing a disposal option for dredged material. Consequently, this proposal

does not necessitate preparation of a Regulatory Flexibility Analysis.

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This action will not result in an annual effect on the economy of $100 million or more of cause any of the other effects which would result in its being classified by the Executive order as a "major" rule. Consequently, this proposed rule does not necessitate preparation of a Regulatory Impact Analysis.

This proposed rule does not contain any information collection requirements subject to Office of Management and Budget review under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq.

**List of Subjects in 40 CFR Part 228**

Water pollution control.

**Authority:** 33 U.S.C. 1412 and 1418.

Dated: March 2, 1984.

**Jack E. Ravan,**

*Assistant Administrator for Water.*

## PART 228—[AMENDED]

In consideration of the foregoing, Subchapter H of Chapter I of title 40 is proposed to be amended by removing paragraph (L), the Jacksonville Dredged Material Disposal Site, from paragraph (a)(1)(iii) of § 228.12 and adding to § 228.12(b) an ocean dumping site for Region IV as follows:

**§ 228.12 Delegation of management authority for ocean dumping sites.**

* * * * *

(b) * * *

(22) Jacksonville Dredged Material Site—Region IV.

*Location:* 30°21'30" N., 81°18'34" W.; 30°21'30" N., 81°17'26" W.; 30°20'30" N., 81°17'26" W.; and 30°20'30" N., 81°18'34" W.

*Size:* One square nautical mile.

*Depth:* Ranges from 12 to 16 meters.

*Primary Use:* Dredged material.

*Period of Use:* Continuing use.

*Restriction:* Disposal shall be limited to dredged material from the Jacksonville, Florida, area.

[FR Doc. 84-6369 Filed 3-8-84; 8:45 am]

BILLING CODE 6560-50-M

## 40 CFR Part 261

**[SWH-FRL 2532-7]**

## Hazardous Waste Management System; Identification and Listing of Hazardous Waste

**AGENCY:** Environmental Protection Agency.

**ACTION:** Proposed rule and request for comment.

**SUMMARY:** The Environmental Protection Agency (EPA) is today proposing to exclude solid wastes generated at several particular generating facilities from the lists of hazardous wastes contained in 40 CFR 261.31 and 261.33. This action responds to delisting petitions submitted under 40 CFR 260.20, which allows any person to petition the Administrator to modify or revoke any provision of Parts 260 through 266, 124, 270, and 271 of the Resource Conservation and Recovery Act of 1976; and 40 CFR 260.22, which specifically provides generators the opportunity to petition the Administrator to exclude a waste on a "site-specific basis" from the hazardous waste list. The effect of this action would be to exclude certain wastes generated at particular facilities from listing as hazardous wastes under 40 CFR Part 261.

**DATES:** EPA will accept public comments on these proposed exclusions until April 9, 1984. Any person may request a hearing on these proposed exclusions by filing a request with Eileen B. Claussen, whose address appear below, by March 30, 1984. The request must contain the information prescribed in 40 CFR 260.20(d).

**ADDRESSES:** Comments should be sent to the Docket Clerk, Office of Solid Waste (WH-562), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

Requests for hearing should be addressed to Eileen B. Claussen, Acting Director, Characterization and Assessment Division, Office of Solid Waste (WH-562), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460. Communications should identify the regulatory docket number "Section 3001/Delisting Petitions."

The public docket for these proposed exclusions is located in Room S-212A, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, and is available for viewing from 9:00 a.m. to 4:00 p.m., Monday through Friday, excluding holidays.

**FOR FURTHER INFORMATION CONTACT:** RCRA Hotline, toll free at (800) 424-9346, or at (202) 382-3000. For technical information contact Mr. Myles Morse, Office of Solid Waste (WH-565B), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, (202) 382-4770.

**SUPPLEMENTARY INFORMATION:** On January 16, 1981, as part of its final and interim final regulations implementing Section 3001 of RCRA, EPA published an amended list of hazardous wastes from non-specific sources and a list of commercial chemical products which, if discarded, are hazardous wastes. See 40 CFR 261.31 and 261.33. These wastes are listed as hazardous because they typically and frequently exhibit any of the characteristics of hazardous wastes identified in Subpart C of Part 261 (ignitability, corrosivity, reactivity, and extraction procedure (EP) toxicity) or meet the criteria for listing contained in 40 CFR 261.11(a)(2) or 261.11(a)(3).

Individual waste streams may vary depending on raw materials, industrial processes, and other factors, however. Thus, while a type of waste described in these regulations generally is hazardous, a specific waste meeting the listing description from an individual facility may not be. For this reason, 40 CFR 260.20 and 260.22 provide an exclusion procedure, allowing persons to demonstrate that a specific waste from a particular generating facility should not be regulated as a hazardous waste. To be excluded, petitioners must show that the waste generated at their facility does not meet any of the criteria under which the waste was listed.[1] (See 40 CFR 260.22(a) and Background Documents for listed wastes.) Waste which are "delisted" (*i.e.*, excluded) may, however, still be hazardous if they exhibit any of the characteristics of a hazardous waste, and generators remain obligated to make this determination.

In addition to wastes listed as hazardous in 40 CFR 261.31 and 261.33, residues from the treatment, storage, or disposal of listed hazardous wastes also are eligible for exclusion and remain hazardous wastes until excluded. (See 40 CFR 261.3 (c) and (d)(2).) Again, the substantive standard for "delisting" is that the waste not meet any of the criteria for which it was listed originally. Where the waste is derived from one or more listed hazardous wastes, the demonstration may be made with respect to each constituent listed waste, or the waste mixture as a whole. (See 40 CFR 260.22(b).) Like other excluded wastes, these excluded treatment, storage, or disposal residues remain subject to Subpart C of Part 261, and so may be hazardous if they exhibit any of the characteristics of hazardous wastes.

It should be noted that EPA has not verified the test data submitted before proposing to grant these exclusions. The sworn affidavits submitted with each petition sufficiently bind the petitioner

[1] A number of Bills being considered by Congress would amend RCRA to require the Agency to evaluate wastes, for which exclusion petitions are filed, for the presence of hazardous constituents other than those for which a waste is listed.

to ensure presentation of truthful and accurate test results. The Agency has initiated a spot sampling and analysis program, however, to verify the representative nature of the data for some percentage of the petitions submitted before final exclusions will be granted.

Finally, it should be noted that the Agency is proposing to exclude these wastes from the list of hazardous wastes rather than granting a temporary exclusion.[2] Our reason for doing this is two-fold. First, the Agency has received comments from a number of persons on the existing delisting procedures which criticize the Agency for not providing notice and opportunity for comment before a decision is made to exclude a waste. In addition, both Houses of Congress are considering bills to amend RCRA which, among other things, would require notice and opportunity for comment before any new exclusions are granted, indicating Congress' concern with the Agency's lack of proposing, or at least soliciting comment, before a decision is made to exclude a waste. Therefore, the Agency has decided to propose and solicit comment on our decisions to exclude a waste under 40 CFR 260.20 and 260.22 before the exclusion becomes effective.

**Petitioners**

The proposed exclusions published today involve the following petitioners:

—Union Carbide Corp., Taft, Louisiana
—Kay-Fries, Inc., Pearl River, New York
—Metropolitan Sewer District of Greater Cincinnati, Cincinnati, Ohio

**I. Union Carbide Corporation**

*A. Petition for Exclusion*

Union Carbide Corporation (UCC), involved in the production of various organic chemicals (i.e., acrolein, acrylic acid, etc.) at its facility in Taft, Louisiana, has petitioned the Agency to exclude approximately 11,000 cubic yards of acrolein—contaminated soils from EPA Hazardous Waste No. P003.[3] More specifically, these wastes are:

—Excavated soil containing 9 ppm acrolein (wet weight) or less after lime treatment, and
—In situ soil containing 20 ppm acrolein (wet weight) or less, *i.e.*, soil left in place after excavation of the damage site.

These wastes were generated as a result of a storage tank rupture and subsequent fire at UCC's facility. In all, the total inventory in the acrolein and acrylic acid storage tanks that were damaged was 2,660,000 pounds before the blast. An estimated, 1,826,000 pounds burned in the fire or was polymerized; 640,000 pounds was recovered and sold, 164,000 pounds was recovered and burned as a fuel in the plant boilers; and the remaining 30,000 pounds soaked into the soil at the site, resulting in acrolein and acrylic acid contaminated soil.

At the time of the initial petition, (March 1983), UCC had identified two areas of contamination. One area was found to contain acrolein levels far in excess of 20 ppm and a second outlying area, proposed to be left in situ, exhibited acrolein levels below 20 ppm. UCC had proposed to treat the area of higher contamination (approximately 6,000 cubic yards of soil), to decrease acrolein levels below 9 ppm.[4] (This treatment has been completed under an emergency permit issued by EPA Region VI.) The remaining 5,000 cubic yards was claimed by UCC to contain only non-hazardous levels of acrolein (*i.e.*, less than 20 ppm) and would continue to degrade naturally in the environment. UCC, therefore, claims that the in situ soil and the soil after lime treatment contain non-hazardous levels of acrolein and should not be considered an acutely hazardous or a hazardous waste.[5]

In support of their petition, UCC submitted information showing that these contaminated-soils are not acutely hazardous and representative sampling data, the degradation rates of the lime-treated acrolein, and site-specific exposure modelling data to demonstrate that these wastes are no hazardous. More specifically:

1. *Acutely Hazardous Criteria*—Acrolein-contaminated soil resulting from cleanup of a spill is listed as an acute hazardous waste under 40 CFR 261.33 (d) and (e). UCC argues, however, that acrolein-contaminated soil containing 20 ppm of acrolein or less, would not exhibit the acute hazardous criteria based on its acrolein content.[6] More specifically, UCC calculated the acute toxicity of the contaminated soils and determined it to be:

Oral $LD_{50}$ (rat) = 2,300,000 mg soil/Kg body wt.
Inhalation $LD_{50}$ (rat) = 900 to 1,850 mg soil/1 air
Dermal $LD_{50}$ (rabbit) = 10,000 mg soil/Kg body wt.

Therefore, UCC claims that the contaminated soil is not acutely hazardous.

2. *Hazardous Criteria*—UCC argued that the in situ soil containing 20 ppm acrolein and the lime-treated soil containing 9 ppm acrolein is non-hazardous. In particular, UCC claims that these concentrations are safe when considering:

—plausibe exposure pathways and conservative fate models.
—Published standards and toxicity data.

As part of their petition, UCC calculated the exposure level predicted using a number of different exposure models, including exposure to surface water, ground water, and atmospheric contamination. Based on this modelling, UCC claims that the maximum acrolein concentration in the environment is less than any published health-based standard in all potential migration pathways—see Table 1. The fate models used by UCC incorporate conservative assumptions, and are based on the characteristics of the substrata below the spill and treatment area.

In addition, UCC also provided additional arguments to support their case (*i.e.*, acrolein is not very persistent—has a half-life in untreated soils of about 22 days; the bioaccumulation potential of acrolein is low, etc.) Therefore, UCC claims that acrolein contaminated soils that the generated at their Taft, Louisiana Plant is non-hazardous and should be delisted.

*B. Agency Analysis and Action*

1. *Acutely Hazardous Criteria*—In evaluating their petition, we agree with UCC that the acrolein-contaminated soil is not acutely hazardous. Although acrolein may itself exhibit the acutely hazardous criteria (as was

[2] The Administrator may, under 40 CFR 260.22(m), grant a temporary exclusion if there is substantial likelihood that a final exclusion ultimately will be granted. (See 45 FR 78524, November 25, 1980; 45 FR 86543, December 31, 1980; 46 FR 17196, March 18, 1981; 46 FR 40154, August 6, 1981; 46 FR 61272, December 16, 1981; and 47 FR 52668, November 22, 1982.)

[3] Union Carbide also indicated in their petition that the soil in question contains up to 2.4 percent of acrylic acid (EPA Hazardous Waste No. U008). However, acrylic acid is listed in 40 CFR 261.33 only because it is ignitable. Since the acrylic acid contaminated soil is not ignitable, it is not subject to the mixture rule and thus, only hazardous when ignitable. (See 40 CFR 261.3(a)(2)(iii).)

[4] UCC has treated the contaminated soil in excess of 20 ppm, by excavating the soil and mixing it with lime and aerating it in six inch layers. The lime is used as a catalyst, enhancing the polymerization of acrolein in the contaminated soil.

[5] A lower acrolein concentration is necessary for the lime treated soil. UCC argues, because its potential for short term wind dispersion is greater than for the in situ soil.

[6] A waste is considered acutely hazardous, among other reasons, if it has been shown in animal studies to have an: (1) Oral $LD_{50}$ (rat) <250 mg/kg; (2) inhalation $LC_{50}$ (rat) <2 mg/1; or (3) dermal $LD_{50}$ (rabbit) <200 mg/Kg.

demonstrated by UCC in their petition), it is clear from the information provided by UCC that soils that contain a small amount of acrolein (*i.e.*, less than 20 ppm) should not be considered acutely hazardous.

TABLE I

| Exposure pathway | Estimated maximum concentration in the environment | | Health based standard |
|---|---|---|---|
| | 20 ppm | 9 ppm | |
| Surface water via infiltration | $2.2\times10^{-5}$ mg/l | $1.2\times10^{-5}$ mg/l | $2.1\times10^{-2}$ mg/l.[1] |
| Surface water via stormwater runoff. | (5) | $3.1\times10^{-3}$ mg/l | $2.1\times10^{-2}$ mg/l.[1] |
| Groundwater via infiltration | <0.01 mg/l | <0.01 mg/l | .55 mg/L[2] |
| Vapor via long term wind dispersion. | <0.1 ppm | <0.1 ppm | 0.1 ppm.[3] |
| Vapor via short term wind dispersion. | <0.1 ppm | <0.3 ppm | 0.3 ppm.[4] |

[1] EPA freshwater aquatic life chronic toxicity standard published in November 28, 1980 **Federal Register.**
[2] Acrolein drinking water quality standard derived as per method in November 28, 1980 **Federal Register.**
[3] Published ACGIH (1982) Threshold Limit Value—Time Weighted Average.
[4] Published ACGIH (1982) Threshold Limit Value—Short Term Exposure Limit.
[5] The damage area will be covered with at least one inch of clean soil. The acrolein in the soil will degrade long before the clean soil erodes.

2. *Hazardous Criteria*—In evaluating UCC's petition with respect to the toxicity of the acrolein-contaminated soil, it is clear that the primary arguments used by UCC were the environmental migration calculations presented in the petition. UCC specifically calculated the fate and transport of acrolein to surface water (via filtration and stormwater runoff), to ground water (via infiltration), and to air (via long and short term wind dispersion). In reviewing the exposure models, our analysis indicates that:

—The surface and ground-water models used by UCC are based on standard hydrologic principles; include conservative assumptions; and most calculations assume no degradation of acrolein when, in fact, acrolein is not very persistent in the untreated soil.
—The wind dispersion model also indicates that the approach used by UCC is based on standard air modelling and generally used very conservative assumptions.

The surface and ground-water modelling scenarios used in UCC, however, are site-specific and use the characteristics of the substrata below the spill and treatment areas. Delistings under §§ 260.20 and 260.22, although granted to specific facilities (rather than on an industry-wide basis), are not based on site-specific hydrogeologic characteristics or site-specific management and disposal operations. Rather these decisions are based on the characteristics of the waste and the environmental fate of its components in a reasonable worst case mismanagement scenario. In fact, site-specific factors *cannot* be considered in determining the hazardousness of the waste since this is more of a permitting decision. Therefore, the Agency has adjusted the assumptions used in UCC's exposure models to represent a reasonable worst case land disposal scenario using an assumed 9 ppm acrolein content [7] in the contaminated soil (*e.g.*, we assumed the contaminated-soil would be piled in a more permeable substrata, the ground-water aquifer was in close proximity to the surface, the pile was left uncovered, etc.). In doing, this the Agency found that at a soil content of 9 ppm, even under a reasonable worst case scenario, the level of acrolein reaching a ground or surface water supply would still be below any published health based standard (*i.e.*, ambient water quality criterion for acrolein). It should also be noted that even our own manipulations of UCC's data did not consider the relatively short half-life of acrolein in the environment.

Therefore, based on their petition, our application of their modelling effort to a reasonable worst case scenario rather than site specific hydrogeological characteristics, and representative field sampling data indicating the degradation of acrolein to very low levels, the Agency is proposing to grant an exclusion to Union Carbide for the approximately 11,000 cubic yards of contaminated soil exhibiting acrolein concentrations below 9 ppm, as described in their petition.[8]

## II. Kay-Fries, Inc.

### *A. Petition for Exclusion*

Kay-Fries, involved in the production of various organic chemicals, including cyanoacetic acid esters, phenylglycine phthalic acid esters, titanates, and other synthetic organic intermediates used by the chemical and pharmaceutical industries, has petitioned the Agency to delist its wastewater treatment sludge derived from treating wastewater and sludge contained in the wastewater holding lagoon from the following EPA Hazardous Wastes:[9]

F003—The following spent non-halogenated solvents: Ethyl acetate, methyl isobutyl ketone, and methanol;
F005—The following spent halogenated solvent: Toluene.

Kay-Fries has petitioned to exclude the sludge generated from treatment of the wastewater and the sludge contained in the holding lagoon because it does not meet the criteria for which it was originally listed.

Kay-Fries has submitted a description of its manufacturing process; a description and diagram of the wastewater treatment system; confidential information indicating raw materials used in each manufacturing process; ignitability test results; and analytical data on representative wastewater and sludge samples from the lagoon and filter press for toluene. In addition, available ground-water monitoring data was also submitted.

All solvents used except methanol are actively recovered and reused in the manufacturing process, thereby yielding only minor volumes of the other solvents entering the wastewater treatment system. These solvents are all claimed to be easily degraded in the biological aeration lagoon used by Kay-Fries. The treatment system at Kay-Fries is comprised of caustic soda and sulfuric acid neutralization; biologically activated degradation/aeration; secondary aeration; clarification; and belt filtration.

Representative samples from the aeration lagoon tested for ignitability showed that the material exhibited no flash point. Total content analyses of filter press samples (using headspace and soxhlet extraction methodologies) revealed maximum toluene concentrations of 0.1 ppm. Kay-Fries

[7] A level of 9 ppm is assumed for both in situ and treated soil because in a reasonable worst case scenario, the in situ soil may be excavated and moved to another site whereby wind transport would again become a possible route of exposure.

[8] Although not required, UCC has also submitted information showing that these soils do not contain other toxic components.

[9] Kay-Fries had also initially petitioned to exclude this waste from EPA Hazardous Waste Nos. P030 (cyanides) and P106 (sodium cyanide). However, these materials are used in an enclosed process where all unreacted cyanides are recycled back to the process. As a result, Kay-Fries, in a latter addendum to their delisting petition, claimed that all cyanide losses to the wastewater treatment system were considered de minimis from manufacturing operations, and, therefore, would be excluded from the presumption of hazardousness as indicated in 40 CFR 261.3(a)(2)(iv)(D). However, in reviewing and analyzing the data for cyanides in the petitioned wastes, we find them present at low levels. Thus, absent the mixture rule amendment, the Agency would also have considered these levels not of regulatory concern.

presented similar analyses for toluene on representative samples collected from the aeration lagoon showing a maximum concentration of 0.149 ppm. Ground-water monitoring data submitted revealed non-detectable levels of the priority pollutants except for three samples which showed 0.022 ppm bis(2-ethylhexyl phthalate), 0.06 ppm cyanide, and 0.054 ppm chloroethane.

*B. Agency Analysis and Action*

Kay-Fries has demonstrated that its waste treatment system produces a non-hazardous sludge. Kay-Fries first claimed that its waste was not ignitable. This claim was substantiated due to the lack of flash point when these wastes were tested in a closed tested cup tester; in addition, because of the large flow of wastewater to the treatment plant (*i.e.*, 300,000 gallons per day), we would expect the waste to be non-ignitable. With respect to the presence of toluene, we believe the levels reported for both the aeration lagoon and the filter press sludge are considered well below any level of concern (*i.e.*, the Water Quality Criteria for toluene is 14.3 mg/l). The random sampling scheme used was considered representative.[10]

The Agency also evaluated the ground-water monitoring data submitted by Kay-Fries. Although the toxicants found in the ground water were not specifically cited as the basis for listing, we evaluated this data in making our decision and found the levels present are the same as background for this area. In addition, we also do not believe these levels are of regulatory concern. In particular, the Agency has published a Water Quality Criterion (WQC) for bis(2-ethylhexyl phthalate) of 15 mg/1; [11] the U.S. Public Health Service has developed a suggested drinking water level for cyanide of 0.20 mg/l; and the Agency has developed a Suggested No-Adverse Response Level for chloroethane of 1.07mg/l. All these levels were above those found in the ground water. The Agency, therefore, is proposing to grant an exclusion to Kay-Fries, Inc., for its biological aeration lagoon and filter press sludge from EPA Hazardous Wastes Nos. F003, and F005 at its Pearl River, N.Y. facility.

**III. Metropolitan Sewer District of Greater Cincinnati**

*A. Petition for Exclusion*

The Cincinnati Metropolitan Sewer District (MDS) operates a liquid/fluid (rotary kiln and cyclone furnace) incinerator which burns hazardous waste. MSD has petitioned the Agency to exclude the sluiced bottom ash generated from their incineration facility which contain the following EPA Hazardous Wastes:

F001—The following spent halogenated solvents used in degreasing: Tetrachloroethylene, trichloroethylene, methylene chloride, 1,1,1-trichloroethane, carbon tetrachloride, and chlorinated fluorocarbons; and sludges from the recovery of these solvents in degreasing operations;

F002—The following spent halogenated solvents: Tetrachloroethylene, methylene chloride, trichloroethylene, 1,1,1-trichloroethane, chlorobenzene, 1,1,2-trichloro-1,2,2-trifluoroethane, orthodicholorobenzene, and trichlorofluoromethane; and the still bottoms from the recovery of these solvents;

F003—The following spent non-halogenated solvents: Xylene, acetone, ethyl acetate, ethyl benzene, ethyl ether, methyl isobutyl ketone, n-butyl alcohol, cyclohexanone, and methanol; and the still bottoms from the recovery of these solvents;

F004—The following spent non-halogenated solvents: Cresols, and cresylic acid, and nitrobenzene; and the still bottoms from the recovery of these solvents;

F005—The following spent non-halogenated solvents: Toluene, methyl ethyl ketone, carbon disulfide, isobutanol, and pyridine; and the still bottoms from the recovery of these solvents.

The hazardous waste ash is mixed with ash from their sewage sludge incinerator and wastewater effluent from the municipal wastewater treatment plant and stored in two on-site lagoons. MSD is requesting a delisting for the contents of these two lagoons which contain a total of approximately 50,000 cubic yards of ash.[12]

MSD claims that the ash in these lagoons is non-hazardous due to the destruction of the hazardous constituents in the combustion process. MSD further claims the 99.75 percent of the incinerated waste which produces this ash is municipal waste, while only 0.25 percent of the incinerated waste is industrial waste (of which a smaller percentage are the listed hazardous wastes). Furthermore, MSD claims that the organic solvents that they burn are destroyed and that any organic contaminants found in the lagooned ash result primarily from background sources such as atmospheric deposition from automotive exhaust and from vegetation growing in both of the lagoons.

MSD has submitted test data on representative samples from each lagoon including quantitative organic scans (complete digestions) for each solvent listed in EPA Hazardous Waste Nos. F001, F002, F003, F004, and F005; total organic carbon (TOC) content; and total organic halogen (TOX) content. Representative sampling of the lagoons was achieved by dividing the lagoons into twelve sectors and selecting a total of 120 test bore points, ten in each sector. The ten cores in each sector were then composited into twelve samples for analysis. All cores taken were of the complete depth of the sludge layer (which varied from 6 inches to 17 feet). A gasoline powered drill rig combined with a splitspoon sampler was used to collect cores. Total constituent analyses (complete digestions) revealed non-detectable levels for each of the listed solvents [13] except for methylene choloride; methylene chloride levels ranged from non-detectable to 1.9 ppm. MSD also provided TOC and TOX testing of representative ash samples. Maximum TOC and TOX concentrations were found to be 2,840 and 0.044 ppm, respectively.[14]

*B. Agency Analysis and Action*

In their petition, MSD claimed that the sluiced bottom ash generated from their incineration facilities is non-hazardous due to very low levels of the constituents of concern—namely, the solvents listed in F002, F003, F004, and

[10] Kay-Fries also voluntarily submitted data on the other non-listed hazardous constituents which may reasonably be expected to be present in the waste. This priority pollutant data (specifically phthalate concentrations) indicated all other constituents that were detected were present at levels below that of regulatory concern (e.g. 2-ethylhexyl phthalate was detected at levels below the EPA's Water Quality Criterion of 15 mg/l).

[11] This level represents a 1 per million increase risk of cancer or other adverse health effects as a result of lifetime ingestion of water when the water is contaminated at levels above the WOC.

[12] MSD's petition originally requested an exclusion for the lagooned waste ash and for all future ash to be generated from additional hazardous wastes other than those listed above. Todays proposal, however, covers only the existing lagooned waste and does not cover any ash that may be generated in the future. MSD is aware that additional representative testing and/or continuous batch testing may be required and may include parameters other than those previously addressed in the petition, especialy if the wastes accepted for incineration will include listed waste other than the F001–F005 hazardous waste listings.

[13] The detection limit was 0.2 mg/1 for all samples analyzed.

[14] MSD also voluntarily supplied analytical data for the 129 priority pollutants on all lagoon samples analyzed. Table II presents only those priority pollutants that appeared in detectable concentrations.

F005. This claim was substantiated in that quantitative organic scans for the listed solvents for each of the samples analyzed indicate non-detectable levels, except for methylene chloride.[15] The levels of methylene chloride found in the samples are also not considered significant; this evaluation is based partly on the toxic characteristics of methylene chloride and partly due to attenuation mechanisms such as absorption to soil components, biodegradation, and dilution which are considered by the Agency as operative factors to reduce the concentration of methylene chloride before it may be transported to points where human and environmental exposure may occur.[16] The Agency, therefore, believes that MSD has successfully demonstrated that the waste contained in the two holding lagoons is non-hazardous with respect to the listed solvents (*i.e.*, EPA Hazardous Waste Nos. F001, F002, F003, F004, and F005). Therefore, we are proposing to grant an exclusion (on a one-time basis) to the Cincinnati Metropolitan Sewer District of Greater Cincinnati for the sluiced ash presently contained in the North and South Lagoons, as described in their petition.

*C. Additional Agency Concerns*

Because this petition undoubtly will be decided ultimately under substantive standards contained in pending legislation (see fnl, supra), we also requested MSD to provide additional information regarding the composition of the sludge in the holding lagoons; they provided (on a voluntary basis) additional analytical data for the 129 priority pollutants on all samples analyzed.

TABLE II.—PRIORITY POLLUTANT ANALYSES OF THE SLUDGE IN THE HOLDING LAGOONS (PPM)[1]

| Compound | 1[2] | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Penol | | | | | | | 0.36 | | | | | 0.93 |
| Acenapthene | | | | | | | 0.30 | | 2.02 | | | |
| 1,2,4-Trichlorobenzene | | | | | | | 0.19 | 0.19 | 0.19 | | | |
| 1,3-Dichlorobenzene | | | | | | | 0.21 | | | | | |
| Flourathene | 0.35 | | | 0.47 | | | 7.98 | 0.90 | 39.92 | 0.73 | | 2.36 |
| Bis-2-ethlhexylphthalate | 1.32 | 0.30 | 0.39 | | | | | 1.96 | 1.63 | 1.77 | 0.23 | 1.52 |
| Naphthalene | | | | | | | 0.38 | | 0.61 | | | |
| N-Nitrosodiphenylamine | | | | | | | | | | | | 0.20 |
| Butylbenzylphathalate | 0.24 | | | | | | | | 0.66 | 0.22 | | 1.56 |
| Di-N-butylpthalate | | | | | | | | | | 0.78 | | 1.90 |
| Diethylphthalate | | | | | | | | | | | | 1.98 |
| Dimethylthalate | | | | | | | | | | | | 0.47 |
| Benzo(a)anthracene | | | | 0.21 | | | 4.99 | 0.65 | 16.87 | 0.35 | | 1.07 |
| Chyrsene | | | | 0.18 | | | 3.51 | 0.60 | 17.54 | 0.38 | | 0.88 |
| Benzo(a)pyrene | | | | | | | 3.48 | 0.54 | 16.66 | 0.40 | | 1.01 |
| Acenaphthylene | | | | | | | 0.25 | | 1.44 | | | |
| Anthracene | | | | | | | 2.38 | 0.23 | 8.25 | | | 0.28 |
| Phenanthrene | 0.30 | | | 0.34 | | | 5.58 | 0.82 | 31.15 | 0.41 | | 1.67 |
| Benzo(G,H,I)perylene | | | | | | | 1.33 | | 11.24 | | | |
| Fluorene | | | | | | | 0.63 | | 4.27 | | | |
| Dibenzo(a,h)anthracene | | | | | | | 0.66 | | 3.90 | | | |
| Ideno(1,2,3-CD)pyrene | | | | | | | 1.83 | | 12.0 | | | |
| Pyrene | 0.31 | | | 0.37 | | | 6.02 | 0.89 | 31.67 | 0.61 | | 1.92 |
| Methylene Chloride | 1.7 | | | | | 1.4 | | 1.9 | | 1.4 | 1.6 | 1.3 |
| Thioacetamide | 52 | 48 | 46 | | 54 | 47 | 50 | 47 | | | | |
| Thiosemicarbazide | 73 | 814 | 638 | | 894 | 507 | 644 | 598 | | 711 | 452 | |

[1] Only those pollutants that appeared in detactable concentrations are included in the table.
[2] The first six samples (Sample Nos. 1 through 6) were taken from the North Lagoon while the other six samples (Sample Nos. 7 through 12) were taken from the South Lagoon.

In reviewing this additional data, the Agency became concerned about the concentrations of certain polynuclear aromatic compounds (PNA's) in samples taken from the South Lagoon some of which (*i.e.*, chrysene and benzo(a)pyrene) are known or suspected carcinogens. In particular, the Agency is concerned with the levels of benzo(a)anthracene, chrysene, benzo(a)pyrene, dibenzo (a,h) anthracene, and indeno (1,2,3-c,d) pyrene, found in samples 7 and/or 9. Although the Agency is not at a point where it can identify a specific action level for these toxicants or for total PNA's, there is significant concern over the effect these toxicants may have to human health and the environment. It is apparent from Table II that the PNA concentrations in the South Lagoon are consistently higher than those found in the North lagoon. Therefore, the Agency will investigate whether these levels are of environmental concern to determine if these toxicants should be added as the basis for listing this waste (*i.e.*, if improperly managed, will significant concentrations of these toxicants migrate into the environment). We also will evaluate other materials that commonly contain PNA's (*i.e.*, fly ash and sewage sludge) to determine what levels are normally found in the environment. The Agency, therefore, specifically solicits comments on these levels and any information that is available regarding the concentration of these toxicants found in the environment.

The Agency was also concerned about the high levels of thioacetamide and thiosemicarbazide, 54 and 894 ppm, respectively, initially reported in the MSD petition. After further investigations, however, MSD determined that these peaks did not represent thioacetimide or thiosemicarbazide but rather some other compound not listed on Appendix VIII. MSD further determined that the same unidentified peak was present in a procedural check sample containing top soil from an area ten miles away from the MSD site.

## IV. Regulatory Impact

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This proposal to grant exclusions is not major since its effect is to reduce the overall costs and economic impact of EPA's hazardous waste management regulations. This reduction is achieved by excluding wastes generated at specific facilities from EPA's listed hazardous wastes, thereby enabling the facility to treat its waste as non-hazardous waste regulations.

## V. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et. seq.*, whenever an Agency is required to publish a 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 rule on small entities (*i.e.*, small businesses, small organizations, and small governmental jurisdictions). The Administrator may certify, however, that the rule will not have a significant economic impact on a substantial number of small entities.

This amendment will not have an adverse economic impact on small

[15] A number of these solvents are also considered hazardous because they are ignitable. However, due to the low levels of these solvents in the sludge, the sludge is not expected to be ignitable.

[16] Since MSD is requesting a one-time exclusion of the sludge in the lagoons and since the sampling scheme presented in the petition is considered representative of the waste in the lagoons, no additional testing will be required to characterize the sludge for its solvent content. However, any ash that is generated in the future for which MSD requests an exclusion, additional sampling and analysis will be required, especially if the variety of incoming waste is expanded as was indicated in the delisting petition.

entities since its effect will be to reduce the overall costs of EPA's hazardous waste regulations. Accordingly, I hereby certify that this final regulation will not have a significant economic impact on a substantial number of small entities. This regulation, therefore, does not require a regulatory flexibility analysis.

### VI. List of Subjects in 40 CFR Part 261

Hazardous materials, Waste treatment and disposal, Recycling.

Dated: February 16, 1984.

**Lee M. Thomas,**

*Assistant Administrator for Solid Waste and Emergency Responses.*

### PART 261—[AMENDED]

For the reasons set out in the preamble, 40 CFR Part 261 is proposed to be amended as follows:

1. The authority citation for Part 261 reads as follows:

**Authority:** Secs. 1006, 2002(a), 3001, and 3002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6905, 6912(a), 6921, and 6922).

2. Section 261.31 is amended by adding the following introductory text before the table to read as follows:

**§ 261.31 Hazardous wastes from non-specific sources.**

The following solid wastes are listed hazardous wastes from non-specific sources unless they are excluded under §§ 260.20 and 260.22 and listed in Appendix XI.

* * * * *

3. Section 261.32 is amended by adding the following introductory text before the table to read as follows:

**§ 261.32 Hazardous wastes from specific sources.**

The following solid wastes are listed hazardous wastes from specific sources unless they are excluded under §§ 260.20 and 260.22 and listed in appendix XI.

* * * * *

4. Section 261.33 is amended by revising the introductory text to read as follows:

**§ 261.33 Discarded commercial chemical products, off-specification species, container residues, and spill residues thereof.**

The following materials or items are hazardous wastes if and when they are discarded or intended to be discarded unless they are excluded under §§ 260.20 and 260.22 and listed in Appendix XI.

* * * * *

5. Appendix XI is added to Part 261 to read as follows:

APPENDIX XI.—WASTES EXCLUDED UNDER §§ 260.20 AND 260.22

| Facility | Address | Waste description |
|---|---|---|
| (a) Wastes excluded from non-specific sources: | | |
| (1) Kay-Fries, Inc. | Pearl River, NY | Biological aeration lagoon sludge and filter press sludge which contain EPA Hazardous Waste Nos. F003 and F005. |
| (2) Metropolitan Sewer District of Greater Cincinnati. | Cincinnati, OH | Sluiced bottom ash sludge generated from their incineration facility and contained in the North and South Lagoon which contain EPA Hazardous Wastes Nos: F001, F002, F003, F004, and F005. |
| (b) Wastes excluded from specific sources [Reserved]: | | |
| (c) Wastes excluded from discarded commercial chemical products, off-specification species, container residues, and spill residues thereof: | | |
| (1) Union Carbide Corp. | Taft, LA. | Contaminated soil (approx. 11,000 cubic yards) which contain acrolein concentrations less than 9 ppm. |

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### 40 CFR Part 439

**[WH-FRL 2540-2]**

## Pharmaceutical Manufacturing Point Source Category; Effluent Limitations Guidelines

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of availability.

**SUMMARY:** With this notice, the Agency is informing the public that new cost information is available which EPA intends to use in the development of effluent limitations reflecting the best conventional pollutant control technology (BCT) for the pharmaceutical manufacturing point source category. The Agency has used these new cost data to apply the BCT cost test methodology proposed on October 29, 1982 (see 47 FR 49176) and an alternative methodology suggested in comments on the application of the BCT cost test methodology to the pharmaceutical industry. The two BCT cost test methodologies have been applied to the originally proposed technology option and to a new technology option.

**DATE:** Comments must be submitted by April 9, 1984.

**ADDRESS:** Send comments in triplicate to Dr. Frank H. Hund, Effluent Guidelines Division, Environmental Potection Agency, 401 M Street, SW., Washington, D.C. 20460. Attention: EGD Docket Clerk, Pharmaceutical Manufacturing Industry (WH-552). A copy of the supporting information and all public comments submitted in response to this notice will be available for inspection and copying at the EPA Public Information Reference Unit, Room 2404 (Rear) PM-213, (EPA Library), 401 M Street, SW., Washington, D.C. 20460. The EPA information regulation (40 CFR Part 2) provides that a reasonable fee may be charged for copying.

**FOR FURTHER INFORMATION CONTACT:** Technical information may be obtained from Dr. Frank H. Hund at the address listed above or by calling (202) 382-7182.

**SUPPLEMENTARY INFORMATION:**

### I. Background

On October 29, 1982, the Agency proposed a revised methodology for determining the reasonableness of best conventional pollutant control technology (BCT) effluent limitations guidelines ("the proposed revised BCT methodology"). (See 47 FR 53584.) The Agency's methodology is based on a two part test. The first test compares the cost for private industry to reduce its conventional pollutants with the costs to publicly owned treatment works (POTWs) for similar levels of reduction in their discharge of these pollutants. The second test examines the cost-effectiveness of additional industrial treatment beyond BPT. EPA must find that limitations are "reasonable" under both tests before establishing them as BCT. In no case may BCT be less stringent than BPT.

On November 26, 1982, the Agency proposed BCT effluent limitations guidelines for the pharmaceutical manufacturing point source category (see 47 FR 53584) based on add-on biological treatment. As specified in the proposed revised BCT methodology, the phamaceutical industry conventional

pollutant removal costs (dollars per pound of conventional pollutants removed) were calculated on the basis of maximum 30-day average removals. Detailed discussions of the proposed BCT effluent limitations guidelines are contained in the preamble to the proposed regulations (47 FR 53584) and in the "Development Document for Proposed Effluent Limitations Guidelines, New Source Performance Standards and Pretreatment Standards for the Pharmaceutical Manufacturing Point Source Category," (USEPA, November 1982). EPA closed the public comment period on the proposed pharmaceutical BCT limitations on January 25, 1983. We received 21 comments from representatives of the pharmaceutical industry and pollution control authorities.

**II. Public Comments on Costs**

Commenters raised three major issues concerning costs that this notice addresses: (1) The BPT costs assumed for candidate plants in the application of the BCT costs test, (2) the biological rate factor that was used to develop BTP-to-BCT upgrade costs, and (3) the use of the Catalytic Treatment Model to develop BPT-to-BCT costs for candidate plants.

The comments are summarized below:

*A. BPT Costs for Candidate Plants Used in the BCT Cost Test*

Two commenters stated that the BPT costs for the candidate plants used in the BCT cost test were over-estimated and included costs for treatment in excess of the treatment required to meet the 1976 BPT conventional pollutant regulations. One commenter stated that the technique used to derive individual candidate BPT costs ignored the effect of differences in flow on cost sensitivity.

*B. The Biological Rate Factor (k) Used in Developing the BPT-to-BCT Upgrade Costs*

One commenter stated that the BPT-to-BCT costs for candidate plants vary with the biological rate factor "k" used to estimate the size of aeration basins required as part of add-on biological treatment. This commenter stated the Agency's assumption of a k rate of 1.0 day $^{-1}$ for all candidate plants was not correct, and provided data from one facility in support of his contention.

*C. The Use of the Catalytic Treatment Model to Generate Add-On Biological Treatment (BPT-to-BCT) Costs for Candidate Plants*

One commenter stated that the Catalytic Treatment Model used to develop costs for add-on biological treatment for candidate BCT plants was flawed. Specifically, the commenter stated that the model did not include costs for pumping stations or for chemical addition to secondary clarifiers.

**III. Preliminary Analysis and Results**

The Agency has reevaluated its proposed BCT limitations for the pharmaceutical manufacturing industry in light of the comments and has developed new cost information. Before discussing the new information, it is necessary to explain that in contrast to the proposal, EPA is retaining the 1976 BPT subcategorization scheme for the purpose of developing effluent limitations guidelines and standards. At proposal, EPA had combined the four 1976 BPT production subcategories (fermentation, extraction, chemical synthesis and formulation) into one subcategory for which one set of BCT and BAT limitations would be applicable. In response to comments, however, EPA retained subcategories A, B, C and D as discussed in the preamble to the final BPT, BAT, PSES and NSPS regulations published on October 27, 1983 (see 48 FR 49808). As in the case of the proposed NSPS for conventional pollutants, the Agency is considering applying the BCT methodology separately for the A and C subcategories and for the B and D subcategories (see 48 FR 49832).

It should also be pointed out that, in addition to the technology that formed the basis of the propossed BCT limitations (i.e., add-on biological treatment), the Agency has identified another technology option to be considered in establishing final BCT effluent limitations. As discussed below, this option is identical to the technology option which is the basis for the proposed NSPS (i.e., add-on biological treatment plus effluent filtration) and was developed after consideration of the fact that four pharmaceutical manufacturing facilities were found to have effluent filtration technology in-place.

Each of these two BPT options for each of the four BPT subcategories has been evaluated in accordance with the proposed BCT methodology and an alternative BCT methodology discussed subsequently. The Agency has also reevaluated its proposed methodology for estimating plant costs for achieving BPT and both BCT options in the context of the comments on its proposed costing methodology. As a result, the Agency is considering making certain changes in its cost estimating methodology and has developed new BPT and BPT-to-BCT plant costs. These newly developed BPT and BPT-to-BCT plant costs have been used to develop BCT cost test comparison figures which are presented below. Each of the steps involved in EPA's analysis of its proposed BCT limitations is discussed in more detail in the subsequent paragraphs.

As mentioned above, EPA is considering two technology options for BCT to control BOD*5* and TSS discharges from existing direct discharging pharmaceutical plants. These options were developed after an analysis of all the available data on the operation of biological treatment systems by pharmceutical manufacturing plants. Both options entail more stringent control of BOD*5* and TSS discharges than is required by the existing BPT regulation. Both options for subcategories A and C pass the proposed cost test while both options for subcategories B and D fail the proposed test. If both options pass the final BCT cost test and meet the other statutory requirements, we would choose the more stringent control option. However, since the final BCT methodology may differ from the proposed methodology, it is possible that only the less stringent option will pass the final cost test. Therefore, both options are still being considered. These options are described below.

*Option A.* Promulgate BCT concentration-based limitations controlling BOD*5* and TSS based on the performance of the best plants employing advanced biological treatment. This option is identical to that which formed the basis of the proposed BCT limitations. Two sets of limitations would apply, one set for subcategory A and subcategory C facilities and one set for subcategory B and subcategory D facilities.

*Option B.* Pomulgate BCT concentration-based limitations controlling BOD*5* and TSS based on the performance of the best plants employing advanced biological treatment and effluent filtration. Two sets of limitations would apply, one set for subcategory A and subcategory C facilities and one set for subcategory B and subcategory D facilities.

The long-term average concentrations which form the basis of limitations associated with options A and B for subcategories A, B, C and D along with the related maximum 30-day average variability factors are shown below in Table I.

TABLE I.—BCT LIMITATIONS

| | Long-term average BOD5 concentration (milligram per liter) | Long-term average TSS concentration (milligram per liter) |
|---|---|---|
| Option A: | | |
| Subcategories A and C | 62.9 [1] (1.90) | 131.7 (1.98) |
| Subcategories B and D | 8.31 (1.34) | 13.8 (1.62) |
| Option B: | | |
| Subcategories A and C | 59.4 (1.16) | 9.32 (2.09) |
| Subcategories B and D | 7.85 (1.43) | 9.80 (2.70) |

[1] Parentheses enclose the maximum 30-day average variability factors related to the individual long-term average concentrations.

Following the development of these BCT options, the Agency reevaluated its methodology for estimating plant costs for achieving BPT and for achieving the candidate levels of BCT control. As a result, and in response to the cost-related public comments, the Agency is considering making certain changes in its methodology for estimating these costs and, consequently, has developed new plant costs. The areas of concern relating to the proposed costing methodology are the appropriate biological rate factor "k" to be used in developing cost estimates for aeration basins, the appropriate BPT treatment train for the individual subcategories, and specific deficiencies in the Agency's use of the Catalytic Treatment Model.

By way of responding to comments concerning the Agency's assumption of a biological rate factor (k) of 1.0 $day^{-1}$ in its estimations of aeration basin costs, the Agency reanalyzed the available biological rate factor data that were available from subcategory A and C and subcategory B and D facilities. As a result of this analysis, the Agency has developed linear regression relationships between raw waste BOD5 and the biological rate factor "k" which allow for the use of plant-specific factors in estimating the cost of aeration basins. The cost of each plant's BPT and BPT-to-BCT aeration basin(c) depends on each plant's average wastewater flow and raw waste BOD5 concentration. This individual aeration basin costs together with all the other components of the total BPT and BPT-to-BCT costs for all subcategory plants are included in the supporting information made available at the location listed above under "**ADDRESS**".

After a review of the various subcategory treatment trains which are found in "Development Document for Interim Final Effluent Limitations Guidelines and Proposed New Source Performance Standards for the Pharmaceutical Manufacturing Point Source Category," (U.S. EPA, December 1976), the Agency decided that changes in these model treatment trains may be necessary to ensure that they include only those technology elements needed to comply with the promulgated BPT regulations. The Agency agrees with the commenters that the model BPT technology appears to include more technology and more costs than are required to meet the BPT limits. The model BPT biological treatment (referred to by the commenters) is based on equalization, primary clarification, aerated activated sludge treatment followed by secondary clarification, neutralization and effluent chlorination. EPA has developed costs reflecting the addition of more equalization capacity and making aeration basin detention time a function on the raw waste BOD5 concentration. These changes result in lower costs. By way of responding to comments on the Agency's use of the Catalytic Treatment Model to develop plant-by-plant BPT-to-BCT costs, the Agency has also included costs for pumping stations in its new estimates of BPT-to-BCT costs. Complete information on all the BPT subcategory model treatment trains and all components of the supporting BPT-to-BCT costs is included in the information made available at the location listed above under "**ADDRESS**".

After developing BPT and BPT-to-BCT costs for each BCT option, the Agency then calculated the plant-by-plant conventional pollutant removals associated with each technology option for each subcategory group. The calculations were performed according to the proposed BCT methodology (i.e., using maximum 30-day average removals). In response to the public comments on the proposed BCT cost test and the proposed BCT limitations for the pharmaceutical industry, EPA is considering the use of long-term average removals instead of 30-day average removals for purposes of the BCT cost methodology. Therefore, the calculations also were done with an alternative BCT methodology using long-term average pollutant removals. These calculations are available in the record supporting this notice.

In all cases, the BPT effluent level was determined by the regulation found in 40 CFR Part 439. The BCT cost test comparison figures for both options are shown below in Table II.

TABLE II.—BCT COST TEST RESULTS

| | BPT to BCT dollar per pound [1] | Industry cost effectiveness test |
|---|---|---|
| Subcategories A and C | | |
| Option A (Long-term average removal) | 0.73 | 1.67 |
| Option A (30-day average removal) | 0.20 | 0.33 |
| Option B (Long-term average removal) | 0.84 | 2.15 |
| Option B (30-day average removal) | 0.23 | 0.38 |
| Subcategories B and D | | |
| Option A (Long-term average removal) | 4.20 | 2.82 |
| Option A (30-day average removal) | 1.18 | 0.60 |
| Option B (Long-term average removal) | 6.26 | 4.20 |
| Option B (30-day average removal) | 1.93 | 0.97 |

[1] 2d quarter 1982 dollars.

## IV. Solicitations of Comments

The Agency requests specific comments supported by data concerning:

(a) the Agency's use of the variable biological rate factor "k" in its cost estimation,

(b) all other treatment system design information made available by this notice,

(c) the cost curves used to estimate BPT and BPT to BCT costs, and

(d) the application of the cost curves in estimating plant-specific costs.

The comment period is confined to the issues raised by this notice.

Dated: March 2, 1984.

**Jack E. Ravan,**

*Assistant Administrator for Water.*

[FR Doc. 84-6373 Filed 3-8-84; 8:45 am]

BILLING CODE 6560-50-M

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**40 CFR Part 799**

**[OPTS-42047A/A2048A;TSH-FRL 2541-2]**

## Quinone/Hydroquinone; Proposed Test Rule; Extension of Comment Period

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule; extension of comment period.

**SUMMARY:** EPA is extending the comment period for the proposed test rules for hydroquinone and quinone, published in the **Federal Register** of Janury 4, 1984. The extension is in response to requests by the Goodyear Tire and Rubber Company and the Chemical Manufacturers Association for additional time for comment. The deadline for requesting a public meeting has also been changed.

**DATES:** Written comments on the proposed rule should be submitted on or before April 3, 1984. If persons formally request an opportunity to present oral comments by March 19, 1984, EPA will hold a public meeting on April 18, 1984.

**ADDRESS:** Address written comments identified by the document control number [OPTS-42047A—Quinone and 42048A—Hydroquinone] in triplicate to: TSCA Public Information Office (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-108, 401 M. Street SW., Washington, D.C. 20460.

The administrative record supporting this action is available for public inspection at the above address from 8:00 a.m. to 4:00 p.m. Monday through Friday, except legal holidays.

**FOR FURTHER INFORMATION CONTACT:** Jack P. McCarthy, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-545, 401 M Street SW., Washington, D.C. 20460, Toll Free: (800-424-9065), in Washington, D.C. (554-1404), outside the USA: (Operator-202-554-1404).

**SUPPLEMENTARY INFORMATION:** Notices of proposed rulemaking to consider testing of hydroquinone and quinone under section 4(a) of the Toxic Substances Control Act, were published in the **Federal Register** of January 4, 1984 (49 FR 438 and 49 FR 456).

In response to a request by the Goodyear Tire and Rubber Company and the Chemical Manufacturers Association, the Agency is extending the comment period to April 3, 1984. This extension is necessitated by the inability of the manufacturers to obtain all documents and information in a timely manner from the Agency. Additionally, if persons formally request an opportunity to present oral comments by March 19, 1984, EPA will hold a public meeting on April 18, 1984.

Information on the exact time and place of the meeting will be available from the TSCA Assistance Office at the telephone numbers given above. Persons who wish to attend or present comments at the meeting should call the TSCA Assistance Office by March 19, 1984. While the meeting will be open to the public, active participation will be limited to those persons who have arranged to present comments and to designated EPA participants. Attendees should call the TSCA Assistance Office before making travel plans, because the meeting will not be held if members of the public do not wish to make oral comments.

The Agency will transcribe the meeting and will include the written transcript in the public record of the test rule. Participants are invited, but not required, to submit copies of their statements prior to or on the day of the meeting. All such written materials will become part of EPA's record for this rulemaking.

(Sec. 4, Pub. L. 94-469, 90 Stat. 2003 (15 U.S.C. 2601))

Dated: March 1, 1984.

**Joseph J. Merenda,**

*Acting Director, Office of Toxic Substances.*

[FR Doc. 84-6374 Filed 3-8-84; 8:45 am]

BILLING CODE 6560-50-M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Office of the Secretary

### 45 CFR Parts 74 and 98

### Administration of Grants to States Other Than Block Grants or Open-End Grants

*Correction*

In FR Doc. 84-4912, beginning on page 6927 in the issue of Friday, February 24, 1984, make the following corrections:

1. On page 6930, first column, the first word in the seventh line of the last complete paragraph should have read "programmatic".

2. On page 6933, column three, the first word in the second line of the first complete paragraph should have read "propose".

3. On page 6939, first column, the last word in the definition of "Administrative" in § 98.5 should have read "program."

4. On page 6943, third column, the word "be" should have appeared between the words "would" and "allowable" in the first line of § 98.80(c)(2).

BILLING CODE 1505-01-M

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

### 49 CFR Part 571

### Federal Motor Vehicle Safety Standards; Power Operated Window Systems; Termination of Rulemaking

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

**ACTION:** Termination of rulemaking.

**SUMMARY:** This notice announces the termination of rulemaking with regard to an amendment to Federal Motor Vehicle Safety Standard (FMVSS) 188, *Power Operated Window Systems.* The amendment, which would have permitted the use of power window systems which close automatically when it rains, is now considered to raise safety concerns. Further, the development of performance criteria and a test procedure to assure that complying systems do not pose safety hazards might not be feasible and would in all likelihood be excessively expensive.

**FOR FURTHER INFORMATION CONTACT:** Nelson Erickson, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, D.C. 20590 (202-426-2720).

**SUPPLEMENTARY INFORMATION:** On November 18, 1980, Mr. Paul Reneau petitioned NHTSA to amend FMVSS 118 to permit the use of a power window system he invented. This system would automatically close a vehicle's windows when it sensed rain. Sensors would be built into the vehicle's seats in an attempt to assure that no one is present in the vehicle during the closing of the windows. The system also would be designed to stop closing the windows if an obstruction were encountered.

The major cause of accidents and injuries involving power windows which led to the promulgation of FMVSS 118 is the unsupervised operation of power windows by children. In a number of accidents, children were caught between the closing window and the window frame.

FMVSS 118 currently provides that power window operation is permitted only in situations when the driver is likely to be in the vehicle to supervise the operation. The driver's presence is assured by surrogate measures involving the ignition key, e.g., the windows may be operable when the ignition key is in the "ON" position, a situation likely to occur only when the driver is still in the vehicle.

On October 1, 1981, in 46 FR 48261, NHTSA granted the Reneau petition and indicated that it would commence rulemaking to "determine the safety consequences of the proposed amendments." The agency went on to note that the "granting of a petition does not mean that a rule will necessarily be issued. The determination whether to issue a rule is made in the course of the rulemaking proceeding, in accordance with statutory criteria." Id.

NHTSA's further evaluation of the Reneau petition has raised a number of concerns which have led the agency to terminate further action in this proceeding. The Reneau system would abrogate the positive key control concept of FMVSS 118 by permitting power window operation when the

driver is not present, the petitioner has submitted no data to support the premise that implementation of his system will have no negative impact on safety. Although the Reneau proposal includes some safeguards to compensate for the loss of positive key control, the agency has doubts as to the effectiveness of these measures and as to its ability to assure the necessary level of effectiveness. For example, the agency is concerned that the complexity of the system could lead to reliability problems in use, such as a failure of the window stop feature. Also, it is not clear how the sensors in the vehicle would distinguish between children in the vehicle and objects such as packages. If the system did not sense objects of medium size (such as a bag of groceries), it maight also not sense small children. The agency would also have to specify performance levels for the sensors so that small children standing up on the vehicle floor or in the back of a station wagon would be detectable, for example. Further, the agency would have to develop a test procedure to assure that window closing force is not excessive. Development of such a procedure proved to be an impossible task when such a procedure was considered as part of the original implementation of FMVSS 118.

As a general matter, the agency considers the development of performance criteria and test procedures to assure the safe operation of power windows in situations when the driver is not present in the vehicle to be a formidable task. Given the agency's other safety priorities, we cannot justify devoting the substantial resources which would be required by an attempt to solve these problems.

However, the agency would be willing to consider a petition by a motor vehicle manufacturer for an exemption from Standard No. 118 that is properly justified under the criteria of section 123 of the National Traffic and Motor Vehicle Safety Act and Part 555 of Title 49 of the Code of Federal Regulations. If such a petition were to be granted and if Mr. Reneau used the period of the exemption to gather data on any malfunctions of the window closing system and to develop a test procedure for measuring the safefy performance of the system (e.g., window closing force), the agency would be in a better position to evaluate any future request for rulemaking regarding the Reneau system.

Issued on March 5, 1984.

**Barry Felrice,**

*Acting Associate Administrator for Rulemaking.*

[FR Doc. 84-6425 Filed 3-8-84; 8:45 am]

BILLING CODE 4910-59-M

# Notices

Federal Register
Vol. 49, No. 48
Friday, March 9, 1984

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## DEPARTMENT OF AGRICULTURE

### Office of the Secretary

### Price-Undercutting of Domestic Swiss Cheese by Imported Swiss Cheese Produced in Finland

On January 18, 1984, the U.S. Department of Agriculture received a complaint alleging price-undercutting of domestic Swiss cheese by imported Swiss cheese produced in Finland. Under section 702 of the Trade Agreements Act of 1979 (Pub. L. 96–39), the Secretary of Agriculture must conduct a price-undercutting investigation and make a determination as to the validity of the allegation.

Based on the investigation of the Director of the Dairy, Livestock and Poultry Division, Foreign Agricultural Service, pursuant to the regulations at 7 CFR 6.40–44, I have determined that the duty-paid wholesale price of Grade A imported Swiss cheese produced in Finland is $1.94 per pound and the domestic wholesale market price of Grade A U.S produced Swiss cheese is $1.78 per pound. I have also determined that imported manufacturing quality Swiss cheese produced in Finland, on average, is not comparable to domestic Grade A Swiss cheese nor Grades B and C domestic Swiss cheese used for cold pack processing in the United States. I, therefore, have determined that there is no price-undercutting of U.S. produced Swiss cheese produced in the United States by imported Swiss cheese produced in Finland, and I have notified the United States Trade Representative accordingly.

Done at Washington, D.C. this 5th day of March 1984.

**John R. Block,**

*Secretary.*

[FR Doc. 84–6379 Filed 3–6–84; 3:00 pm]

BILLING CODE 3410–10–M

### Forest Service

### Sierra National Forest Grazing Advisory Board; Meeting

The Sierra National Forest Grazing Advisory Board will meet at 10:00 a.m., April 11, 1984, in Room 3208 of the Federal Building, 1130 O Street, Fresno, California.

Agenda

1. Reelection of Board officers.
2. An overview of the Sierra National Forest situations and concerns for 1984.
3. A stockman's view of Forest grazing permittee's operations and situations.
4. Proposed Range betterment projects for 1985 and 1986.
5. Current Allotment Management changes for 1984 and 1985.
6. Future programs for Board meetings.

The meeting will be open to the public.

The committee has established the following rules for public participation: Matters identified by the public will be considered by the Board at the close of the planned agenda.

Dated: March 2, 1984.

**Richard L. Stauber,**

*Forest Supervisor.*

[FR Doc. 84–6319 Filed 3–8–84; 8:45 am]

BILLING CODE 3410–11–M

## CIVIL RIGHTS COMMISSION

### District of Columbia Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the District of Columbia Advisory Committee to the Commission will convene at 3:00 p.m. and will end at 5:00 p.m., on April 5, 1984, at the Washington Plaza Hotel, Senate Room, Massachusetts and Vermont Avenues, off Thomas Circle, Washington, D.C. 20005. The purpose of the meeting is to discuss program plans related to discrimination in housing and employment. The Committee will also discuss followup activities related to its continuing interests in inter-group relations and police-community relations.

Persons desiring additional information, or planning a presentation to the Committee, should contact the Chairperson, Walter E. Washington, at (202) 659–3300 or the Mid-Atlantic Regional Office at (202) 254–6670.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., March 5, 1984.

**John I. Binkley,**

*Advisory Committee Management Officer.*

[FR Doc. 84–6472 Filed 3–8–84; 8:45 am]

BILLING CODE 6335–01–M

### Michigan Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Michigan Advisory Committee to the Commission will convene at 6:00 p.m. and will end at 9:00 p.m., on March 26, 1984, at the Westin Hotel, 400 East Jefferson, Detroit, Michigan 48243. The purpose of the meeting is to discuss general civil rights developments in the State.

Persons desiring additional information, or planning a presentation to the Committee, should contact the Chairperson, Dr. Howard M. Rienstra, at (616) 949–4000 or the Midwestern Regional Office at (312) 353–7479.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., March 6, 1984.

**John I. Binkley,**

*Advisory.*

[FR Doc. 84–6474 Filed 3–8–84; 8:45 am]

BILLING CODE 6335–01–M

### New Jersey Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the New Jersey Advisory Committee to the Commission will convene at 6:30 p.m. and will end at 9:30 p.m., on March 27, 1984, at the Ramada Inn, 100 Naricon Place, East Brunswick, New Jersey 08876. The purpose of the meeting is to discuss monitoring of civil rights issues in New Jersey state.

Persons desiring additional information, or planning a presentation to the Committee, should contact the Chairperson, Clyde C. Allen, at (212)

572–7577 or the Eastern Regional Office at (212) 264–0400.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., March 6, 1984.

**John I. Binkley,**

*Advisory Committee Management Officer.*

[FR Doc. 84–6473 Filed 3–8–84; 8:45 am]

BILLING CODE 6335–01–M

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A–405–401]

### Carbon Steel Plate From Finland; Initiation of Antidumping Investigation

**AGENCY:** International Trade Administration, Import Administration, Commerce.

**ACTION:** Notice.

**SUMMARY:** On the basis of a petition filed in proper form with the United States Department of Commerce, we are initiating an antidumping investigation to determine whether imports of carbon steel plate from Finland are being, or are likely to be, sold in the United States at less than fair value. We are notifying the United States International Trade Commission (ITC) of this action so that it may determine whether imports of this merchandise are materially injuring, or are threatening to materially injure, a United States industry. If this investigation proceeds normally, the ITC will make its preliminary determination on or before March 26, 1984, and we will make ours on or before July 19, 1984.

**EFFECTIVE DATE:** March 9, 1984.

**FOR FURTHER INFORMATION CONTACT:** Stuart Keitz, Office of Investigations, Import Administration, International Trade Administration, United States Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230, telephone (202) 377–1769.

**SUPPLEMENTARY INFORMATION:**

#### The Petition

On February 10, 1984, we received a petition from counsel for the United States Steel Corporation on behalf of the U.S. industry producing carbon steel plate. In compliance with the filing requirements of § 353–36 of the Commerce Regulations (19 CFR 353.36), the petition alleges that imports of carbon steel plate from Finland are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (19 U.S.C. 1673) (the Act), and that these imports are materially injuring a United States industry. The allegation of sales at less than fair value of this merchandise from Finland is supported by comparisons of the estimated Finnish home market prices (derived from the data used by the Department of Commerce in its section 751 review of the suspension agreement in the antidumping proceeding on carbon steel plate from Romania) with the weighted-average f.a.s. Finnish port value of this product imported into the United States (as provided by U.S. Department of Commerce statistics). In the Romanian case the value of Finnish carbon steel plate was used as a surrogate for the foreign market value of Romanian carbon steel plate.

#### Initiation of Investigation

Under section 732(c) of the Act, we must determine, within 20 days after the petition is filed, whether is sets forth the allegations necessary for the initiation of an antidumping investigation and whether it contains information reasonably available to the petitioner supporting the allegations. We have examined the petition on carbon steel plate from Finland and we have found that it meets the requirements of section 732(b) of the Act. Therefore, we are initiating and antidumping investigation to determine whether carbon steel plate from Finland is being, or is likely to be, sold at less than fair value in the United States. If our investigation proceeds normally, we will make our preliminary determination by July 19, 1984.

#### Scope of Investigation

The product covered by this investigation is carbon steel plate from Finland. The term "carbon steel plate" covers hot-rolled carbon steel products, whether or not corrugated or crimped; not pickled; not cold-rolled; not in coils; not cut, not pressed, and not stamped to non-rectangular shape; not coated or plated with metal and not clad; 0.1875 inch or more in thickness and over 8 inches in width; as currently provided for in items 607.6620 and 607.6625 of the *TSUSA*. Semifinished products of solid rectangular cross section with a width at least four times the thickness and processed only through primary mill hot rolling are not included.

#### Notification to ITC

Section 732(d) of the Act requires us to notify the ITC of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all non-privileged and non-confidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information either publicly or under an administrative protective order without the consent of the Deputy Assistant Secretary for Import Administration.

#### Preliminary Determination by ITC

The ITC will determine by March 26, 1984, whether there is a reasonable indication that imports of carbon steel plate from Finland are materially injuring, or are likely to materially injure, a United States industry. If its determination is negative, this investigation will terminate; otherwise, it will proceed according to the statutory procedures.

Dated: March 1, 1984.

**Alan F. Holmer,**

*Deputy Assistant Secretary for Import Administration.*

[FR Doc. 84–6327 Filed 3–8–84; 8:45 am]

BILLING CODE 3510–DS–M

[A–357–401]

### Cold-Rolled Carbon Steel Flat-Rolled Products From Argentina; Initiation of Antidumping Investigation

**AGENCT:** International Trade Administration, Import Administration, Commerce.

**ACTION:** Notice.

**SUMMARY:** On the basis of a petition filed in proper form with the United States Department of Commerce (DOC), we are initiating an antidumping investigation to determine whether cold-rolled carbon steel flat-rolled products from Argentina are being, or are likely to be, sold in the United States at less than fair value. We are notifying the United States International Trade Commission (ITC) of this action so that it may determine whether imports of this merchandise are materially injuring, or are threatening to materially injure, a United States industry. If this investigation proceeds normally, the ITC will make its preliminary determination on or before March 26, 1984, and we will make ours on or before July 19, 1984.

**EFFECTIVE DATE:** March 9, 1984.

**FOR FURTHER INFORMATION CONTACT:** Stuart Keitz, Office of Investigations, Import Administration, International Trade Administration, United States Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone (202) 377–1769.

**SUPPLEMENTARY INFORMATION:**

**The Petition**

On February 10, 1984, we received a petition from counsel for the United States Steel Corporation on behalf of the U.S. industry producing cold-rolledcarbon steel flat-rolled products. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleges that imports of cold-rolled carbon steel flat-rolled products from Argentina are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (19 U.S.C. 1673) (the Act), and that these imports are materially injuring a United States industry. The allegation of sales at less than fair value of this merchandise from Argentina is supported by comparisons of the estimated weighted-average Argentine home market prices derived from publicly available data with the weighted-average U.S. price of this product imported into the United States developed from the same sources. Petitioner also alleges that these products are also being sold in the Argentine home market at prices which are less than the cost of production and that there are insufficient sales of the subject merchandise at prices above the cost of production with which to determine foreign market value.

**Initiation of Investigation**

Under section 732(c) of the Act, we must determine, within 20 days after the petition is filed, whether it sets forth the allegations necessary for the initiation of an antidumping investigation and whether it contains information reasonably available to the petitioner supporting the allegations. We have examined the petition on cold-rolled carbon steel flat-rolled products from Argentina and we have found that it meets the requirements of section 732(b) of the Act. Therefore, we are initiating an antidumping investigation to determine whether cold-rolled carbon steel flat-rolled products from Argentina are being, or are likely to be, sold at less than fair value in the United States. If our investigation proceeds normally, we will make our preliminary determination by July 19, 1984.

**Scope of Investigation**

The products covered by this investigation are cold-rolled carbon steel flat-rolled products from Argentina. The term *"cold-rolled carbon steel flat-rolled products"* covers the following cold-rolled carbon steel products. Cold-rolled carbon steel flat-rolled products are flat-rolled carbon steel products, whether or not corrugated or crimped; whether or not painted or varnished and whether or not pickled; not cut, not pressed, and not stamped to non-rectangular shape; not coated or plated with metal; over 12 inches in width, and 0.1875 inch or more in thickness; as currently provided for in item 607.8320 of the *TSUSA;* or over 12 inches in width and under 0.1875 inch in thickness whether or not in coils; as currently provided for in items 607.8350, 607.8355, or 607.8360 of the *TSUSA*.

**Notification to ITC**

Section 732(d) of the Act requires us to notify the ITC of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all non-privileged and non-confidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information either publicly or under an administrative protective order without the consent of the Deputy Assistant Secretary for Import Administration.

**Preliminary Determination by ITC**

The ITC will determine by March 26, 1984, whether there is a reasonable indication that imports of cold-rolled carbon steel flat-rolled products from Argentina are materially injuring, or are likely to materially injure, a United States industry. If its determination is negative, this investigation will terminate; otherwise, it will proceed according to the statutory procedures.

Dated: March 1, 1984.

**Alan F. Holmer,**

*Deputy Assistant Secretary for Import Administration.*

[FR Doc. 84-6328 Filed 3-8-84; 8:45 am]

**BILLING CODE 3510-DS-M**

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**[C-535-001 ]**

## Countervailing Duty Order; Cotton Shop Towels From Pakistan

**AGENCY:** International Trade Administration; Commerce.

**ACTION:** Notice.

**SUMMARY:** In separate investigations, the United States Department of Commerce and the United States International Trade Commission (ITC) have determined that cotton shop towels from Pakistan are receiving benefits which constitute subsidies within the meaning of the countervailing duty law and that cotton shop towels from Pakistan are materially injuring a United States industry. Therefore, all entries, or warehouse withdrawals, for consumption, of cotton shop towels from Pakistan made on or after October 27, 1983, the date on which the Department published its "Suspension of Liquidation" notice in the **Federal Register**, will be liable for the possible assessment of countervailing duties. Furthermore, a cash deposit of estimated duties must be made on all such entries, and withdrawals from warehouse, for consumption, on or after the date of publication of this order in the **Federal Register.**

**EFFECTIVE DATE:** March 9, 1984.

**FOR FURTHER INFORMATION CONTACT:** Paul Thran, Office of Investigations, International Trade Administration, United States Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230, telephone: (202) 377-3963.

**Scope of Investigations**

The merchandise covered by this order is cotton shop towels currently classifiable under item 366.2760 of the *Tariff Schedules of the United States Annotated* (TSUSA).

On October 27, 1983, the Department published its preliminary determination that there was reason to believe or suspect that cotton shop towels from Pakistan received benefits which constitute subsidies within the meaning of the countervailing duty law (48 FR 49678). On January 5, 1984, the Department published its final determination that these imports are being subsidized (49 FR 1408).

On February 23, 1984, in accordance with section 705(b) of the Act (19 U.S.C. 1671(b)), the ITC notified the Department that such importations are materially injuring a United States industry.

Therefore, in accordance with section 706 and 751 of the Act (19 U.S.C. 1671e and 1675), the Department directs United States Customs officers to assess, upon further advice by the administering authority pursuant to section 706(a)(1) of the Act (19 U.S.C. 1671e(a)(1)), countervailing duties equal to the amount of the net subsidy for all entries of cotton shop towels from Pakistan. These countervailing duties will be assessed on cotton shop towels entered, or withdrawn from warehouse, for consumption, on or after October 27, 1983, the date on which the Department published its "Suspension of Liquidation" notice in the **Federal Register.**

On and after the date of publication of this notice, United States Customs officers must require, at the same time

as importers would normally deposit estimated Customs duties on this merchandise, a cash deposit equal to the estimated net subsidy of 12.67 percent. The amount listed is expressed as a percentage of the FOB price.

This determination constitutes a countervailing duty order with respect to cotton shop towels from Pakistan, pursuant to section 706 of the Act (19 U.S.C. 1671e) and § 355.36 of the Commerce Regulations (19 CFR 355.36).

We have deleted from the Commerce Regulations Annex 1 to 19 CFR Part 355, which listed countervailing duty findings and orders currently in effect. Instead, interested parties may contact the Office of Information Services, Import Administration, for copies of the updated list of orders currently in effect.

### Notice of Review

In accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) the Department hereby gives notice that it is commencing an administrative review of this order on March 9, 1984. For further information regarding this review, contact Mr. Richard Moreland (202) 377–2786.

This notice is published in accordance with section 706 of the Act (19 U.S.C. 1671e) and § 355.36 of the Commerce Regulations (19 CFR 355.36).

Dated: March 1, 1984.

Alan F. Holmer,

*Deputy Assistant Secretary for Import Administration.*

[FR Doc. 84-6367 Filed 3-8-84; 8:45 am]

BILLING CODE 3510-DS-M

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[A-588-024]

## Tempered Sheet Glass From Japan; Final Results of Administrative Review and Revocation of Antidumping Finding

**AGENCY:** International Trade Administration, Commerce.

**ACTION:** Notice of Final Results of Administrative Review and Revocation of Antidumping Finding.

**SUMMARY:** On January 3, 1983, the Department of Commerce published the preliminary results of its administrative review and tentative determination to revoke the antidumping finding on tempered sheet glass from Japan. The review covers the one known exporter of this merchandise to the United States and the periods September 13, 1975 through August 31, 1978, and September 1, 1980 through January 3, 1983.

We gave interested parties an opportunity to submit oral or written comments on the preliminary results. At the request of the petitioner, we held public hearings on March 3, 1983 and on September 23, 1983. Based on analysis of the comments and additional information received, we have changed the margin for the first period from that presented in the preliminary results of review, and we are revoking this antidumping finding.

**EFFECTIVE DATE:** March 9, 1984.

**FOR FURTHER INFORMATION CONTACT:** Phyllis Derrick or John Kugelman, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: (202) 377–3601.

**SUPPLEMENTARY INFORMATION:**

### Background

On January 3, 1983, the Department of Commerce ("the Department") published in the **Federal Register** (47 FR 8037–8) the preliminary results of its last administrative review and tentative determination to revoke the antidumping finding on tempered sheet glass from Japan (36 FR 10913, September 13, 1971). The Department has now completed that administrative review.

### Scope of the Review

Imports covered by the review are shipments of tempered sheet glass in patio door sizes, currently classifiable under item 544.3100 of the Tariff Schedules of the United States Annotated. The review covers the one known Japanese producer and exporter to the United States of this merchandise, Asahi Glass Co., Ltd. ("Asahi"), and the periods September 13, 1975 through August 31, 1978 and September 1, 1980 through January 3, 1983. The Department previously reviewed the intervening period of no shipments.

### Analysis of Comments Received

We invited interested parties to comment on the preliminary results and tentative determination to revoke. At the request of the petitioner, PPG Industries, Inc. ("PPG"), we held a public hearing on March 3, 1983. The preliminary results of review indicated that there were no sales to the U.S. after August 31, 1976. We subsequently found one sale to the U.S. in January 1978. There have been no sales since then through January 3, 1983. As a result of the discovered sale, we held a second public hearing on September 23, 1983.

*Comment 1:* As in our last review, PPG again argued that the finding embraces all tempered glass of whatever substrate and size and for whatever use. Alternatively, PPG argued that the finding covered all tempered glass for architectural use.

*Department's Position:* We continue to maintain that the scope of the finding is limited to tempered sheet glass in patio door sizes. With regard to the size limit, we believe the wording of the finding and investigation are clear and we are without power to amend. The manufacturing process is also clearly delimited to sheet glass. Further, Asahi has not imported any architectural sheet glass since 1978.

*Comment 2:* PPG argued that the Department should analyze more closely the likelihood of a resumption of dumping should revocation occur.

*Department's Position:* Asahi no longer uses the sheet glass manufacturing process, but rather uses a newer process that is economically more feasible. Further, there have been no sales of this merchandise to the U.S. at less than fair value, with the exception of the one sale in 1978, since the date of the finding, and there have been no sales to the U.S. since January 24, 1978, a period of five years. We have no evidence to indicate a likelihood of resumption of sales at less than fair value.

*Comment 3:* As opposed to the period covered by the preliminary results (September 1, 1980 through August 31, 1982), the petitioner argued that the Department should review separately and thoroughly the subsequent period up to the date of the Department's tentative determination to revoke (September 1, 1982 through January 3, 1983).

*Department's Position:* Asahi made no sales of this mrchandise to the U.S. during that period. We verified through the Customs Service that there were no known shipments and there are no unliquidated entries of this merchandise for that period.

*Comment 4:* The petitioner argued that, in determining foreign market value for the 1978 sale, the Department should further investigate sales or offers for sale of such or similar merchandise in the Japanese home market, including at least sales of tempered sheet or float glass used for architectural purposes rather than sales of tempered sheet glass in patio door sizes to a third country. The petitioner submitted catalogs as evidence of offers for sale in the home market.

*Department's Position:* Since Asahi had no home market sales of tempered sheet glass in patio door sizes, Asahi provided information concerning third-country sales. Tempered float glass used for architectural purposes in the home market is made by a different

manufacturing process, has different uses, and cannot be altered subsequent to the manufacturing process. Thus, absent home market sales or offers of such or similar merchandise, third country sales of tempered sheet glass in patio door sizes can be used for comparison purposes. In any event, our ultimate reliance on constructed value moots the issue of using either home market sales (or offers) of similar merchandise or third country sales. See Comments 6.

*Comment 5:* The petitioner argued that the Department improperly used weighted-average adjustments to U.S. purchase price and foreign market value, rather than transaction-by-transaction adjustments.

*Department's Position:* We adjusted only the Japanese inland freight on a weighted-average basis, since Asahi had no records indicating freight costs on a shipment-by-shipment basis. We consider this a reasonable method of allocation. In any event, this issue is now moot with regard to foreign market value. See Comment 6.

*Comment 6:* PPG argued that the Department should investigate whether the third-country comparison sales were made at less than the cost of production and consider the use of constructed value as an alternative basis for foreign market value for the 1978 sale.

*Department's Position:* The petitioner's information was adequate to warrant investigation. Since the respondent provided inadequate cost of production data for the third-country sales, we used the petitioner's information as the best information available for the cost of production and for constructed value.

*Comment 7:* Asahi argued that the petitioner's allegation of home market sales below cost was untimely, since it was presented after publication of the preliminary results of the administrative review.

*Department's Position:* We consider the petitioner's information timely since the Department and the petitioner knew of the 1978 sale only subsequent to publication of the preliminary results.

*Comment 8:* The respondent argued that, even if the third-country sales were made at below cost, the Department has authority to continue to use those sales as foreign market value for comparison purposes. The respondent argues that all sales in the 1977–1978 period were closeout sales, since the respondent was discontinuing the sheet glass production line at that time. The Tariff Act permits use of such sales for comparisons.

*Department's Position:* Even if the third-country sales were legitimate closeout sales, we no longer believe these sales sufficiently representative to be the basis for foreign market value. Thus, we are using constructed value as the basis for foreign market value.

**Final Results of the Review**

As a result of our review of all comments received, the final results of review are the same as those presented in the preliminary results of review, except that we determine that a margin of 22.47 percent exists for the sale on January 24, 1978. Since there have been no sales of tempered sheet glass since January 24, 1978, a period of five years, we nonetheless revoke the antidumping finding on tempered sheet glass from Japan.

This revocation applies to all unliquidated entries of Japanese tempered sheet glass in patio door sizes entered, or withdrawn from warehouse, for consumption on or after January 3, 1983.

The Department shall determine, and the U.S. Customs Service shall assess, dumping duties on all appropriate entries with purchase dates during the periods involved. The Department will issue appraisement instructions directly to the Customs Service.

This administrative review, revocation, and notice are in accordance with sections 751 (a)(1) and (c) of the Tariff Act of 1930 (19 U.S.C. 1675 (a)(1), (c)) and §§ 353.53 and 353.54 of the Commerce Regulations (19 CFR 353.53, 353.54).

Dated: March 1, 1984.

**Alan F. Holmer,**

*Deputy Assistant Secretary for Import Administration.*

[FR Doc. 84-6368 Filed 3-8-84; 8:45 am]

BILLING CODE 3510-DS-M

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**[A-588-054]**

## Tapered Roller Bearings and Certain Components Thereof From Japan; Final Results of Administrative Review of Antidumping Finding

**AGENCY:** International Trade Administration, Commerce.

**ACTION:** Notice of final results of administrative review of antidumping finding.

**SUMMARY:** On September 1, 1981, the Department of Commerce published the preliminary results of its administrative review and tentative determination to revoke in part the antidumping finding on tapered roller bearings and certain components thereof from Japan. The review covered 40 of the 48 known manufacturers/exporters and third-country resellers currently covered by the finding and, with one exception, all periods through July 31, 1980 not previously analyzed.

We gave interested parties an opportunity to submit oral or written comments on the preliminary results and tentative determination to revoke in part. The petitioner, The Timken Company, requested a hearing which the Department held on October 28, 1981. As a result of our analysis of the comments received and certain requested supplemental information, the Department has adjusted the margins for twenty-seven firms. The final resutls are the same as the preliminary results for the remaining firms.

**EFFECTIVE DATE:** March 9, 1984.

**FOR FURTHER INFORMATION CONTACT:** Jonathan Seiger or Robert Marenick, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: (202) 377–5255.

**SUPPLEMENTARY INFORMATION:**

**Background**

On August 18, 1976, the Treasury Department published in the **Federal Register** (41 FR 34974–5) a dumping finding with respect to tapered roller bearings and certain components thereof from Japan. On September 1, 1981, the Department of Commerce ("the Department") published in the **Federal Register** (46 FR 43864–5) the preliminary results of its administrative review of 40 firms and its tentative determination to partially revoke the finding. The Department has now completed that administrative review.

The substantive provisions of the Antidumping Act of 1921 and the appropriate Customs Service regulations apply to all unliquidated entries made prior to January 1, 1980.

**Scope of the Review**

Imports covered by the review are shipments of tapered roller bearings, 4 inches or less in outside diameter when assembled, including inner race or cone assemblies and outer races or cups, exported to and sold in the United States either as a unit or separately. Tapered roller bearings are currently classifiable under items 680.3932, 680.3934, and 680.3938 of the Tariff Schedules of the United States Annotated.

The review covers 40 of the 48 known manufacturers, exporters and third-country resellers of Japanese tapered roller bearings currently covered by the finding and all periods through July 31, 1980 not previously reviewed by the Treasury Department. Entries made by

Toyota Motor Sales Co., Ltd. during the period January 1, 1977 through March 31, 1979 will be covered in our next administrative review.

**Analysis of Comments Received**

We gave interested parties an opportunity to submit oral or written comments on the preliminary results and tentative determination to revoke in part. At the request of the petitioner, The Timken Company, the Department held a public hearing on October 28, 1981.

*Comment 1:* The petitioner requested that the Department furnish, under administrative protective order, the confidential information that the Treasury Department used to prepare appraisement instructions ("master lists") issued prior to January 1, 1980, because the Department proposed in the preliminary results use of those rates for assessment and cash deposit purposes for four firms.

*Department's Position:* For several non-shipping firms we proposed estimated duty cash deposit rates stemming from rates for those firms contained in master lists issued prior to January 1, 1980. If the *rates* were contained in the master lists themselves (i.e., where Treasury used a percentage master list, rather than actual figures, to determine dumping duties due), we would not disclose under administrative protective order the data used by Treasury to derive the percentage. On the other hand, if the master list was of the second type and the Department manipulated the master list data in order to arrive at the proposed cash deposit percentage, those manipulations would be subject to release under administrative protective order. The Department, however, did not, do so in deriving any of the rates concerned here. (c.f. *The Timken Co.* v. *Regan*, Slip Op. 82-92 (C.I.T.; October 27, 1982)).

*Comment 2:* Timken argued that, rather than use the rate derived from information not placed in the administrative record of this review, the Department should use the highest current weighted-average margin among all firms for purposes of cash deposit of estimated antidumping duties for all firms that either did not export during the review periods or did not provide adequate responses to our questionnaire. The Department should also supply this rate for assessment purposes for all periods of non-response or inadequate response.

*Department's Position:* For non-responding firms we generally use the most recent master list rate for the firm, if it is higher than rates for responding firms with shipments in the particular review period. If that rate is not higher than the highest current rate for a responding firm we use the firm's fair value rate from the original investigation (or the highest fair value rate if the firm was not subject to that investigation), if higher than the highest current rate. If neither of those conditions apply we use the highest current rate for responding firms. Those rates apply for both cash deposit and assessment purposes.

For non-responding firms for which no prior information is available we generally use the highest fair value rate if higher than rates for responding firms in the current period. If not higher, we use the highest current rate for responding firms, again for assessment and cash deposit purposes.

For firms with no exports in the most recent period but with exports in previous periods we generally use the most recent information for that firm for cash deposit purposes.

As long as the rates appear in Treasury Department master lists, they represent final agency determinations. The Department does not agree with petitioner that a section 751 review precludes the use of Treasury Department master lists as best information available (c.f. *Timken Company* v. *Regan*, Slip Op. 82-92 (C.I.T.; October 27, 1982)). Under the circumstances, we believe their use is appropriate in this case.

*Comment 3:* Timken argued that deductions from foreign market value should not be made for inland transportation, packing, and material handling charges. In addition, deductions from exporter's sales price for foreign inland freight, insurance and shipping charges are not permissible because the statute requires that exporter's sales price include all costs "incident to placing merchandise in condition packed ready for shipment to the U.S."

*Department's Position:* We included packing in both U.S. price and foreign market value in accordance with the statutory definitions.

We deducted inland freight and material handling charges included in the sales price to the U.S. in accordance with section 772(d)(2)(A) of the Tariff Act of 1930 ("the Tariff Act"), which states that the U.S. price should be reduced by "any additional costs, charges, and expenses * * * incident to bringing the merchandise from the place of shipment in the country of exportation to the place of delivery in the United States * * *". The Department maintains that it must deduct transportation and material handling charges included in the foreign market value because all such included charges are deducted from the U.S. price. Our practice has been approved by the Court of Appeals for the Federal Circuit in *Smith-Corona Group, Consumer Products Division, SCM Corp.* v. *United States*, Appeal No. 82-24 (C.A.F.C.; August 9, 1983).

*Comment 4:* Timken contended that in reviewing shipments by Isuzu Motors, Ltd. ("Isuzu") to its related American importer, General Motors Corporation ("General Motors"), the Department erred in using exporter's sales price information submitted by General Motors for the period April 1979 through August 1980, because such information was in conflict with the terms of written agreements covering those sales and the Department did not verify the information it used.

*Department's Position:* With regard to General Motors' resale of Isuzu-produced parts, at our request General Motors has submitted revised information reconciling the contradictions cited by the petitioner. The discrepancies have been corrected and explained to our satisfaction, and we therefore do not believe that verification is necessary.

In conducting section 751 reviews the Department believes it has the discretion to determine on a case-by-case and company-by-company basis whether verification is warranted. While the Court of International Trade has ruled otherwise (*see Al Tech Specialty Steel Corporation, et al.* v. *United States*, Slip Op. 83-119), the Department is appealing that decision.

*Comment 5:* Timken argues that the Department's reduction of home market prices for claimed differences in circumstances of sale is unlawful. The allowance of such adjustments solely by reference to costs is contrary to law. To be allowable under the Tariff Act, differences in cost must have a demonstrable effect on price and must be directly connected to the particular sales in question.

*Department's Position:* We made all adjustments in accordance with § 353.15(d) of the Commerce Regulations, which states that "in determining the amount of the reasonable allowances for any differences in circumstances of sale, the Secretary will be guided primarily by the cost of such differences to the seller . . .". The regulation is valid and consistent with section 773(a)(4) of the Tariff Act, which states that an allowance will be made for any price differences "wholly or partly due to" differences in circumstances of sale. The Court of Appeals for the Federal Circuit has approved of our practice in *Smith-*

*Corona Group, Consumer Products Division, SCM Corp.* v. *United States*, Appeal No. 82–24 (C.A.F.C.; August 9, 1983).

With regard to the issue of a demonstrated direct relationship to particular sales, the Court of Appeals also approved our use of such allocation in the above-referenced SCM decision.

*Comment 6:* With regard to Toyosha for the 1974–1979 period, Timken agreed with the Department's use of best Information, but asserted that the 32.90 percent rate (the highest rate for responding firms with shipments during the 1979–80 period) should have been used rather than the 16.92 percent rate applied by the Department.

*Department's Position:* Use of the highest rate for responding firms with shipments during the most recent reviewed period is not appropriate in all instances in which a firm does not respond. For Toyosha, the period of non-response is one other than the most recent or current period, and we use the highest rate for responding firms with shipments during that particular period. For the period 1974 through 1979, that rate is 16.92 percent.

*Comment 7:* Timken argued that the Department failed to take account of the 10 percent discount given on direct sales to Subaru of America by Fuji Heavy Industries, which 80 percent of Subaru dealers received during the period April 1, 1978 through July 31, 1980.

*Department's Position:* We have revised our calculations to account for the 10 percent discount, and to correct certain clerical errors. The revisions do not alter our conclusion that all sales by Fuji Heavy Industries, Ltd. were made at not less than foreign market value during the period April 1, 1979 through July 31, 1980.

*Comment 8:* Timken charged that Fuji Heavy Industries' response of November 14, 1980 provided no evidence to support a claimed adjustment for differences in credit cost between the two markets.

*Department's Position:* After review, we concur that the response was insufficiently explanatory and we have disallowed the claimed adjustment. Once again, however, the resultant revision in our calculations had no effect on our conclusion that all sales by Fuji Heavy Industries were made at not less than foreign market value during the period April 1979 through July 1980.

*Comment 9:* Timken argued that for Toyo Kogyo and C. Itoh, two firms which failed to provide data for the period May 1974 through April 1977, the Department should apply the highest current rate to that period, rather than either the most recent rate for the firm or the highest rate during that particular period.

*Department's Position:* See our response to Comment 6.

*Comment 10:* Timken claimed that, for the period May 1977 through April 1978, Toyo Kogyo failed to submit any evidence, such as sample promissory notes, to substantiate its claimed adjustment for a difference in interest bearing charges between the home and U.S. markets.

*Department's Position:* The Department verified all elements of Toyo Kogyo's claimed adjustment for differences in credit costs and found them to be accurate. The verification included documentation of Toyo Kogyo's borrowing rate (i.e. the prime rate) and the terms of credit.

*Comment 11:* Timken alleged that the Department, in reviewing Toyo Kogyo's response, failed to deduct commissions to two trading companies on sales to the United States.

*Department's Position:* The Department has adjusted its calculations and deducted the commissions. This revision yields a margin of 1.94 percent for the period May 1977 through April 1978. The weighted-average margins for the other periods were unaffected by our revisions.

*Comment 12:* Timken protested that Isuzu did not submit data directly relating its interest costs to particular sales of tapered roller bearings, or to sales of tapered roller bearings in general. Rather, Isuzu improperly allocated to home market sales of tapered roller bearings its total interest-related expenses on all sales of all products.

*Department's Position:* We concur and have adjusted our calculations accordingly. Revision of our calculations yields a margin of 2.04 percent for the period April 1979 through July 1980.

*Comment 13:* With regard to Maekawa Bearing Manufacturing Company, Timken took issue with the Department's deduction of packing and inland freight charges incurred in Japan for shipments to the U.S. Rather, Timken argued that the home market price should be adjusted upward.

*Department's Position:* We concur and have added U.S. packing to foreign market value in accordance with the statutory definition so as to obtain an ex-factory, packed price on both sides for comparison purposes. In the case of inland freight, see our response to comment 3. As a result, the weighted-average margin for the period in question (July 1976 through December 1976) is now 0.71 percent.

*Comment 14:* With regard to imports by Nachi America from Kanematsu-Gosho (Japan), Timken contended that the Department erred in averaging per unit import duties and freight charges across part numbers. Timken maintained that such averaging creates a distortion because freight charges vary according to weight and duty charges vary according to both weight and value. For freight charges, a per pound or kilogram adjustment should be made after an allocation based on the relative weight of the various part numbers making up the shipment. Per unit duty charges should be computed by summing specific and *ad valorem* duties and then dividing by the number of units of each part number imported after an allocation of the *ad valorem* component based on the relative percentage of the invoice value accounted for by each part number.

Timken also pointed out clerical errors concerning various part numbers.

*Department's Position:* We concur and have revised our calculations accordingly. Thus, the weighted-average margin for purchases by Nachi America from Kanematsu-Gosho during the period January 1978 through July 1980 is now 8.30 percent.

*Comment 15:* Timken contended that the Department erred in determining foreign market value for Nachi Fujikoshi by adjusting for cash discounts and by making a circumstance-of-sale adjustment for differences in credit terms. The discounts paid were not tied to the merchandise under consideration, but rather to all types of bearings. The adjustment for credit (including promissory notes) was improper because it was based on unverified data as to when most home market customers paid. Moreover, because Nachi offered extended payment terms to all of its customers in both markets, no difference between the two markets really existed.

*Department's Position:* After review, we have disallowed the cited adjustments. Nachi submitted no evidence to show that claimed discounts were tied to purchases of the merchandise under consideration. Claims for adjustments based on differences in credit terms between the U.S. and Japanese (or third-country) markets were neither sufficiently documented in Nachi's response nor during the verification of that response. We have adjusted our calculations and the margins are now 8.30 percent for Nachi America, 18.07 percent for Nachi Western, and 18.07 percent for direct shipments by Nachi Fujikoshi.

*Comment 16:* Timken, Nachi Fujikoshi and Kanematsu-Gosho all argued that, in converting foreign market value prices to U.S. dollars in exporter's sales

prices comparisons, the Department should use the exchange rate in effect as of the date of export rather than a weighted-average exchange rate.

*Department's Position:* We agree and have converted foreign market values accordingly.

*Comment 17:* Timken argued that, for the inadequate responses of Adido Enterprising Company ("Daido"), the Department should use the highest current rate for responding firms with shipments as the best evidence available for the period 1974 through 1978, rather than 18.9 percent. For later periods, Timken contended that the Department erred in using the manufacturer's (Maekawa's) third-country prices as best information for Daido's foreign market value. Again, the Department should use the highest current rate. The Department should follow the similar approach in the cases of other resellers of Maekawa Bearings (Taisei, Hajime, and Schneider Engineering) who also submitted inadequate responses.

*Department's Position:* For Schneider Engineering, Hajime, Taisei, and Daido we believe the best evidence rates should be 16.92 percent for the period prior to April 1979, and 18.07 percent for the period April 1979 through July 1980. See our position for Comment 6.

*Comment 18:* For one imported bearing number, 3782/3720, Nachi claimed that the Department used the wrong home market bearing for comparison purposes.

*Department's Position:* There were no sufficiently contemporaneous home market sales of the Nachi suggested bearing to use for comparison with the sale of the U.S. bearing. We chose the next most similar bearing sold in the home market during the period of review.

*Comment 19:* Kanematsu-Gosho contended that deductions for freight and insurance should be based on actual c.i.f. charges rather than estimates or average figures.

*Department's Position:* We agree and, based on our requested submissin of more detailed data, we have adjusted our calculations accordingly. As a result of this and other changes, the weighted-average margin developed for Kanematsu-Gosho shipments has changed from 32.90 percent to 18.07 percent (when Nachi Western was the purchaser) or to 8.30 percent (for all other purchasers).

*Comment 20:* C. Itoh & Company stated that the Department erred in not making an allowance for selling expenses in the home market up to the amount of the allowance for commissions and selling expenses made for sales to the United States.

*Department's Position:* The company was untimely in supplying documents to substantiate its claim. Accordingly, we have disallowed the claim.

*Comment 21:* Nachi Western alleged that the Department used an incorrect sampling of U.S. sales in establishing a weighted-average dumping margin for the period January 1978 through July 1980.

*Department's Position:* We agree. In line with our recalculations concerning Nachi Western, we have computed the weighted-average margin using our normal method, which is to include all U.S. sales in the calculation.

*Comment 22:* Nachi Fujikoshi protested the Department's use of one weighted-average dumping margin for both Nachi resellers. Rather, Nachi Fujikoshi argued that we should have calculated separate rates for Nachi America and Nachi Western.

*Department's Position:* We agree and have separated Nachi Western from Nachi America in the table of manufacturers and exporters contained in this notice.

*Comment 23:* Nachi Fujikoshi alleged that the Department incorrectly compared complete sets sold in the home market to individual component parts sold in the U.S.

*Department's Position:* For comparison to individual U.S. component parts, we multiplied the home market set price by 0.7 to approximate the cone price, and by 0.3 to approximate the cup price.

*Comment 24:* Nachi Fujikoshi charged that the Department deducted incorrect amounts for insurance, ocean freight, and interest on sales to the U.S.

*Department's Position:* Based on all information available to the Department, the deductions were correct. See our response to Comment 15.

*Comment 25:* Nachi Fujikoshi requested that the Department reconsider its disallowance of claims for advertising expenses and technical service expenses. Further, Nachi requested that certain "other sales expenses" be considered as eligible for inclusion in the home market offset to general and administrative expenses and commissions incurred on sales to the U.S. ("the ESP offset").

*Department's Position:* We were unable to verify Nachi Fujikoshi's claims for the April 1978 through March 1979 period. We therefore have made no ESP offset adjustment for these claims.

*Comment 26:* Nachi claimed certain adjustments should be made for differences in circumstances of sale.

*Department's Position:* Nachi's home market selling expenses were insufficiently detailed to determine which were directly or even indirectly related to the sales in question. Additionally, the responses from Nachi's three U.S. related firms were insufficiently detailed regarding their respective selling expenses. Accordingly, we have not made a circumstance-of-sale adjustment for direct selling expenses, nor have we included such expenses in the ESP offset (see our response to Comment 25).

*Comment 28:* Kanematsu-Gosho objected to the Department's failure to review sales sold from stock to unrelated parties.

*Department's Position:* Based on clarifying information submitted by Kanematsu-Gosho, we have reviewed such sales and have included them in our new weighted-average margin of 8.30 percent for the periods in question.

*Final Results of the Review*

The Department has revised the margins for twenty-seven companies, resulting from correction of clerical errors and analysis of supplemental information submitted by several companies. Most of the changes stemmed from our analysis of supplemental information submitted by Nachi, which changed the highest weighted-average margin for the most recent period. As a result of adjustments made based on comments received, we determine that the following margins exist:

| Manufacturer/exporter/purchaser | Time period | Margin (percent) |
|---|---|---|
| Auto Dynamics International of Japan | 1/79-07/80 | 18.07 |
| Caterpillar Mitsubishi, Ltd | 4/74-12/78 | |
| | 1/79-07/80 | 16.92 |
| | | 18.07 |
| Deer Island Industries, Ltd | 4/79-07/80 | 9.80 |
| Fuji Heavy Industries, Ltd | 7/76-03/78 | |
| | 4/78-03/79 | 0 |
| | | 1.67 |
| | 4/79-07/80 | 0 |
| Honda Motor Co., Ltd | 1/77-02/79 | |
| | 3/79-07/80 | 0 |
| | | 0 |
| Isuzu Motors, Ltd | 5/77-03/78 | 0 |
| | 4/78-03/79 | 0 |
| | 4/79-07/80 | 2.04 |
| Various manufacturers/C. Itoh & Co./Mazda Motors (purchaser) | 5/77-04/78 | |
| | 5/78-04/79 | |
| | 5/79-07/80 | 0 |
| | | 0 |
| | | 0 |
| Do | 5/77-03/78 | 0 |
| | 4/78-03/79 | 0 |
| | 4/79-07/80 | 0 |
| Nachi Fujikoshi Corp./Kanematsu-Gosho, Ltd./Nachi America (purchasers) | 1/76-07/80 | 8.30 |
| Nachi Fujikoshi Corp./Kanematsu/Gosho, Ltd./Nachi Western (purchaser) | 1/78-07/80 | 18.07 |

| Manufacturer/exporter/purchaser | Time period | Margin (percent) |
|---|---|---|
| Nachi Fujikoshi Corp./Kanematsu-Gosho, Ltd./all other purchaser | 4/78-03/79 | |
| | 4/79-07/80 | 8.30 |
| | | 8.30 |
| Kawasaki Heavy Industries, Ltd | 10/77-07/80 | 0 |
| Kobe Steel Co | 6/74-07/80 | 18.07 |
| Komatsu, Ltd | 6/74-07/80 | 18.07 |
| Kubota, Ltd | 4/78-07/80 | 18.07 |
| Maekawa Bearing Manufacturing Co., Ltd | 7/76-12/76 | |
| | 1/77-03/78 | |
| | 4/78-09/78 | |
| | 10/78-07/80 | 0.71 |
| | | 17.00 |
| | | 17.00 |
| | | 0 |
| Maekawa Bearing Manufacturing Co., Ltd./Daido Enterprising Co., Ltd | 1/77-04/79 | |
| | 5/79-07/80 | 16.92 |
| | | 2.70 |
| Maekawa Bearing Manufacturing Co., Ltd./Hajime Industries, Ltd | 7/76-03/78 | |
| | 4/78-09/78 | |
| | 10/78-07/80 | 16.92 |
| | | 17.00 |
| | | 13.70 |
| Maekawa Bearing Manufacturing Co., Ltd./Taisei Industries, Ltd | 7/76-03/78 | |
| | 4/78-09/78 | |
| | 10/78-07/80 | 16.92 |
| | | 17.00 |
| | | 4.70 |
| Maekawa Bearing Manufacturing Co., Ltd./Schneider Engineering, Ltd | 3/78-07/80 | 18.07 |
| Marubeni Corp | 4/78-07/80 | 18.07 |
| MC International, Inc | 4/74-07/80 | 0 |
| Mitsubishi Corp | 1/74-03/79 | |
| | 4/79-07/80 | 16.92 |
| | | 18.07 |
| Nachi Fujikoshi Corp | 4/78-07/80 | 18.07 |
| Naniwa Kogyo Co., Ltd | 1/77-07/80 | 18.07 |
| Nichimen Co | 6/74-07/79 | |
| | 8/79-07/80 | 16.92 |
| | | 18.07 |
| Niigata Converter Co., Ltd | 4/78-03/79 | |
| | 4/79-07/80 | [1] 0 |
| | | 0 |
| Nissan Motor Co., Ltd | 6/74-07/80 | 0 |
| Nissho-Iwai Co., Ltd | 4/79-07/80 | [1] 16.92 |
| Sumitomo Shoji Kaisha | 4/74-04/77 | |
| | 5/77-04/78 | 3.40 |
| | | 0 |
| | 5/78-04/79 | 0 |
| | 5/79-07/80 | 0 |
| Sumitomo Yale Co., Ltd | 6/74-03/79 | |
| | 4/79-07/80 | 16.92 |
| | | 18.07 |
| Suzuki Motor Co., Ltd | 4/78-03/79 | |
| | 4/79-07/80 | 0 |
| | | 0 |
| Tatsumiya Kogyo Co., Ltd | 1/77-07/80 | 18.07 |
| Toyo Kogyo Co., Ltd | 5/74-04/77 | 3.40 |
| | 5/77-04/78 | 1.94 |
| | 5/78-04/79 | 0 |
| | 5/79-07/80 | 0 |
| Toyosha Co., Ltd | 1/74-06/79 | |
| | 7/79-07/80 | 16.92 |
| | | 3.60 |
| Toyota Motor Sales Co., Ltd | 4/79-07/80 | 0 |
| United Trading Co., Ltd | 4/79-07/80 | [1] 9.80 |
| Yamaha Motor Co., Ltd | 6/74-04/79 | |
| | 5/79-07/80 | 0 |
| | | 0 |
| THIRD-COUNTRY RESELLERS | | |
| Federal Mogul Canada, Ltd | 1/80-07/80 | 18.07 |
| Flanders Enterprises, Ltd. (Hong Kong) | 6/74-12/77 | |
| | 1/78-07/80 | 16.92 |
| | | 18.07 |
| John Deere Welland Works (Canada) | 1/76-07/80 | 18.07 |
| Nachi Canada, Ltd | 1/76-07/80 | 18.07 |
| Superior Bearing Industrial Supplies, Ltd (Canada) | 1/75-07/80 | 18.07 |

[1] No shipments during period.

The Department shall determine, and the U.S. Customs Service shall assess, dumping duties on all appropriate entries during the periods involved. Individual differences between United States price and foreign market value may vary from the percentages stated above. The Department will issue appraisement instructions on each exporter directly to the Customs Service.

Further, as provided for by §353.48(b) of the Commerce Regulations, a cash deposit of estimated antidumping duties based upon the most recent of the above margins shall be required on all shipments of Japanese tapered roller bearings and certain components thereof from these firms entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. For any future shipment from a new exporter not covered in this or prior reviews, whose first shipment occurred after July 31, 1980 and who is unrelated to any covered firm, a cash deposit of 18.07 percent shall be required.

These deposit requirements shall remain in effect until publication of the final results of the next adminstrative review. The Department intends to begin immediately the next administrative review. The Department encourages interested parties to review the public record and submit applications for protective orders, if desired, as early as possible after the Department's receipt of the information during the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and §353.53 of the Commerce Regulations (19 CFR 353.53).

**Alan F. Holmer,**

*Deputy Assistant Secretary for Import Administration.*

March 2, 1984.

[FR Doc. 84-6366 Filed 3-8-84; 8:45 am]

BILLING CODE 3510-DS-M

## Export Trade Certificate of Review; Issuance

**AGENCY:** International Trade Administration, Commerce.

**ACTION:** Notice of Issuance of Export Trade Certificate of Review.

**SUMMARY:** The Department of Commerce has issued an export trade certificate of review to VEXTRAC, Ltd. This notice summarizes the conduct for which certification has been granted.

**ADDRESS:** The Department requests public comments on this certificate. Interested parties should submit their written comments, original and five (5) copies, to: Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, Room 5618, Washington, D.C. 20230.

Comments should refer to the certificate as "Export Trade Certificate of Review, application number 83-00036."

**FOR FURTHER INFORMATION CONTACT:** Charles S. Warner, Director, Office of Export Trading Company Affairs, International Trade Administration, 202/377-5131, or Eleanor Roberts Lewis, Assistant General Counsel for Export Trading Companies, Office of General Counsel, 202/377-0937. These are not toll-free numbers.

**SUPPLEMENTARY INFORMATION:** Title III of the Export Trading Company Act of 1982 ("the Act") (Pub. L. 97-290) authorizes the Secretary of Commerce to issue export trade certificates of review. The regulations implementing the Act are found at 48 FR 10595-10604 (March 11, 1983) (to be codified at 15 CFR Part 325). A certificate of review protects its holder and the members identified in it from private treble damage actions and government criminal and civil suits under federal and state antitrust laws for the export conduct specified in the certificate and carried out during its effective period in compliance with its terms and conditions.

### Standards for Certification

Proposed export trade, export trade activities, and methods of operation may be certified if the applicant establishes that such conduct will:

1. Result in neither a substantial lessening of competition or restraint of trade within the United States nor a substantial restraint of the export trade of any competitor of the applicant;

2. Not unreasonably enhance, stabilize, or depress prices within the United States of the goods, wares, merchandise, or services of the class exported by the applicant;

3. Not constitute unfair methods of competition against competitors engaged in the export of goods, wares, merchandise, or services of the class exported by the applicant; and

4. Not include any act that may reasonably be expected to result in the sale for consumption or resale within the United States of the goods, wares, merchandise, or services exported by the applicant.

The Secretary will issue a certificate if he determines, and the Attorney General concurs, that the proposed conduct meets these four standards. For a further discussion and analysis of the conduct eligible for certification and of the four certification standards, see

"Guidelines for the Issuance of Export Trade Certificates of Review," 48 FR 15937–40 (April 13, 1983).

**Description of Certified Conduct**

The Office of Export Trading Company Affairs received an application for an export trade certificate of review from VEXTRAC on December 2, 1983. The application was deemed submitted on December 7, 1983. A summary of the application was published in the **Federal Register** on December 21, 1983 (48 FR 56422). Based on analysis of the information contained in the application and other information in their possession, the Department of Commerce has determined, and the Department of Justice concurs, that the following export trade, export trade activities, and methods of operation specified by VEXTRAC meet the four standards of the Act:

**Export Trade**

(a) Commodities of all types, including food and live animals; beverages and tobacco; crude minerals; mineral fuels, lubricants, and related materials; animal and vegetable oils and fats; chemicals; manufactured goods; machinery and transport equipment; and miscellaneous manufactured articles.

(b) Export trade services (consulting; international market research; advertising; marketing; insurance; product research and design exclusively for export; legal assistance; transportation, including trade documentation and freight forwarding; communication and processing of foreign orders; warehousing; foreign exchange; financing; and taking title to goods) in connection with the foregoing commodities.

**Export Markets**

The Export Markets include all parts of the world except the United States (the fifty states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands).

**Export Trade Activities and Methods of Operation**

For the Export Trade in the Export Markets, VEXTRAC (a not-for-profit corporation controlled by the Virginia Port Authority) is certified to:

(a) require exporters using its export trade services to:

(1) Use VEXTRAC as an intermediary in arranging for financing and transportation, and

(2) Export through Virginia ports;

(b)(1) Study the feasibility of export joint ventures by collecting (A) from any or all of the prospective participants commercial, financial or industry information that is already generally available to the trade or public, and (B) from prospective participants that produce or supply similar or substitutable commodities commercial, fianancial or industry information that is not already generally available to the trade or public provided, however, that:

(i) VEXTRAC shall solicit such information from at least five (5) companies that produce or supply each commodity to be exported,

(ii) VEXTRAC shall not disclose the number or identities of companies solicited, and

(iii) VEXTRAC shall limit access to the information collected to VEXTRAC and appropriate Virginia Port Authority staff;

(2) Distribute separately to each prospective participant the results of its feasibility study, which may contain, if materially related to the venture:

(A) Information that is already generally available to the trade or public,

(B) Information (such as selling strategies, prices in the foreign market, projected demand, and customary terms of sale) solely about the Export Markets,

(C) Information on expenses specific to exporting to the Export Markets (such as ocean freight, inland freight to the terminal or port, terminal or port storage, wharfage and handling changes, insurance, agents' commissions, export sales documentation and service, and export sales financing), and

(D) Averages of all other information, except that nothing in subparagraph (D) permits the disclosure of the following information, whether past, current or projected or for an individual firm or an average across firms: domestic prices, costs of production, production capacity, production volume, domestic sales volume and inventories;

(3) Require prospective participants or participants in an export joint venture to agree not to compete, upon withdrawal from the venture, for export orders for which the venture has bid or announced its intention to bid.

For purposes of this certificate, "export joint venture" means an agreement among VEXTRAC and two or more producers or supplies of similar or substitutable commodities to engage in Export Trade, and "average" means the sum of all information received of a particular type divided by the number of respondents, including weighted averages where appropriate.

The Office of Export Trading Company Affairs is issuing this notice pursuant to 15 CFR 325.5(c), which requires the Department of Commerce to publish a summary of a certificate in the **Federal Register**. Under Section 305(a) of the Act and 15 CFR 325.10(a), any person aggrieved by the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

A copy of each certificate will be kept in the International Trade Administration's Freedom of Information Records Inspection Facility, Room 4001–B, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230. The certificates may be inspected and copied in accordance with regulations published in 15 CFR Part 4. Information about the inspection and copying of records at this facility may be obtained from Patricia L. Mann, the International Trade Administration Freedom of Information Officer, at the above address or by calling (202) 377–3031.

Dated: March 6, 1984.

**Irving P. Margulies,**

*Acting General Counsel.*

[FR Doc. 84–6471 Filed 3–8–84; 8:45 am]

BILLING CODE 3510–DR–M

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## National Bureau of Standards

### National Fire Codes; Request for Comments on NFPA Technical Committee Reports

**AGENCY:** National Bureau of Standards, DOC.

**ACTION:** Notice of request for comments.

**SUMMARY:** The National Fire Protection Association (NFPA) revises existing standards and adopts new standards twice a year. At its Fall Meeting in November or its Annual Meeting in May, the MFPA acts on recommendations made by its technical committees.

The purpose of this notice is to request comments on the technical reports which will be presented at NFPA's 1984 Fall Meeting. The publication of this notice by the National Bureau of Standards (NBS) on behalf of NFPA is being undertaken as a public service; NBS does not necessarily endorse, approve, or recommend any of the standards referenced in the notice.

**DATES:** Technical Committee Reports will be available for distribution February 24, 1984. Comments received on or before May 11, 1984, will be

considered by the NFPA before final action is taken on the proposals.

**ADDRESS:** The 1984 Fall Technical Committee Reports are available from NFPA, Publications Department, Batterymarch Park, Quincy, Massachusetts 02269. (No charge for single copies.) Comments on the reports should be submitted to Secretary, Standards Council, NFPA, Batterymarch Park, Quincy, Massachusetts 02269.

**FOR FURTHER INFORMATION CONTACT:** Secretary, Standards Council, at above address, (617) 770-3000.

**SUPPLEMENTARY INFORMATION:**

**Background**

Standards developed by the technical committees of the National Fire Protection Association (NFPA) have been used by various Federal Agencies as the basis for Federal regulations concerning fire safety. The NFPA standards are known collectively as the National Fire Codes. Often, the Office of the **Federal Register** approves the incorporation by reference of these standards under 5 U.S.C. 552(a) and 1 CFR Part 51.

Revisions of existing standard and adoption of new standards are reported by the technical committees at the NFPA's Fall Meeting in November or at the Annual Meeting in May of each year. The NFPA invites public comments on its Technical Committee Reports.

**Request for Comments**

Interested persons may participate in these revisions by submitting written data, views, or arguments to Secretary, Standards Council, NFPA, Batterymarch Park, Quincy, Massachusetts 02269. Commentors may use the forms provided for comments in the Technical Committee Reports. Each person submitting a comment should include his or her name and address, identify the notice, and give reasons for any recommendations. Comments received on or before May 11, 1984, will be considered by the NFPA before final action is taken on the proposals.

Copies of all written comments received and the disposition of those comments by the NFPA committees will be published as the Technical Committee Documentation by September 21, 1984, prior to the Fall Meeting.

A copy of the Technical Committee Documentation will be sent automatically to each commentor. Action on the Technical Committee Reports (adoption or rejection) will be taken at the Fall Meeting, November 12-15, 1984, at the Town and Country Hotel, San Diego, California, by NFPA members.

Dated: March 2, 1984.

**Ernest Ambler,**

*Director, National Bureau of Standards.*

Action at the NFPA Fall Meeting in November 1984 is being proposed on the NFPA standards listed below:

1984 FALL MEETING.—TECHNICAL COMMITTEE REPORTS

| Committee reporting | Document Nos. | Action |
|---|---|---|
| Aviation: | | |
| Aircraft Fuel Servicing. | NFPA 407, Aircraft Fuel Servicing Including Fueling Hose, Aircraft Fuel Servicing and Airport Fixed Fueling Systems. | O-P. |
| Airport Facilities | NFPA 409, Aircraft Hangars. | O-P. |
| Building Construction: | | |
| Air Conditioning | NFPA 90A, Installation of Air Conditioniong and Ventillating Systems. | O-P. |
| Heights and Areas | NFPA 206M, Building Areas and Heights. | W. |
| Carbon Dioxide | NFPA 12, Carbon Dioxide Extinguishing Systems. | C. |
| Dry Chemical Extinguishing Systems. | NFPA 17, Dry Chemical Extinguishing Systems. | O-P. |
| Emergency Power Supplies. | NFPA 110T, Emergency Power Supplies. | T-O. |
| Finishing Processes | NFPA 33, Spray Application Using Flammable & Combustible Materials. | O-P. |
| Fire Hazards of Materials. | NFPS 704, Identification of the Fire Hazards of Materials. | O-P. |
| Fire Hazards in Oxygen-Enriched Atmospheres. | NFPA 53M, Fire Hazards in Oxygen-Enriched Atmospheres. | O-P. |
| Fire Service Prof. Stds. Devel, Comm. for Fire Fighter qual. | NFPA 1003, Airport Fire Fighter Professional Qualifications. | O-P. |
| | NFPA 1004, Fire Fighter Medical Technician. | N-O. |
| Fire Tests | NFPA 251, Methods of Fire Tests of Building Construction and Materials. | O-P. |
| | NFPA 257, Fire Tests of Window Assemblies. | O-P. |
| | NFPA 262, Electrical Tubing & Insulated & Jacketed Wiring. | N-O. |
| | NFPA 701, Fire Tests for Flame-Resistant Textiles and Films. | O-P. |
| Flammable Liquids: | | |
| Drycleaning | NFPA 32, Drycleaning Plants. | R. |
| Solvent Extraction | NFPA 36, Solvent Extraction Plants. | O-P. |
| Transportation of Flammable Liquids. | NFPA 395, Tank Vehicles for Flammable & Combustible Liquids. | R. |
| | NFPA 386, Portable Shipping Tanks. | O-P. |
| Forest Committee | NFPA 224, Homes and Camps in Forest Areas. | O-C. |
| | NFPA 295, Wildfire Control by Volunteer Fire Departments. | O-C. |
| Garages & Parking Structures. | NFPA 88A, Parking Structures. | O-P. |
| | NFPA 88B, Repair Garages. | O-P. |
| Industrial and Medical Gases. | NFPA 50, Bulk Oxygen Systems at Consumer Sites. | O-P. |
| | NFPA 50B, Liquefied Hydrogen Systems at Consumer Sites. | O-P. |
| Liquefied Natural Gas. | NFPA 59A, Production, Storage and Handling of Liquefied Natural Gas. | O-P. |
| Ovens and Furnaces | NFPA 86, Ovens and Furnaces (Incorporating existing NFPA 86A, Ovens and Furnaces and NFPA 86B, Industrial Furnaces). | O-C. |
| Protective Equipment for Fighters. | NFPA 1972, Structural Fire Fighter's Helmet. | O-P. |
| Rural Fire Protection | NFPA 1141, Fire Prevention and Protection Measures in Planning Building Groups. | N-O. |
| Safety to Life | NFPA 101, Safety to Life from Fire in Buildings and Structures. | O-P. |
| Signaling Systems: | | |
| Protective Signaling Systems. | NFPA 72A, Installation, Maintenance and Use of Local Protective Signaling Systems for Watchman, Fire Alarm and Supervisory Service. | O-C. |
| | NFPA 72FT, Emerency Communication Systems for High Rise and Other Occupied Buildings. | N-O. |
| | NFPA 72G, Audible and Visual Signaling Appliances for Protectives Signaling Systems. | N-O. |
| Storage: | | |
| General Storage | NFPA 231, Indoor General Storage. | O-C. |
| Storage of Forest Products. | NFPA 46, Storage of Forest Products. | O-C. |
| Water Extinguishing Systems: | | |
| Automatic Sprinklers. | NFPA 13, Installation of Sprinkler Systems. | O-P. |
| Water Spray Fixed Systems. | NFPA 15, Water Spray Fixed Systems for Fire Protection. | O-P. |

**Note.**—The Report of the Committee on Safety to Life on NFPA 101, Life Safety Code, appeared in the Technical Committee Reports for the 1984 Annual Meeting. (Comment closing date was November 4, 1983.) The Supplementary Report, however, will appear in the 1984 Fall Meeting Technical Committee Documentation for presentation to the Association at the 1984 Fall Meeting.

**Types of Action**

Proposed Action on Official Documents
- O-P Partial Amendments
- O-C Complete Revision

Proposed Action on New Documents
- N-O Official Adoption

Proposed Action on Tentative Documents
- T-O Official Adoption

Other Proposed Action
- R Reconfirmation
- W Withdrawal.

[FR Doc. 84-6349 Filed 3-8-84; 8:45 am]

BILLING CODE 3510-13-M

## National Oceanic and Atmospheric Administration

## Gulf of Mexico Fishery Management Council; Public Meeting

**AGENCY:** National Marine Fisheries Service, NOAA, Commerce.

**ACTION:** Notice of public meeting.

**SUMMARY:** The Gulf of Mexico Fishery Management Council, established by section 302 of the Magnuson Fishery Conservation and Management Act (Pub. Law. 94–265, as amended), will meet to discuss:

—Amendment to Shrimp and Stone Crab FMPs
—Consideration of Amendment to Tortugas Sanctuary
Activities of Gainesville Laboratory and Everglades Study.

**DATES:** The Council meeting will convene at 8:30 a.m., on Wednesday, March 21, 1984, and recess at approximately 5:00 p.m.; reconvene at 8:30 a.m.,Thursday, March 22, 1984, and recess at approximately noon.

**ADDRESS:** The meeting will be held at the Downtown Hilton, 200 Ashley Drive, Tampa, Florida, 33602.

**FOR FURTHER INFORMATION CONTACT:** Gulf of Mexico Fishery Management Council, Lincoln Center, Suite 881, 5401 West Kennedy Boulevard, Tampa, Florida 33609, Telephone: (813) 228–2815.

Dated: March 5, 1984.

Roland Finch,

*Director, Office of Fisheries Management, National Marine Fisheries Service.*

[FR Doc. 84–6449 Filed 3–8–84; 8:45 am]

BILLING CODE 3510–22–M

## Mid-Atlantic Fishery Management Council; Public Meeting

**AGENCY:** National Marine Fisheries Service, NOAA, Commerce.

**SUMMARY:** The Mid-Atlantic Fishery Management Council, established by section 302 of the Magnuson Fishery Conservation Management Act (Pub. L. 94–265, as amended), will meet to discuss the Striped Bass Fishery Management Plan (FMP); Surf Clam/Ocean Quahog FMP Amendment; status of other FMPs; joint ventures, as well as other fishery management and administrative matters.

**DATE:** The public meeting will begin at approximately 9 a.m., March 28, 1984, and will adjourn at approximately 3 p.m., March 29. The meeting may be lengthened or shortened depending upon progress on the agenda items. The Council also may convene a closed session to discuss personnel and/or national security matters.

**ADDRESS:** The meeting will be held at the Ramada Inn, 76 Industrial Highway, Essington, PA 19029; telephone: 215–521–9600.

**FOR FURTHER INFORMATION CONTACT:** John C. Bryson, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115—Federal Building, 300 South New Street, Dover, DE 19901; telephone: 302–674–2331.

Dated: March 5, 1984.

Roland Finch,

*Director, Office of Fisheries Management, National Marine Fisheries Service.*

[FR Doc. 84–6450 Filed 3–8–84; 8:45 am]

BILLING CODE 3510–22–M

## Pacific Fishery Management Council; Public Meeting of its Groundfish Management Team

**AGENCY:** National Marine Fisheries Service, NOAA, Commerce.

**ACTION:** Notice of public meeting.

**SUMMARY:** This notice sets forth the schedule and proposed agenda of the forthcoming meeting of the Pacific Fishery Management Council's Groundfish Management Team (GMT). The Council was established by section 302 of the Magnuson Fishery Conservation and Management Act (Pub. L. 94–265, as amended), and the Council has established a Groundfish Management Team to assist the Council in carrying out its responsibilities.

**DATES:** March 20–22, 1984

**ADDRESS:** The meeting will be held at the Southwest Fisheries Center, NMFS Tiburon Laboratory, 3150 Paradise Drive , Tiburon, CA 94920.

**FOR FURTHER INFORMATION CONTACT:** Mr. Joseph C. Greenley, Executive Director, Pacific Fishery Management Council, 526 SW Mill Street, Portland, OR 97201; telephone: (503)–221–6352.

Agenda: Session opens at 10 a.m. March 20, and at 8 a.m., on March 21–22; recess all three days will be 5 p.m. The GMT will review the status of the 1984 fishery; management boundaries; and objectives of a trawl mesh size study; draft options for in-season management, and develop a report to the Council. A public comment period will be held at 3 p.m., on March 20–21.

Dated: March 5, 1984.

Roland Finch,

*Director, Office of Fisheries Management, National Marine Fisheries Service.*

[FR Doc. 84–6448 Filed 3–8–84; 8:45 am]

BILLING CODE 3510–22–M

## Pacific Coast Groundfish Fishery; Experimental Fishing Permits

**AGENCY:** National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice of consideration of applications for experimental fishing permits for Pacific groundfish and request for comment.

**SUMMARY:** This notice acknowledges receipt of experimental fishing permit applications and announces a public comment period. The applicants propose to harvest groundfish with set nets in the Pacific Ocean off Washington, Oregon, and California north of 38° N. latitude. If granted, an experimental fishing permit would allow fishing which otherwise would be prohibited by Federal regulations.

**DATE:** Comments on these applications must be received by March 17, 1984.

**ADDRESS:** Dr. T. E. (Gene) Kruse, Acting Director, Northwest Region, National Marine Fisheries Service, BIN C15700 7600 Sand Point Way NE, Seattle, WA 98115.

**FOR FURTHER INFORMATION CONTACT:** Dr. Gene Kruse at (206) 527–6150.

**SUPPLEMENTARY INFORMATION:** The Pacific Coast Groundfish Fishery Management Plan (FMP) and implementing regulations (47 FR 43964) specify that experimental fishing permits (EFPs) may be issued to authorize fishing that would otherwise be prohibited by the FMP and regulations. The procedures for issuing EFPs are contained in the regulations at 50 CFR 663.10. A notice published on December 13, 1983 (48 FR 55496) announced that applications for EFPs to use set nets for groundfish in 1984 would be received until December 30, 1983.

Three applications were received before December 30, 1983. Two applications were submitted by fishermen who participated in this experimental fishery in 1983 and one was submitted by a new applicant.

The groundfish regulations prohibit the use of set nets for groundfish north of 38° N. latitude because the Pacific Fishery Management Council (Council) was concerned about the potential for an unacceptably high incidental catch of salmon, the lack of information on the potential incidental catch of other species such as halibut and protected groundfish species, the ability of set nets to continue fishing indefinitely if lost or unattended, and the potential for conflict between fixed and mobile gear if used in the same area. This restriction is consistent with historic State groundfish regulations.

Three EFPs for fishing with set nets for groundfish north of 38° N. latitude were approved for 1983, and two permits were used extensively. Nearly all the fishing took place in a single area off the northern Washington coast. While few adverse results were

observed in 1983, it is far from certain that similar findings would result from set net fishing in different areas and at different times. The total landings of the two permittees in 1983 were approximately as follows: Sablefish, 394,000 lbs.; lingcod, 281,000 lbs.; rockfish, 120,000 lbs. Four salmon (2 chinook and 2 coho) were incidentally taken, as were 237 Pacific halibut. The salmon and halibut were immediately returned to the water.

The three applications received this year are available for public review in the office of the Director at the address above. A decision to grant or deny an EFP will be based on information in the application, any additional information received from the applicants, the applicants' performance in previous seasons, if any, comments made at the Council's March meeting, and other comments received from the public.

The three applications are summarized as follows:

(1) *Purposes and significance.* The applicants believe that set netting of groundfish is more efficient, selective, and profitable than other methods of fishing, and that it produces a higher quality product. They seek to establish a data base which will allow evaluation of the benefits and liabilities of using set nets for groundfish.

(2) *Vessel.* Each application is for one vessel. The vessels range from 42 to 54 feet in length, 16 to 30 net tons, and 24 to 50 gross tons.

(3) *Species.* Each applicant intends to target on sablefish. Incidental catches of lingcod, rockfish, flatfish, dogfish, and true cod are expected, which will be retained and landed if markets are available. All fish would be delivered to local shoreside domestic processors.

(4) *Time.* One applicant requested permission to fish from April through October. Two applicants requested a May through October season.

(5) *Place.* All three applicants desire to operate off the Washington coast along the 100-fathom curve.

(6) *Gear.* One applicant requested four to five set nets 400 to 500 fathoms in length with 6-inch mesh, about 20 to 25 meshes deep. One requested a total net length of 4,800 feet (800 fathoms) of 6-inch mesh 20 meshes deep. The third applicant proposed a total net length of 1,600 fathoms of various mesh sizes and twine sizes to be 30-50 meshes deep. Clarification of the net specifications will be sought and a requirement concerning net size will be included in any permit issued. Each applicant also agreed to use biodegradable twine to lash the mesh to the cork line.

Dated: March 6, 1984.

**Roland Finch,**

*Director, Office of Fisheries Management, National Marine Fisheries Service.*

[FR Doc. 84-6475 Filed 3-8-84; 8:45 am]

**BILLING CODE 3510-22-M**

## North Pacific Fishery Management Council; Public Meetings

The North Pacific Fishery Management Council will meet with the Alaska Board of Fisheries in Anchorage AK, March 28–29, 1984, to discuss Tanner and king crab management for the 1984–1985 fishery. On March 30, the Council will review foregn vessel permit applications for directed fishing and joint venture operations; discuss herring in the Bering Sea, and coastwide salmon management.

The Council's Scientific and Statistical Committee (SSC) and its Advisory Panel (AP), will meet in Anchorage, March 26–27, to discuss the same subjects. Plan team and Workgroup meetings may be held on short notice during the Council meeting, and will be announced at the Council offices. A detailed agenda for Council, SSC and AP meetings will be available to the public about March 12. All meetings are open to the public. For further information, contact Jim H. Branson, Executive Director, North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, AK 99510; telephone: (907) 274–4563.

Dated: March 6, 1984.

**Roland Finch,**

*Director, Office of Fisheries Management, National Marine Fisheries Service.*

[FR Doc. 84-6451 Filed 3-8-84; 8:45 am]

**BILLING CODE 3510-22-M**

# COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

## Announcing an Import Restraint Level for Certain Wool Textile Products Exported From Panama

On December 6, 1983, a notice was published in the **Federal Register** (48 FR 54678) announcing that, on November 30, 1983, the United States Government, under Section 204 of the Agricultural Act of 1956, as amended, (7 U.S.C. 1854), had requested that the Government of Panama enter into consultations concerning exports to the United States of women's, girls', and infants' wool sweaters in Category 446, produced or manufactured in Panama.

The United States Government has decided, pending further consultations with the Government of Panama to reach a mutually satisfactory solution concerning this category, to control imports of wool textile products in Category 446, produced or manufactured in Panama and exported during the twelve-month period which began on November 30, 1983 and extends through November 29, 1984 at a level of 21,133 dozen.

Accordingly, in the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to prohibit entry into the United States for consumption, or withdrawal from warehouse for consumption, of wool textile products in Category 446 exported during the twelve-month period which began on November 30, 1983 in excess of the designated level of restraint.

Effective Date: March 9, 1984.

For Further Information Contact: Gordana Slijepcevic, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C., (202/377–4212).

**Walter C. Lenahan,**

*Chairman, Committee for the Implementation of Textile Agreements.*

March 5, 1984.

**Committee for the Implementation of Textile Agreements**

Commissioner of Customs,
*Department of the Treasury, Washington, D.C.*

Dear Mr. Commissioner: Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed, effective on March 9, 1984, to prohibit entry into the United States for consumption and withdrawal from warehouse for consumption of wool textile products in Category 446, produced or manufactured in Panama and exported during the twelve-month period which began on November 30, 1983, in excess of 21,133 dozen.[1]

Wool textile products in Category 446 which have been exported to the United States prior to Nobember 30, 1983 shall not be subject to this directive.

Wool textile products in Category 446 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this direction shall not be denied entry under this directive.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175) and May 3, 1983 (48 FR 19924).

[1] The level of restraint has not been adjusted to reflect any imports exported after November 29, 1983.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The action taken with respect to the Government of Panama and with respect to imports of wool textile products from Panama has been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 533. This letter will be published in the Federal Register.

Sincerely,

Walter C. Lenahan,

*Chairman, Committee for the Implementation of Textile Agreements.*

FR Doc. 84-6312 Filed 3-8-84; 8:45 am]

BILLING CODE 3510-DR

## Request for Public Comment on Bilateral Textile Consultations With the Government of India to Review Trade in Category 350 (Dressing Gowns)

March 5, 1984.

On February 28, 1984, the Government of the United States requested consultations with the Government of India with respect to Category 350. This request was made on the basis of Paragraph 16 of the Agreement between the Governments of the United States and India relating to trade in Cotton, Wool and Man-Made Fiber Textiles and Textile Products of December 21, 1982. Paragraph 16 provides for consultations when the orderly development of trade between the two countries may be impeded by imports due to market disruption, or the threat thereof.

The purpose of this notice is to advise the public that if no solution is agreed upon in consultations between the two governments, CITA, pursuant to paragraph 16 of the Agreement, may establish the following prorated specific limit for the entry and withdrawal from warehouse for consumption of cotton apparel products in Category 350, produced or manufactured in India and exported to the United States during the period which began on February 28, 1984 and extends through December 31, 1984:

| Category | Prorated 12 mo. level (Feb. 28, 1984-Dec. 31, 1984) |
|---|---|
| 350 | 13,233 dozen. |

The Government of the United States has decided, pending a mutually satisfactory solution, to control imports in this category during the 90-day consultation period which began on February 28, 1984 and extends through May 27, 1984 at the following level:

| Category | 90-Day level (Feb. 28, 1984-May 27, 1984) |
|---|---|
| 350 | 4,632 dozen. |

The United States remains committed to finding a solution concerning this category. Should such a solution be reached in consultations with the Government of India, further notice will be published in the Federal Register.

In the event the level established for Category 350 during the ninety-day period is exceeded, such excess amounts, if they are allowed to enter at the end of the restraint period, shall be charged to the prorated twelve-month level described above.

A summary market statement for this category follows this notice.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the Federal Register on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924) and December 14, 1983 (48 FR 55607), and December 30, 1983 (48 FR 57584).

Effective Date: March 12, 1984.

Anyone wishing to comment or provide data or information regarding the treatment of Category 350 under the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement with the Government of India, or on any other aspect thereof, or to comment on domestic production or availability of textile products included in these category, is invited to submit such comments or information in ten copies to Mr. Walter C. Lenahan, Chairman, Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230. Because the exact timing of the consultations is not yet certain, comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C., and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

Supplementary information: On December 16, 1983 a letter was published in the Federal Register (48 FR 55891) to the Commissioner of Customs from the Chairman of the Committee for the Implementation of Textile Agreements which established levels of restraint for certain categories of cotton, wool and man-made fiber textiles and textile products, produced or manufactured in India and exported during the twelve-month period which began on January 1, 1984. In the letter published below, pursuant to the terms of the bilateral agreement, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs, pending agreement on a different solution, to prohibit entry for consumption or withdrawal from warehouse for consumption of cotton and textile products in Category 350, exported during the indicated ninety-day period, in excess of the designated level of restraint.

**Walter C. Lenahan,**

*Chairman, Committee for the Implementation of Textile Agreements.*

**Market statement—India**

*Category 350—Cotton Dressing Gowns and Robes*

February 1984.

U.S. imports of Category 350 from India were 14,921 dozen in 1983, up 30.3 percent from the 11,452 dozen imported a year earlier and double the 1981 level of 7,527 dozen. This is a sharp and substantial increase of imports in a sector already adversely affected by imports.

Domestic productions of Category 350 declined from 616,000 dozen in 1981 to 518,000 dozen in 1982. Imports, on the other hand, increased 44 percent in 1982 to 360,000 dozen and 28 percent in 1983 to 461,000 dozen. The import to production ratio increased from 40.6 percent in 1981 to 69.5 percent in 1982 and to probably near 80 percent in 1983.

These robes are entered at duty-paid landed values below the U.S. producer prices for comparable garments.

March 5, 1984.

**Committee for the Implementation of Textile Agreements**

Commissioner of Customs,
*Department of the Treasury, Washington, D.C.*

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive of December 13, 1983 from the Chairman of the Committee for the Implementation of Textile Agreements which directed you to prohibit entry of certain cotton, wool, and man-made fiber textiles and textile products, produced or

manufactured in India and exported during 1984.

Effective on March 12, 1984, paragraph one of the directive of December 13, 1983 is hereby further amended to include a limit of 4,632 dozen [1] for cotton textile products in Category 350, produced or manufactured in India and exported during the ninety-day period which began on February 28, 1984 and extends through May 27, 1984.

Textile products in Category 350 which have been exported to the United States before February 28, 1984 shall not be subject to this directive.

Textile products in Category 350 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

The action taken with respect to the Government of India and with respect to imports of cotton textile products from India has been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 533. This letter will be published in the **Federal Register.**

Sincerely,

Walter C. Lenahan,

*Chairman, Committee for the Implementation of Textile Agreements.* [1] The level has not been adjusted to reflect any imports exported after February 27, 1984.I40[FR Doc. 84–6307 Filed 3–6–84; 10:02 am]

BILLING CODE 3510-DR

## Request for Public Comment on Bilateral Textile Consultations With the Government of Japan To Review Trade in Categories 611 (Spun Cellulosic Fabric) and 641 (Women's, Girls' and Infants' Man-Made Fiber Blouses)

March 5, 1984.

On February 29, 1984 the Government of the United States requested consultations with the Government of Japan with respect to Categories 611 and 641. This request was made on the basis of the Agreement of August 17, 1979, as amended and extended, between the Governments of the United States and Japan relating to trade in cotton, wool, and man-made fiber textiles and textile products.

The purpose of this notice is to advise the public that, if no solution is agreed upon in consultations between the two governments, the Committee for the Implementation of Textile Agreements may request the Government of Japan to limit exports in Categories 611 and 641, produced or manufactured in Japan and exported to the United States during the twelve-month period which began on January 1, 1984 and extends through December 31, 1984 to the following levels:

| Category | 12-mo. level |
|---|---|
| 611 | 16,775,698 square yards. |
| 641 | 206,398 dozen. |

Summary market disruption statements concerning each of these categories follow this notice.

Anyone wishing to comment or provide data or information regarding the treatment of these categories under the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement with the Government of Japan, or on any other aspect thereof, or to comment on domestic production or availability of textile products included in these categories, is invited to submit such comments or information in ten copies to Mr. Walter C. Lenahan, Chairman, Committee for the implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230. Because the exact timing of the consultations is not yet certain, comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C., and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs functions of the United States."

**Walter C. Lenahan,**

*Chairman, Committee for the Implementation of Textile Agreements.*

**Market Statement—Japan**

*Category 611—Spun Cellulosic Fabric*

February 1984.

U.S. imports of Category 611 from Japan amounted to 14,772,000 square yards during 1983, up 94.5 percent from 1982. Japan is the major supplier of Category 611, accounting for 76.3 percent of the total imports.

U.S. imports from Japan in Category 611 are concentrated in TSUSA No. 338.5064—spun cellulosic fabric. This TSUSA accounts for about 98 percent of the total category imports from Japan. Japan is the only major foreign supplier of this type fabric.

The imports from Japan under TSUSA No. 338.5064 are adversely affecting the market for this type of fabric. Imports during the first half of 1983 were equal to 31.0 percent of production. This compares with 18.0 percent for the same period in 1982.

Domestic production of Category 611 dropped sharply in 1982. Production during the first half of 1983 amounted to 54.7 million square yards, down 7.5 percent from the 59.1 million produced a year earlier. Imports of Category 611 increased from 5.8 million square yards during January–June 1982 to 10.0 million during the first six months of 1983. The ratio of imports to domestic production increased from 9.8 percent during the first half of 1982 to 18.3 percent for the same period in 1983.

*Category 641—Women's Girls' and Infants' MMF Blouses*

U.S. imports of Category 641 from Japan were 184,949 dozen in 1983, up 118.9 percent from the 84,486 dozen imported in 1982. During 1983, Japan was the ninth largest supplier of Category 641. Seven of the suppliers which were larger than Japan were controlled by specific limits on Category 641 and the other by an agreed limit. Several of the smaller suppliers were controlled by specific limits or designated consultation levels.

The industry producing this category has been adversely affected by imports for a number of years and the substantial increase in 1983 imports from Japan has compounded the problems.

The ratio of imports to domestic production was 29.7 percent in 1982 and is expected to be higher in 1983 due to the increase in imports. Imports from all sources for 1983 were up 22.3 percent over a year earlier.

[FR Doc. 84–6308 Filed 3–6–84; 10:02 am]

BILLING CODE 3410-DR-M

## Request for Public Comment on Bilateral Textile Consultations With the Government of Pakistan to Review Trade in Category 350 (Dressing Gowns)

On February 29, 1984, the Government of the United States requested consultations with the Government of Pakistan with respect to Category 350. This request was made on the basis of the agreement between the Governments of the United States and Pakistan relating to trade in cotton

textiles and cotton textile products of March 9 and 11, 1982. The agreement provides for consultations when the orderly development of trade between the two countries may be impeded by imports due to market disruption, or the threat thereof.

The purpose of this notice is to advise the public that if no solution is agreed upon in consultations between the two governments, CITA, pursuant to the Agreement, may establish a prorated specific limit of 10,245 dozen for the entry and withdrawal from warehouse for consumption of cotton textile products in Category 350, produced or manufactured in Pakistan and epxorted to the United States during the period beginning on May 29, 1984 and extending through December 31, 1984.

The Government of the United States has decided, pending a mutually satisfactory solution, to control imports in this category during the 90-day consultation period which began on February 29 and extends through May 28, 1984 at a limit of 5,040 dozen.

In the event the limit established for Category 350 during the ninety-day period is exceeded, such excess amount, if allowed to enter, may be charged to the limit established during the subsequent restraint period.

The United States remains committed to finding a solution concerning this category. Should such a solution be reached in consultations with the Government of Pakistan, further notice will be published in the **Federal Register.**

A summary market statement for this category follows this notice.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924) and December 14, 1983 (48 FR 55607), and December 30, 1983 (48 FR 57584).

Anyone wishing to comment or provide data or information regarding the treatment of Category 350 under the Bilateral Cotton Textile Agreement with the Government of Pakistan, or on any other aspect thereof, or to comment on domestic production or availability of textile products included in this category, is invited to submit such comments or information in ten copies to Mr. Walter C. Lenahan, Chairman, Committee for the implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230. Because the exact timing of the consultations is not yet certain, comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C., and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further considerations.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

Supplementary Information: On December 16, 1983 a letter was published in the **Federal Register** (48 FR 55892) to the Commissioner of Customs from the Chairman of the Committee for the Implementation of Textile Agreements which established levels of restraint for certain categories of cotton textiles and cotton textile products, produced or manufactured in Pakistan and exported during the twelve-month period which began on January 1, 1984. In the letter published below, pursuant to the bilateral agreement, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs, pending agreement on a different solution, to prohibit entry for consumption or withdrawal from warehouse for consumption, of cotton textile products in Category 350, produced or manufactured in Pakistan and exported during the indicated ninety-day period, in excess of 5,040 dozen.

**Walter C. Lenahan,**

*Chairman, Committee for the Implementation of Textile Agreements.*

**Market Statement—Pakistan**

*Category 350—Cotton Dressing Gowns and Robes*

February 1984.

U.S. imports of Category 350 from Pakistan were 16,127 dozen in 1983, up 63.2 percent from the 9,880 dozen imported a year earlier. This is a sharp and substantial increase of imports in a sector already adversely affected by imports.

Domestic production of Category 350 declined from 616,000 dozen in 1981 to 518,000 dozen in 1982. Imports, on the other hand, increased 44 percent in 1982 to 360,000 dozen and 28 percent in 1983 to 461,000 dozen. The import to production ratio increased from 40.6 percent in 1981 to 69.5 percent in 1982 and to probably near 80 percent in 1983.

March 5, 1984

**Committee for the Implementation of Textile Agreements**

Commissioner of Customs,

*Department of the Treasury, Washington, D.C.*

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive of December 13, 1983 from the Chairman of the Committee for the Implementation of Textile Agreements which directed you to prohibit entry of certain cotton textile products, produced or manufactured in Pakistan and exported during 1984.

Effective on March 9, 1984 paragraph one of the directive of December 13, 1983 is hereby further amended to include a limit of 5,040 dozen [1] for cotton textile products in Category 350, exported during the period which began on February 29 and extends through May 28, 1984.

Textile products in Category 350 which have been exported to the United States before February 29, 1984 shall not be subject to this directive.

Textile products in Category 350 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

The action taken with respect to the Government of Pakistan and with respect to imports of cotton textile products from Pakistan has been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 533. This letter will be published in the **Federal Register.**

Sincerely,

Walter C. Lenahan,

*Chairman, Committee for the Implementation of Textile Agreements.* [1] The level has not been adjusted to account for any imports exported after February 28, 1984.

FR Doc. 84-6313 Filed 3-6-84; 9:59 am]

BILLING CODE 3510-DR

## Requesting Public Comment on Bilateral Consultations With the Government of the People's Republic of China

March 5, 1984.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on March 9, 1984. For further information contact Diana Bass, International Trade Specialist, (202) 377-4212.

**Background**

On February 24 and 29, 1984, pursuant to the terms of the Bilateral Cotton, Wool and Man-made Fiber Textile Agreement of August 19, 1983 between the Governments of the United States and the People's Republic of China, the Government of the United States requested consultations concerning imports into the United States of textile and apparel products in Categories 637 (man-made fiber playsuits) and 320 pt. (other woven fabrics of cotton, n.e.s. in TSUSA numbers 320.—92, 321.—92, 322.—92, 326.—92, 327.—92 and 328.—92), produced or manufactured in China and exported to the United States. Summary market disruption statements concerning each of these categories follow this notice.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924) and December 14, 1983 (48 FR 55607), and December 30, 1983 (48 FR 57584).

Anyone wishing to comment or provide data or information regarding the treatment of these categories under the agreement with the People's Republic of China, or on any other aspect thereof, or to comment on domestic production or availability of the products included in these categories, is invited to submit such comments or information in ten copies to Mr. Walter C. Lenahan, Chairman, Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230. Because the exact timing of the consultations is not yet certain, comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C., and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

Under the terms of the bilateral agreement, the People's Republic of China is obligated under the consultation provision to limit its exports to the United States of these products during the ninety-day periods which began on February 24 and 29, 1984 to the following amounts:

| Category | 90-day level of restraint |
|---|---|
| 320 pt. | 2,629,169 square yards (Feb. 29, 1984–May 28, 1984). |
| 637 pt. | 37,763 dozen (Feb. 24, 1984–May 23, 1984). |

The People's Republic of China is also obligated under the bilateral agreement, if no mutually satisfactory solution is reached during consultations, to limit its exports to the United States during the twelve-months following the ninety-day consultation periods to the following amounts:

| Category | 12-mo. level of restraint |
|---|---|
| 320 pt. | 6,251,330 square yards (May 29, 1984–May 28, 1985). |
| 637 pt. | 101,185 dozen (May 24, 1984–May 23, 1985). |

The United States Government has decided, pending a mutually satisfactory solution, to control imports of textile products in Categories 320 pt. and 637 for the ninety-day periods at the levels described above. The United States remains committed to finding a solution concerning these categories. Should such a solution be reached in consultations with the Government of the People's Republic of China, further notice will be published in the **Federal Register.**

In the event the limits established for Categories 320 pt. and 637 for the ninety-day periods are exceeded, such excess amounts, if allowed to enter at the end of the restraint periods, shall be charged to the levels (described above) defined in the agreement for the subsequent twelve-month periods.

Supplementary Information: On December 22, 1983 a letter to the Commissioner of Customs was published in the **Federal Register** (48 FR 56626) from the Chairman of the Committee for the Implementation of Textile Agreements which established levels of restraint for certain categories of cotton, wool and man-made fiber textile products, produced or manufactured in the People's Republic of China and exported during 1984. The notice document which preceded that letter referred to the consultation mechanism which applies to categories of textile products under the bilateral agreement, such as Categories 320 pt. and 637 which are not subject to specific ceilings and for which levels may be established during the year. In the letter published below, pursuant to the bilateral agreement, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to prohibit entry into the United States for consumption, or withdrawal from warehouse for consumption of textile and apparel products in Categories 320 pt. and 637, produced or manufactured in the People's Republic of China and exported during the indicated ninety-day periods, in excess of the designated levels.

**Walter C. Lenahan,**

*Chairman, Committee for the Implementation of Textile Agreements.*

**Market Statement—China**

*Category 320 pt.—TSUSA Nos. 320.—92, 321.—92, 322.—92, 326.—92, 327.—92, and 328.—92*

February 1984.

U.S. imports of Category 320 pt. from China were 7.5 million square yards in 1983. Approximately 74 percent or 5,559,000 square yards of this was a printcloth type fabric entered under TSUSA No. 326.—92 and most of the remainder was similar fabrics.

The printcloth type imports recorded in January–February 1983 were mostly cotton/polyester blended printcloth of the 78×54 construction. These fabrics were imported in December but were statistically reported in January and February. This trade ceased after February.

Imports of another construction of printcloth type fabrics began in October 1983. These fabrics are 50/50 cotton polyester fabrics with a 82×50 construction. These fabrics are not entered as printcloth since the warp yarn ends of 82 amount to 62.1 percent or the total warp and filling yarns of 132. The Tariff Schedules of the United States Annotated, Supart A statistical headnotes; 1 (e) limit printcloth classification to fabrics which the warp yarn or the filling yarn ends are less than 62 percent of the total. By modifying fabrics to have the warp yarn ends accounting for 62.1 percent of the ends, these Chinese fabrics are not subject to the specific limit provided for in the textile bilateral and are not subject to the added anti-dumping duties imposed on imports of printcloth from China. However, these 82×50 constructions are printcloth from a use standpoint and adversely affect the domestic market for cotton printcloth. Other suppliers of these type fabrics have limits under the bilateral agreements.

Category 320 pt. imports from China for the last quarter of 1983 amounted to 5,699,000 square yards. The imports of TSUSA No. 326.—92 where these 82×50 printcloths enter accounted for 88 percent of the total or 4,999,000 square yards. Prior to the Last quarter, there were no imports of these 82×50 printcloths.

The cotton printcloth market in the United States is adversely affected by imports. Imports were equal to 57.0 percent of domestic production during the first half of

1983 compared with 46.8 percent for calendar 1982.

The imports of cotton printcloth from China of 82×50 construction are entered under TSUSA No. 326.3092. These fabrics are being entered at values well below the U.S. producer prices for cotton printcloth.

**Category 637—Man-Made Fiber Playsuits**

U.S. imports of Category 637 from China during 1983 were 107,894 dozen compared with 33,367 dozen of year earlier. China was the third largest supplier of Category 637, accounting for 13.2 percent of the total imports. One of the two larger suppliers has a designated consultation level while the other has a specific limit on imports of Category 637.

The ratio of imports to production in 1982 was 10.6 percent. The 1983 import increase of 43.8 percent indicates a 1983 ratio of about 14 percent. The imports from China are being entered at duty-paid values well below the U.S. producer prices for comparable garments.

March 5, 1984.

**Committee for the Implementation of Textile Agreements**

Commissioner of Customs,
*Department of the Treasury, Washington, D.C.*

Dear Mr. Commissioner: Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 19, 1983, between the Governments of the United States and the People's Republic of China; and in accordance with the provisions in Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on March 9, 1984, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton and man-made fiber textile products in Categories 320 pt.[1] and 637, produced or manufactured in the People's Republic of China, and exported during the indicated ninety-day periods, in excess of the following levels of restraint:

| Category | 90-day level of restraint [2] |
|---|---|
| 320 pt.[1] | 2,629,169 square yards (Feb. 29, 1984–May 28, 1984). |
| 637 | 37,763 dozen (Feb. 24, 1984–May 23, 1984). |

[1] In Category 320, only TSUSA numbers 320.—92, 321.—92, 322.—92, 326.—92, 327.—92, 328.—92.
[2] The levels of restraint have not been adjusted to reflect any imports exported after February 28, 1984 (Cat. 320 pt.[1]) and February 23, 1984 (Cat. 647).

Textile products in Categories 320 pt.[1] and 637 which have been exported to the United States prior to February 24, 1984 in the case of Category 320 pt.[1] and prior to February 29, 1984 in the case of Category 637, shall not be subject to this directive.

Textile products in Categories 320 pt.[1] and 637 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924) and December 14, 1983 (48 FR 55607), and December 30, 1983 (48 FR 57584).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The action taken with respect to the Government of the People's Republic of China and with respect to imports of cotton and man-made fiber textile products from China has been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 533. This letter will be published in the **Federal Register.**

Sincerely,

Walter C. Lenahan,

*Chairman, Committee for the Implementation of Textile Agreements.*

[FR Doc. 84-6309 Filed 3-6-84; 10:02 am]

BILLING CODE 3510-DR-M

[1] In Category 320, only TSUSA numbers 320.—92, 321.—92, 322.—92, 326.—92, 327.—92, 328.—92.

## Soliciting Public Comment on Bilateral Textile Consultations With Spain on Category 604

On February 29, 1984, the United States Government, under Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), requested the Government of Spain to enter into consultations concerning exports to the United States of other man-made fiber yarn, wholly of non-continuous filament in Category 604, produced or manufactured in Spain.

The purpose of this notice is to advise that, if no solution is agreed upon in 60 days in consultations with Spain, the Committee for the Implementation of Textile Agreements may later establish a limit for the entry and withdrawal from warehouse for consumption of man-made fiber textile products in Category 604, produced or manufactured in Spain and exported to the United States during the twelve-month period which began on February 29, 1984 and extends through February 28, 1985 at a level of 857,396 pounds. A summary market statement follows this notice.

Anyone wishing to comment or provide data or information regarding the treatment of Category 604 is invited to submit such comments or information in ten copies to Mr. Walter C. Lenahan, Chairman, Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230. Because the exact timing of the consultations is not yet certain, comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C., and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

**Walter C. Lenahan,**

*Chairman, Committee for the Implementation of Textile Agreements.*

**Market Statement—Spain**

*Category 604—Non-Continuous, Non Cellulosic Yarn*

Janaury 1984.

U.S. imports of Category 604 from Spain during 1983 were 966,609 pounds up 65.7 percent from 1982. Nearly all, 99.96 percent, of the U.S. imports of Category 604 from Spain were plied acrylic yarns.

The U.S. producers of plied acrylic yarns are adversely affected by imports and the market for these yarns is disrupted by imports. The import to production ratio of plied acrylic yarn was 51.9 percent during January–September 1983.

U.S. production of plied acrylic yarn declined from 44.8 million pounds in 1981 to 38.7 million in 1982. Production for the first nine months of 1983 was 30.5 million pounds compared with 31.1 million a year earlier.

Imports of plied acrylic yarn increased from 13.8 million pounds in 1981 to 15.4 million in 1982 to 21.7 million in 1983.

Imports from Spain of plied acrylic yarns are entered at duty-paid values well below the U.S. producer prices for comparable yarns.

[FR Doc. 84-6311 Filed 3-6-84; 10:02 am]

BILLING CODE 3510-DR-M

## Soliciting Public Comment on Bilateral Textile Consultations With Yugoslavia on Category 444 (Women's, Girls' and Infants' Wool Suits)

On February 29, 1984, the United States Government, under Article 3 of the Arrangement Regarding International Trade in Textiles, requested the Government of the Socialist Federal Republic of Yugoslavia to enter into consultations concerning exports to the United States of wool apparel products in Category 444, produced or manufactured in Yugoslavia.

The purpose of this notice is to advise that, if no solution is agreed upon with the Government of the Socialist Federal Republic of Yugoslavia during the sixty-day consultation period, which began on February 29, 1984, the Committee for the Implementation of Textile Agreements may later establish a limit for the entry and withdrawal from warehouse for consumption of wool textile products in Category 444, produced or manufactured in Yugoslavia and exported to the United States during the twelve-month period which began on February 29, 1984 and extends through February 28, 1985 at a level of 7,626 dozen.

A summary market statement follows this notice.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the Federal Register on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924) and December 14, 1983 (48 FR 55607), and December 30, 1983 (48 FR 57584).

Anyone wishing to comment or provide data or information regarding the treatment of Category 444 is invited to submit such comments or information in ten copies to Mr. Walter C. Lenahan, Chairman, Committee for the implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230. Because the exact timing of the consultations is not yet certain, comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C., and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

**Walter C. Lenahan,**

*Chairman, Committee for the Implementation of Textile Agreements.*

**Market Statement—Yugoslavia**

*Category 444—Women's, Girls', and Infants' Wool Suits*

February 1984.

U.S. imports of Category 444 from Yugoslavia during 1983 were 7,881 dozen compared with only 332 dozen a year earlier. Yugoslavia is the sixth largest supplier of Category 444. Most of the larger suppliers have specific limits or agreed levels covering Category 444 and a number of the smaller suppliers have specific limits which are below the level of imports from Yugoslavia.

The import to production ratio increased from 38.3 percent in 1981 to 48.3 percent in 1982. These imports are being entered at duty-paid values well below the U.S. producer prices for comparable suits.

[FR Doc. 84-6310 Filed 3-6-84; 10:02 am]
BILLING CODE 3510-DR-M

## Request for Public Comment on Bilateral Textile Consultations With the Government of Malaysia To Review Trade in Category 345 (Cotton Sweaters)

March 6, 1984.

On February 29, 1984, the Government of the United States requested consultations with the Government of Malaysia with respect to Category 345. This request was made on the basis of the agreement, as amended, between the Governments of the United States and Malaysia relating to trade in Cotton, Wool and Man-Made Fiber Textiles and Textile Products of December 5, 1980 and February 27, 1981. The agreement provides for consultations when the orderly development of trade between the two countries may be impeded by imports due to market disruption, or the threat thereof.

The purpose of this notice is to advise the public that if no solution is agreed upon in consultations between the two governments, CITA, pursuant to the agreement, as amended, may establish a prorated specific limit of 49,456 dozen for the entry and withdrawal from warehouse for consumption of cotton textile products in Category 345, produced or manufactured in Malaysia and exported to the United States during the period which began on February 29, 1984 and extends through December 31, 1984.

The Government of the United States has decided, pending agreement on a mutually satisfactory solution, to invoke import controls of this category during the 60-day consultation period (February 29–April 28, 1984) at a level of 14,740 dozen. In the event the limit established for the sixty-day period is exceeded, such excess amount, if allowed to enter, may be charged to the level established during the subsequent restraint period.

A summary market statement for this category follows this notice.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the Federal Register on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924) and December 14, 1983 (48 FR 55607), and December 30, 1983 (48 FR 57584).

Anyone wishing to comment or provide data or information regarding the treatment of Category 345 under the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement with the Government of Malaysia, or on any other aspect thereof, or to comment on domestic production or availability of textile products included in this category, is invited to submit such comments or information in ten copies to Mr. Walter C. Lenahan, Chairman, Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230. Because the exact timing of the consultations is not yet certain, comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C., and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

Effective Date: March 13, 1984.

**Walter C. Lenahan,**

*Chairman, Committee for the Implementation of Textile Agreements.*

**Market Statement—Malaysia**

*Category 345—Sweaters*

February 1984.

U.S. imports of Category 345 from Malaysia were 59,018 dozen during 1983. These imports were up 766.5 percent from a year earlier. This is a substantial increase of imports of a category severely affected by imports. The imports from Malaysia are entered at duty-paid landed values which are below the U.S. producer prices for comparable sweaters. These and other factors lead the United States Government to conclude that its market is being disrupted by such imports and that such imports constitute a threat for further disruption.

U.S. imports of Category 345 exceeded domestic production by 15.6 percent in 1982 and the excess is likely to be larger in 1983 since imports were up 28.6 percent. Approximately 76 percent of the Category 345 imports from Malaysia entered under women's, girls', and infants' TSUSA numbers where the 1982 excess of imports over domestic production was 21.0 percent.

March 6, 1984.

**Committee for the Implementation of Textile Agreements**

Commissioner of Customs,
*Department of the Treasury,*
Washington, D.C. 20229

Dear Mr. Commissioner: Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of December 5, 1980 and February 27, 1981, between the Governments of the United States and the Republic of Malaysia; and in accordance with the provisions in Executive Order 11651 of March 3, 1982, as amended, you are directed to prohibit, effective on March 13, 1984, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Category 345, produced or manufactured in Malaysia, and exported during the sixty-day period which began on February 29, 1984 and extends through April 28, 1984, in excess of the 14,740 dozen.[1]

Textile products in Category 345 which have been exported to the United States prior to February 29, 1984 shall not be subject to this directive.

Textile products in Category 345 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924) and December 14, 1983 (48 FR 55607), and December 30, 1983 (48 FR 57584).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The action taken with respect to the Government of Malaysia and with respect to imports of cotton textile products from Malaysia has been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 533. This letter will be published in the **Federal Register.**

Sincerely,

Walter C. Lenahan,

*Chairman, Committee for the Implementation of Textile Agreements.*

[FR Doc. 84-6375 Filed 3-6-84; 3:17 am]

BILLING CODE 3510-DR-M

[1]The level of restraint has not been adjusted to reflect any imports exported after February 28, 1984.

## Announcing Import Limits for Certain Cotton and Man-Made Fiber Apparel Products Exported From the Dominican Republic Under a New Bilateral Agreement

March 6, 1984.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on March 12, 1984. For further information contact Carl Ruths, International Trade Specialist (202) 377–4212.

### Background

The Governments of the United States and the Dominican Republic have exchanged diplomatic notes on a new bilateral agreement concerning trade in cotton, wool and man-made fiber textiles and textile products, produced or manufactured in the Dominican Republic and exported during the five-year period which began on June 1, 1983 and extends through May 31, 1988. The agreement establishes specific limits for Categories 340 (men's and boys' woven cotton shirts), 351 (cotton nightwear), 639 (woman's, girls' and infants' knit shirts and blouses of man-made fibers), and 649 (brassieres of man-made fibers) exported during the first agreement year which began on June 1, 1983 and extends through May 31, 1984. In the directive to the Commissioner of Customs which follows this notice, the limits for these categories have not been adjusted to account for any imports exported during the period which began on June 1, 1983. Merchandise in the following amounts, exported during that period, was imported during the period June 1, through December 31, 1983 and will be charged. When the data are available, further charges will be made to account for imports during the period which began on January 1, 1984 and extends to the effective date of this action.

| Category | Amount to be charged |
|---|---|
| 340 | 43,677 dozen. |
| 351 | 146,371 dozen. |
| 639 | 119,206 dozen. |
| 649 | 879,285 dozen. |

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924) and December 14, 1983 (48 FR 55607), and December 30, 1983 (48 FR 57584).

This letter and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

**Walter C. Lenahan,**

*Chairman, Committee for the Implementation of Textile Agreements.*

**Committee for the Implementation of Textile Agreements**

March 6, 1984.

Commissioner of Customs,
*Department of the Treasury, Washington, D.C.*

Dear Mr. Commissioner: Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of December 30, 1983, between the Governments of the United States and the Dominican Republic; and in accordance with the provisions in Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on March 12, 1984 entry into the United States for consumption and withdrawal from warehouse for consumption of cotton and man-made fiber textile products in Categories 340, 351, 639 and 649, produced or manufactured in the Dominican Republic, and exported during the twelve-month period which began on June 1, 1983 and extends through May 31, 1984, in excess of the following levels of restraint:

| Category | 12-mo level of restraint [1] |
|---|---|
| 340 | 160,000 dozen. |
| 351 | 372,000 dozen. |
| 639 | 361,000 dozen. |
| 649 | 1,850,000 dozen. |

[1] The levels of restraint have not been adjusted to reflect any imports exported after May 31, 1983. Charges for such imports during the period June 1, 1983 through December 31, 1983 have amounted to 43,677 dozen in Category 340, 146,371 dozen in Category 351, 119,206 dozen in Category 639, and 879,285 dozen in Category 649.

In carrying out this directive, entries of textile products in the foregoing categories, produced or manufactured in the Dominican Republic, which have been exported to the United States during the period which began on June 1, 1982 and extended through May 31, 1983, shall, to the extent of any unfilled balances, be charged against the levels of restraint established for such goods during that twelve-month period. In the event the levels of restraint established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this letter.

Textile products in Categories 340, 351, 639 and 649 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

The levels of restraint set forth above are subject to adjustment pursuant to the provisions of the bilateral agreement of December 30, 1983, between the Governments of the United States and the Dominican Republic which provide, in part, that: (1) Specific limits may be exceeded by designated percentages to account for swing, provided that an equal amount in equivalent square yards is deducted from another specific limits; and (2) specific limits may also be increased for carryover and carryforward. Any appropriate future adjustments under the foregoing provisions of the bilateral agreement will be made to you by letter.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924) and December 14, 1983 (48 FR 55607), and December 30, 1983 (48 FR 57584).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The action taken with respect to the Government of the Dominican Republic and with respect to imports of cotton and man-made fiber textile products from the Dominican Republic has been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 533. This letter will be published in the **Federal Register.**

Sincerely,

Walter C. Lenahan,

*Chairman, Committee for the Implementation of Textile Agreements.*

[FR Doc. 84-6376 Filed 3-8-84; 8:45 am]

BILLING CODE 3510-DR-M

## DEPARTMENT OF DEFENSE

### Office of the Secretary

### DoD Advisory Group on Electron Devices; Advisory Committee Meeting

Working Group B (Mainly Low Power Devices) of the DoD Advisory Group on Electron Devices (AGED) will meet in closed session on 10–11 April 1984 at Naval Research Laboratory, 4555 Overlook Ave., Washington, D.C. 20375.

The mission of the Advisory Group is to provide the Under Secretary of Defense for Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group B meeting will be limited to review of research and development programs which the military propose to initiate with industry, universities or in their laboratories. The low power device area includes such programs as integrated circuits, charge coupled devices and memories. The review will include classified program details throughout.

In accordance with Section 10(d) of Pub. L. 92–463, as amended, (5 U.S.C. App. 1 10(d) (1976)), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1976), and that accordingly, this meeting will be closed to the public.

Dated: March 6, 1984.

**M. S. Healy,**

*OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 84-6437 Filed 3-8-84; 8:45 am]

BILLING CODE 3810-01-M

### Independent Defense Acquisition Regulatory (DAR) Council Review Group; Open Meeting

Notice is hereby given that a meeting will be held by the Independent Defense Acquisition Regulatory (DAR) Council Review Group from 9:00 a.m. to 12:00 p.m. and 1:00 p.m. to 3:00 p.m. on March 29, 1984 at Cameron Station, Building 3, Room 3B247, Alexandria, Virginia. This meeting will be open to the public.

The purpose of this meeting will be to hear oral statements from the public regarding the composition, structure, and operation of the DAR System. The Review Group is assessing the effectiveness of the DAR Council charter, authority structure, methods of operation, subcommittee structure, methods of gaining public comment, and preparation for new responsibilities related to the Federal Acquisition Regulation.

Persons desiring to provide oral statements at the meeting should contact Petty Officer Covarrubias, OUSDRE(AM)(DAR Review), Room 3E144, the Pentagon, Washington, D.C. 20301, telephone (202) 695–6322, no later than 22 March 1984. Oral statements from persons not providing advance notification will be heard on a "as time is available" basis. Oral statements should be limited to no more than ten minutes. Written statements may be submitted for consideration at the hearing. These statements should not exceed five (5) standard (8½ x 11) size pages, inclusive of attachments.

Dated: March 6, 1984.

**M. S. Healy,**

*OSD Federal Register Liaison Officer, Department Defense.*

[FR Doc. 84-6436 Filed 3-8-84; 8:45 am]

BILLING CODE 3810-01-M

### Department of the Army

### Army Science Board; Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Dates of Meeting: Wednesday & Thursday, 4 & 5 April 1984.

Times: 0800–1700 hours (Closed).

Place: The Pentagon, Washington, D.C. on 4 April (entire group) and both the U.S. Army Research Institute for the Behavioral and Social Sciences and U.S. Army Materiel Development and Readiness Command in Alexandria, Virginia (Personnel Factors subpanel).

Agenda: The Army Science Board 1984 Summer Study Panel on Leading and Manning Army 21 will meet for classified briefings and discussions on the following: foreign threat to US; lessons learned in Lebanon, Falkland Islands, and Grenada; USAF and USN personnel research; and new systems which will impact on the Army over the next 20 years. The panel will break up into its three subpanels (Leadership; Personnel Factors in Weapons System Performance; and Manning a ready Force) on the second day for more focused briefings and discussions. This meeting will be closed to the public in accordance with Section 552(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C.,

Appendix 1, subsection 10(d). The classified and nonclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The Army Science Board Administrative Officer, Sally Warner, may be contacted for further information at (202) 695–3039 or 695–7046.

**Sally A. Warner,**

*Administrative Officer.*

[FR Doc. 84–6430 Filed 3–8–84; 8:45 am]

**BILLING CODE 3710–08–M**

## Army Science Board; Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Dates of the Meeting: Thursday & Friday, 12 and 13 April 1984.

Times: 0830–1700 hours (Closed).

Place: Fort Bragg, North Carolina.

Agenda: The Army Science Board 1984 Summer Study Panel on Technology to Improve Logistics and Weapon Support for Army 21 will meet for classified orientation briefings and in-depth discussions regarding logistic support to the 18th Airborne Corps, Corps Support Command (COSCOM) and Division Support Command (DISCOM), and to gain first hand experience with fielded equipment. This meeting will be closed to the public in accordance with Section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C., Appendix 1, subsection 10(d). The classified and nonclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The Army Science Board Administrative Officer, Sally Warner, may be contacted for further information at (202) 695–3039 or 695–7046.

**Sally A. Warner,**

*Administrative Officer.*

[FR Doc. 84–6431 Filed 3–8–84; 8:45 am]

**BILLING CODE 3710–08–M**

## Army Science Board; Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Dates of the Meeting: Friday, 6 April 1984.

Times: 0830–1700 hours (Closed).

Place: U.S. Army Medical R&D Command (MRDC), Fort Detrick, Maryland.

Agenda: The Personnel Factors in Weapons System Performance Subpanel of the Army Science Board 1984 Summer Study on Leading and Manning Army 21 will meet for classified briefings and discussions on the following: physical and medical factors in system design; methods MRDC uses to integrate physical/medical factors into system acquisition including concept development, system design and P³I (Preplanned Product Improvement Program); techniques that can influence system and unit performance. Discussions of specific weapons system performance will occur throughout the meeting. This meeting will be closed to the public in accordance with Section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C. Appendix 1, subsection 10(d). The classified and nonclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The Army Science Board Administrative Officer, Sally Warner, may be contacted for further information at (202) 695–3039 or 695–7046.

**Sally A. Warner,**

*Administrative Officer.*

[FR Doc. 84–6432 Filed 3–8–84; 8:45 am]

**BILLING CODE 3710–08–M**

## Army Science Board; Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Dates of Meeting: Wednesday-Friday, 11–13 April 1984.

Times: 0830–1700 hours (Closed).

Place: Moffett Field, California.

Agenda: The Army Science Board Ad Hoc Subgroup on the Army's LHX Aircraft Program will meet for classified briefings and discussions on the X-Wing and XV–15. The Subgroup is tasked with a comprehensive review of LHX requirements, technology, and specific critical issues impacting on program development. This meeting will be closed to the public in accordance with Section 552b(c) of Title 5 U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C., Appendix 1, subsection 10(d). The classified and nonclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The Army Science Board Administrative Officer, Sally Warner, may be contacted for further information at (202) 695–3039 or 695–7046.

**Sally A. Warner,**

*Administrative Officer.*

[FR Doc. 84–6433 Filed 3–8–84; 8:45 am]

**BILLING CODE 3710–08–M**

## Army Science Board; Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Dates of Meeting: Tuesday-Thursday, 17–19 April 1984.

Times: 0830–1700 hours (Closed).

Place: both U.S. Army Aviation R&D Command (AVRADCOM) and McDonnell-Douglas Corporation, St. Louis, Missouri on 17 April, and U.S. Army Development and Employment Agency (ADEA), Fort Lewis, Washington on 18–19 April.

Agenda: The Personnel Factors in Weapons System Performance Subpanel of the Army Science Board 1984 Summer Study on Leading and Manning Army 21 will meet for classified briefings and discussions on the following: (at AVRADCOM) how AVRADCOM participates in the concept development process and how human considerations, manpower, personnel, and training are being integrated into the RPV acquisition cycle; (at McDonnell-Douglas) concept development and program management; (at ADEA) how ADEA develops human considerations in weapons system performance, unit performance, and training processes; and, how ADEA participates in the concept development process. Discussions of specific weapons system performance will occur throughout the meeting. This meeting will be closed to the public in accordance with Section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C., Appendix 1, subsection 10(d). The classified and nonclassified matters to be discussed are so inextricably interwined so as to preclude opening any portion of the meeting. The Army Science Board Administrative Officer, Sally Warner, may be contacted for further information at (202) 695–3039 or 695–7046.

**Sally A. Warner,**

*Administrative Officer.*

[FR Doc. 84–6434 Filed 3–8–84; 8:45 am]

**BILLING CODE 3710–08–M**

## Privacy Act of 1974; Additions and Amendments to Systems of Records Notices

**AGENCY:** Department of the Army, DOD.

**ACTION:** Notice of additions and amendments to systems of records.

**SUMMARY:** The Department of the Army proposes to amend its inventory of notices for systems of records subject to the Privacy Act of 1974, as amended, by adding 2 and and amending 7 notices. The specific changes to the notices being amended are set forth below, followed by the system notices, as amended, in their entirety.

**DATES:** These system notices shall be effective on or before April 9, 1984, unless comments are received which result in a contrary determination.

**ADDRESS:** Comments may be submitted to the system manager identified in the applicable system notice.

**FOR FURTHER INFORMATION CONTACT:** Mrs. Dorothy Karkanen, HODA (DAAG–AMR–S), 2461 Eisenhower Avenue, Alexandria, VA 22331, Telephone: (703) 325–6163.

**SUPPLEMENTARY INFORMATION:** The Army's system of records notices subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been

published in the Federal Register as follows:

FR Doc. 83–12048 (48 FR 25502), June 6, 1983
FR Doc. 83–18883 (48 FR 32046), July 13, 1983
FR Doc. 83–24181 (48 FR 40291), September 6, 1983
FR Doc. 83–28792 (48 FR 49086), October 24, 1983
FR Doc. 84–1118 (49 FR 2006), January 17, 1984
FR Doc. 84–2331 (49 FR 3506), January 27, 1984
FR Doc. 84–3683 (49 FR 5170), February 10, 1984

For notices being added, the Department of the Army submitted a new system report on February 1, 1984 for system of records AO708.24DAPE, entitled: "DA Conscientious Objector Review Board" and on February 7, 1984 for system of records AO727.09DAAG, entitled: "Army Civilian/Military Service Review Board".

The proposed amendments are not within the purview of the provisions of 5 U.S.C. 552a(o) which requires the submission of an altered system report.

**M. S. Healy,**

*OSD Federal Register Liaison Officer, Department of Defense.*

March 6, 1984.

## Additions

### AO708.24DAPE

**SYSTEM NAME:**

DA Conscientious Objector Review Board

**SYSTEM LOCATION:**

DA Conscientious Objector Review Board (DACORB), Room 5S33, Hoffman Building II, Alexandria, VA 22332.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Army personnel who apply either for separation based on conscientious objection (1–O) or reassignment/reclassification to noncombatant training and service based on conscientious objection (1–A–O).

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Case record consists of individual's application (DA Form 4187), results of interview evaluation by military chaplain and a psychiatrist recorded on DA Form 3822–R, command's report of investigation, evidence submitted by applicant, witness statements, hearing transcript or summary, information or records from the Selective Service System if appropriate, applicant's rebuttal to commander's recommendation; DA Conscientious Objector Review Board correspondence with applicant, summary of evidence considered, discussion, conclusions, names of voting DACORB members, disposition of application, and similar relevant material.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

10 U.S.C., section 3012; 50 U.S.C., App 456(j); DOD Directive 1300.6.

**PURPOSE:**

To investigate claims of service member that he/she is a conscientious objector to participation in war or to the bearing of arms and to make final determination resulting in assignment of appropriate status or awarding of discharge.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

Information on individuals who have less than 180 days on active duty and are discharged by reason of conscientious objection will be furnished Selective Service System Headquarters, Washington, DC 20435.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Paper records in file folders.

**RETRIEVABILITY:**

Alphabetically, by applicant's surname.

**SAFEGUARDS:**

Records are maintained in areas accessible only to authorized personnel who have an official need therefor, within building that employs security guards.

**RETENTION AND DISPOSAL:**

Retained by the DA Conscientious Objector Review Board for 20 years. Copy of application and Board decision become part of individual's Official Military Personnel File permanently.

**SYSTEM MANAGER(S) AND ADDRESS:**

The Deputy Chief of Staff for Personnel, Headquarters, Department of the Army, The Pentagon, Washington, DC 20310.

**NOTIFICATION PROCEDURE:**

Individuals desiring to know whether or not information on them exists in this system of records may write to the System Manager, ATTN: DAPE–MPA–CS, Room 2B731, furnishing full name, current address, and signature.

**RECORD ACCESS PROCEDURES:**

Requests for access should be submitted as specified under "Notification procedure" above.

**CONTESTING RECORD PROCEDURES:**

The Army's rules for access to records and for contesting contents and appealing initial determinations are contained in Army Regulation 340–21 (32 CFR Part 505).

**RECORD SOURCE CATEGORIES:**

From the individual, his/her commander, official records required by Army Regulation 600–43.

**SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

None.

### AO727.09DAAG

**SYSTEM NAME:**

Army Civilian/Military Service Review Board

**SYSTEM LOCATION:**

US Army Reserve Components Personnel and Administration Center, 9700 Page Boulevard, St. Louis, MO 63132.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Civilian or contractual personnel (or their survivors) who were members of a group certified by the Secretary of the Air Force to have performed active duty with the Armed Forces of the United States.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Application of individuals for recognition of service, evidence that supports claim of membership in approved group, action of the Army Civilian/Military Service Review Board, DD Form 214 and DD Form 256 or 257 as appropriate, and similar relevant documents.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

Section 401, Pub. L. 95–202; DOD Directive 1000.20.

**PURPOSE:**

To determine whether individual applicants were members of civilian or contractual groups approved as having rendered service to the Army and whose service constitutes active military service, and to issue appropriate discharge or casualty documents, including applicable pay and equivalent rank or grade.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Copy of DD Form 214 is furnished to the Veterans Administration for benefits entitlement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Papers in file folders.

RETRIEVABILITY:

By applicant's surname.

SAFEGUARDS:

Information is accessible only to designated persons having official need therefor in the performance of their duties. During non-duty hours, guards assure that records areas are secured.

RETENTION AND DISPOSAL:

Upon favorable Board decision, an Official Military Personnel File is created, containing individual's application, Board action, DD Form 214, DD Form 256 or 257 as appropriate, DD Form 1300 if applicable. This file is transferred to the National Personnel Records Center, General Services Administration, where it is retained permanently. Disapproved applications, together with supporting documentation and the Board's decision, are retained for 2 years, following which they are destroyed by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, US Army Reserve Components Personnel and Administration Center, 9700 Page Boulevard, St Louis, MO 63132.

NOTIFICATION PROCEDURE:

Requests from individuals as to whether or not information on them exists in this system should be addressed to the System Manager. Individual should provide full name at the time of the recognized service, date and place of birth, details concerning affiliation with group certified to have performed active duty with the Army, and signature.

RECORD ACCESS PROCEDURES:

Requests for access should be submitted as specified under "Notification procedure" above.

CONTESTING RECORD PROCEDURES:

The Army's rules for access to records and for contesting contents and appealing initial determinations are contained in Army Regulation 340–21 (32 CFR Part 505).

RECORD SOURCE CATEGORIES:

From the individual.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

## Amendments

### AAFES0702.34

SYSTEM NAME:

Accounts Receivable Files.

CHANGES:

Following the caption "Authority for maintenance of the system", add:

PURPOSE:

To process, monitor, and post-audit accounts receivable, to administer the Federal Claims Collection Act, and to answer inquiries pertaining thereto."

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Delete entry; substitute therefor:

"US Department of Justice/US Attorneys: for legal action and/or final disposition of the debt claim.

"Internal Revenue Service: to obtain locator status for delinquent accounts receivables; (Controls exist to preclude redisclosure of solicited IRS address data); and/or to report write-off amounts as taxable income as pertains to amounts compromised and accounts barred from litigation due to age.

"Private collection agencies: for collection action when the Army has exhausted its internal collection efforts."

Immediately following the "Routine uses * * * " caption, add:

"DISCLOSURE TO CONSUMER REPORTING AGENCIES.

Disclosure pursuant to 5 U.S.C. 552(a)(12) may be made from this system to 'consumer reporting agencies' as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3))."

### AO301.08bDACA

SYSTEM NAME:

Contractor Indebtedness Files

CHANGES:

Following the caption "Authority for maintenance of the system", add:

"PURPOSE:

To initiate collection action against a contractor who is determined to be indebted to the United States, to determine whether judicial proceedings should be initiated against the contractor and to maintain and distribute a list of contractors determined to be indebted to the United States."

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Delete entry: substitute therefor: "List of contractors determined to be indebted to the U.S. Government is furnished to all Government agencies for administrative offset prior to payment on contract."

### AO305.10cDACA

SYSTEM NAME:

Joint Uniform Military Pay System—Army—Retired Pay

CHANGES:

Following the caption "Authority for maintenance of the system", add:

"PURPOSE:

To establish and compute pay of retirees and their beneficiaries, to produce permanent record of transaction, and prepare financial, budgetary and acturarial reports."

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Delete the first paragraph. Add the following paragraph:

"Military banking facilities: Information as to current military addresses and assignments may be provided to military banking facilities overseas and who are reimbursed by the Government for certain checking and loan losses. For personnel separated, discharged or retired from the Armed Forces, information as to last known residential or home of record address may be provided to the military banking facility upon certification by a banking facility officer that the facility has a returned or dishonored check negotiated by the individual or the individual has defaulted on a loan that, if restituton is not made by the individual, the U.S. Government will be liable for the losses the facility may incur."

### AO708.02aDAPC

SYSTEM NAME:

Official Military Personnel File

CHANGES:

PURPOSE:

Delete the second and third paragraphs.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Add the following:

"Department of Treasury: to issue bonds; to collect and record income tax."

**RECORD ACCESS PROCEDURES:**

Delete all information following the first sentence.

**CONTESTING RECORD PROCEDURES:**

After the word "determinations", delete "not granting amendment".

**AO708.03aDAPE**

**SYSTEM NAME:**

Special Review Board Appeal Case Summary File

**CHANGES:**

**RECORD ACCESS PROEDURES:**

Delete sentence which reads "The Army rules * * * Part 505."

**A0912.04DASG**

*System name:*

Medical Staff Credentials File.

*Changes:*

*Routine uses of records maintained in the system, including categories of users and the purposes of such uses:*

Delete the last sentence.

*Record access procedures:*

Delete the last sentence.

*Record source categories:*

Change "Interview" to "Interviewer".

**A0917.09aDAPE**

*System name:*

Alcohol and Drug Abuse Rehabilitation Files

*Changes:*

*Authority for maintenance of the system:*

Delete entry; substitute therefor: "Act of September 28, 1971, Pub. L. 92–129, title V, Section 501, 85 Stat. 381 (reprinted in 10 U.S.C., section 1071 note (1976)); Section 413, Pub. L. 92–255."

*Routine uses of records maintained in the system, including categories of users and the purposes of such uses:*

Delete the last phrase of final paragraph marker "Note", as follows: "subjected to standard executive and system control program * * * US Army Safety Center." Substitute therefor: * * * under the circumstances expressly authorized in 21 U.S.C., section 1175, as amended by 88 Stat. 137 and 42 U.S.C., section 4582, as amended by 88 Stat. 131. These statutes are controlling and supersede the Privacy Act of 1974, as amended, to the extent that disclosure is more limited. However, access to the record by the individual to whom the record pertains is governed by the Privacy Act."

Insert the following information:

*Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:*

*"Storage:*

Primary: Paper records in file folders at Alcohol and Drug Abuse Prevention and Control Program facilities are maintained for 1 year following termination of treatment or referral (if not enrolled). Selected forms are transferred to individual's health record.

"Secondary: Paper records (client intake and progress reports) are stored in locked file cabinets. Computer data are entered on line at the US Army Drug and Alcohol Technical Activity, Falls Church, VA 22041 and transferred to magnetic disc or tape at US Army Safety Center, Ft Rucker.

*"Retrievability:*

Primary: Alphabetically by individual's surname.

"Secondary: By client's SSN or ID code, date and installation where individual was in the Alcohol and Drug Abuse Prevention and Control Program.

*"Safeguards:*

Primary: Records are maintained in central storage areas in locked file cabinets where access is restricted to authorized persons having an official need to know.

"Secondary: Manual records are stored in locked file cabinets. Automated records are maintained in random access mode in controlled access areas. Primary records on magnetic disc are stored with the computer in a secure vault separated from the primary computer. Data are processed in batch mode and are subjected to standard executive and system control programs plus the audit/edit and data base management system designed by the US Army Safety Center."

*Notification procedure:*

Delete the last two sentences.

*Record access procedure:*

Delete the last sentence.

*Contesting record procedures:*

Delete paragraph; substitute therefor: "The Army's rules for access to records and for contesting contents and appealing initial determinations are contained in Army Regulation 340–21 (32 CFR Part 505). Denial to amend records in this system can be made only by The Deputy Chief of Staff for Personnel, in coordination with The Surgeon General."

The amended systems of records read as follows:

**AAFES0702.34**

**SYSTEM NAME:**

Accounts Receivable Files.

**SYSTEM LOCATION:**

Headquarters, Army and Air Force Exchange Service (AAFES), Dallas, TX 75222; HQ AAFES-Pacific; HQ AAFES-Europe; HQ AAFES-Alaska; continental United States and oversea exchange regions, area exchanges, and post and base exchanges and satellites within the AAFES system.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

AAFES customers (military, retirees, civilians, and civilian dependents).

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Charge or credit vouchers, oil company credit card tickets, cash receipt documents, purchase orders, receiving reports, and correspondence.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

10 U.S.C., sections 3012 and 8012.

**PURPOSE:**

To process, monitor, and post-audit accounts receivable, to administer the Federal Claims Collection Act, and to answer inquiries pertaining thereto.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

US Department of Justice/US Attorneys: For legal action and/or final disposition of the debt claim.

Internal Revenue Service: To obtain locator status for delinquent accounts receivables; (Controls exist to preclude redisclosure of solicited IRS address data); and/or to report write-off amounts as taxable income as pertains to amounts compromised and accounts barred from litigation due to age.

Private collection agencies: For collection action when the Army has exhausted its internal collection efforts.

**DISCLOSURE TO CONSUMER REPORTING AGENCIES:**

Disclosure pursuant to 5 U.S.C. 552a(b)(12). Disclosure pursuant to 5 U.S.C. 552a(b)(12) may be made from this system to "consumer reporting agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Paper records in file folders.

**RETRIEVABILITY:**

By customer's surname.

**SAFEGUARDS:**

Records are maintained in areas accessible only to authorized personnel, within steel storage cabinets.

**RETENTION AND DISPOSAL:**

Records are retained in current files until close of fiscal year in which receivable is cleared. At year end, files are stored for 6 years and subsequently destroyed by shredding.

**SYSTEM MANAGER(S) AND ADDRESS:**

Commander, Army and Air Force Exchange Service, Dallas, TX 75222.

**NOTIFICATION PROCEDURE:**

Information may be obtained from the System Manager, ATTN: General Accounting Branch, Comptroller Division; telephone: 214/330–2631.

**RECORD ACCESS PROCEDURES:**

Requests from individuals should be addressed to HQ AAFES, ATTN: CM–G, Dallas, TX 75222 and contain the full name of the individual, current address and telephone number, AAFES activity at which the receivable was established, and date of transaction.

**CONTESTING RECORD PROCEDURES:**

The Army's rules for access to records and for contesting contents and appealing initial determinations are contained in Army Regulation 340–21 (32 CFR Part 505).

**RECORD SOURCE CATEGORIES:**

From the customer; from correspondence between AAFES and vendors.

**SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

None.

**AO301.08bDACA**

**SYSTEM NAME:**

Contractor Indebtedness Files.

**SYSTEM LOCATION:**

Primary: US Army Finance and Accounting Center, Ft Benjamin Harrison, IN 46249.

Secondary: All Army installations and commands, and Defense Contract Administration Services Regions that administer contracts for the Department of the Army.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Contractors, as individuals, determined indebted to the United States Government.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Correspondence between contracting officer, administrative contracting officer and/or the US Army Finance and Accounting Center and the contractor, that terminates contract, demands payment and establishes debt, and any other related papers.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

Federal Claims Collection Act of 1966; 80 Stat. 308; 31 U.S.C., sections 951–953.

**PURPOSE:**

To initiate collection action against a contractor who is determined to be indebted to the United States, to determine whether judicial proceedings should be initiated against the contractor and to maintain and distribute a list of contractors determined to be indebted to the United States.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

List of contractors determined to be indebted to the U.S. Government is furnished to all Government agencies for administrative offset prior to payment on contract.

**DISCLOSURE TO CONSUMER REPORTING AGENCIES:**

Disclosures pursuant to 5 U.S.C. 552a(b)(12). Disclosures pursuant to 5 U.S.C. 552a(b)(12) may be made to "consumer reporting agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)) when an individual is responsible for a debt to the US Army, provided the debt has been validated, is overdue, and the debtor has been advised of the disclosure and his rights to dispute, appeal or review the claim; and/or whenever a financial status report is requested for use in the administration of the Federal Claims Collection Act. Claims of the United States may be compromised, terminated or suspended when warranted by information collected.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Paper records in file folders, stored in steel filing cabinets.

**RETRIEVABILITY:**

By individual's surname.

**SAFEGUARDS:**

Records are accessible only by authorized personnel and are locked after duty hours. Building employs security guards.

**RETENTION AND DISPOSAL:**

Files are permanent. They are retained in active file until end of calendar year in which final action is taken, held 2 years after file is closed, then transferred to the Washington National Records Center. Copies of files that are sent to the General Accounting Office for determination of judicial proceedings or further collection action are retained in the US Army Finance and Accounting Center until notification is received that the file has been closed.

**SYSTEM MANAGER(S) AND ADDRESS:**

Commander, US Army Finance and Accounting Center, Indianapolis, IN 46249.

**NOTIFICATION PROCEDURES:**

Individuals desiring to know whether this system of records contains information about them should contact the System Manager, ATTN: FINCP–F, furnishing full name and the contract number concerned.

**RECORD ACCESS PROCEDURES:**

Individuals seeking access to records in this system should submit a written request as indicated in "Notification procedure" and furnish information required therein.

**CONTESTING RECORD PROCEDURES:**

The Army's rules for access to records and for contesting contents and appealing initial determinations are contained in Army Regulation 340–21 (32 CFR Part 505).

**RECORD SOURCE CATEGORIES:**

From the individual; contracting offices.

**SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

None

**AO305.10cDACA**

**SYSTEM NAME:**

Joint Uniform Military Pay System—Army—Retired Pay.

**SYSTEM LOCATION:**

US Army Finance and Accounting Center, Indianapolis, IN 46249.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Retired Army members, beneficiaries of deceased retired Army members.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Individual retired military pay records, correspondence with individuals concerning their retired pay accounts, all documents substantiating entitlement to retired pay.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

10 U.S.C., section 1401.

**PURPOSE:**

To establish and compute pay of retirees and their beneficiaries, to produce permanent records of transactions, and to prepare financial, budgetary and actuarial reports.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

Information may be disclosed to:

Veterans Administration: To record the collection of premiums for National Service Life Insurance.

States and Cities: To verify tax liability against retiree's state and city income tax returns.

American Red Cross: To assist military personnel and their dependents in determining status of monthly pay, dependents' allotments, loans, and related financial transactions.

Military banking facilities: Information as to current military addresses and assignments may be provided to military banking facilities who provide banking services overseas and who are reimbursed by the Government for certain checking and loan losses. For personnel separated, discharged or retired from the Armed Forces, information as to last known residential or home of record address may be provided to the military banking facility upon certification by a banking facility officer that the facility has a returned or dishonored check negotiated by the individual or the individual has defaulted on a loan that, if restitution is not made by the individual, the U.S. Government will be liable for the losses the facility may incur.

**DISCLOSURE TO CONSUMER REPORTING AGENCIES:**

*Disclosure pursuant to 5 U.S.C. 552a(b)(12).* Disclosure pursuant to 5 U.S.C. 552a(b)(12) may be made from this system to 'consumer reporting agencies' as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Paper records in file folders, computer magnetic tape, and microfiche.

**RETRIEVABILITY:**

By SSN and name.

**SAFEGUARDS:**

The US Army Finance and Accounting Center employes security guards. An employee badge and visitor registration system is in use. Records are maintained in areas accessible only to authorized personnel who are properly screened, cleared and trained. Access to computer magnetic tape files is restricted to Director, Retired Pay Operations. Computer equipment and files are in separate secured area.

**RETENTION AND DISPOSAL:**

Individual retired military pay records are converted to microfiche and retained for 56 years; destruction is by shredding. The retention period for other records vary according to category of record but total retention periods do not exceed 56 years after termination of the account. (Account is terminated by either death of retiree, or if the retiree has designated annuitants under the Retired Servicemen's Family Protection Plan or the Survivor Benefit Plan, the subsequent death or ineligibility of the annuitant.) Records are destroyed at the end of the 56 year retention period.

**SYSTEM MANAGER(S) AND ADDRESS:**

Commander, US Army Finance and Accounting Center, Indianapolis, IN 46249.

**NOTIFICATION PROCEDURE:**

Information may be obtained from the System Manager or by calling 317/542–3911.

**RECORD ACCESS PROCEDURES:**

Individuals may request access to records in this system pertaining to them by writing to the Commander, US Army Finance and Accounting Center, ATTN: Department 90, Indianapolis, IN 46249. Individual should provide full name, SSN of retiree, and signature. Visits are limited to the Inquiries Office, US Army Finance and Accounting Center, Room 122G, Building 1, Indianapolis, IN.

**CONTESTING RECORD PROCEDURES:**

The Army's rules for access to records and for contesting contents and appealing initial determinations are contained in Army Regulation 340–21 (32 CFR Part 505).

**RECORD SOURCE CATEGORIES:**

From Department of Defense agencies, the Veterans Administration, Social Security Administration, Department of the Treasury, financial institutions and insurance companies.

**SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

None.

**A0708.02aDAPC**

**SYSTEM NAME:**

Official Military Personnel File

**SYSTEM LOCATION:**

Primary: Personnel Information Systems Directorate, US Army Military Personnel Center (MILPERCEN), 200 Stovall Street, Alexandria, VA 22332.

Secondary: US Army Enlisted Records and Evaluation Center; US Army Reserve Components Personnel and Administration Center; and National Personnel Records Center, General Services Administration.

An automated index is at the US Army Reserve Components Personnel and Administrative Center showing physical location of the Official Military Personnel File of retired and separated service members.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Each individual on active duty in the US Army in enlisted, appointed, or commissioned status; and each individual who was an enlisted, appointed, or commissioned member of the US Army and who was completely separated by discharge, death, or other termination of his/her military status.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Records include enlistment contract; Veterans Administration benefits forms; physical evaluation board proceedings; military occupational specialty data; statement of service; qualification record; group life insurance election; emergency data; application for appointment; qualification/evaluation reports; oath of office; medical examination; security questionnaire; application for retired pay; application for correction of military records; application for active duty; transfer or discharge report; active duty report; voluntary reduction; line of duty and misconduct determinations; discharge or separation reviews; police record checks; consent/declaration of parent/guardian; Army ROTC supplemental agreement; award recommendations; academic reports; casualty reports; U.S. field medical card; retirement points; deferment; pre-induction processing and

commissioning data; transcripts of military records summary sheets; review of conscientious objector; election of options; oath of enlistment extensions; survivor benefit plans; efficiency reports; records of proceeding, Title 10 U.S.C., section 815 appellate actions; determinations of moral eligibility; waiver of disqualifications; temporary disability records; change of name; statements for enlistment; acknowledgments of service requirements; retired benefits; application for review of physical evaluation board and disability board; appointments; designations; evaluations extensions; birth certificate; photographs; citizenship statements and status; educational constructive credit/transcripts; flight status board reviews; assignment agreements/limitations/waivers/election; efficiency appeals; promotion/reduction recommendations/approvals; declinations/announcements/notifications reconsiderations/worksheets/elections/letters of notification to deferred officers and promotion passover notifications; absence without leave and desertion records; FPI reports; SSA correspondence; miscellaneous correspondence, documents, and military orders relating to military service including information pertaining to dependents; inter-service action, in-service details, determinations, reliefs, components; awards, pay entitlements, releases, transfers, and other military service data.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

5 U.S.C., section 301.

**PURPOSE:**

These records are created and maintained to: (a) Manage the member's Army service effectively, (b) document historically a member's military service, and (c) safeguard the rights of the member and the Army.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

Department of State: To issue passport/visa, to document persona non grata status, attache 1 assignments, and related administration of personnel assigned and performing duty with the Department of State.

Department of Treasury: To issue bonds; to collect and record income taxes.

Department of Justice: To file fingerprints; to perform investigative functions.

Department of Agriculture: To coordinate matters related to its advance education program.

Department of Labor: To accomplish actions required under Federal Employees Compensation Act.

Department of Health and Human Services: To provide services authorized by medical, health, and related functions pursuant to 10 U.S.C. sections 1074–1079.

Nuclear Regulatory Commission: To accomplish requirements incident to nuclear accident/incident control officer functions.

American Red Cross: To accomplish coordination and service functions including blood donor programs and emergency investigative support and notification.

Civil Aeronautics Board: To accomplish flight qualifications, certification, and licensing actions.

Federal Aviation Agency: To determine rating and certification (including medical) of in-service aviators.

General Services Administration: To records storage and archival services and for printing of directories and related material including personal data.

US Postal Service: To accomplish postal service authorization involving postal officers and mail clerks.

Veterans Administration: To provide information relating to service, benefits, pensions, in-service loans, insurance, and appropriate hospital support.

Bureau of Immigration and Naturalization: To comply with statutes relating to alien registration and annual residence location.

Office of the President to the United States: To exchange required information relating to White House Fellows, regular Army promotions, aides, and related support functions staffed by Army members.

Federal Maritime Commission: To obtain license for military members accredited as captain, mate, and harbor master for duty as Transportation Corps warrant officer.

Each of the several States and US possessions: To support State bonus applications; to fulfill income tax requirements appropriate to service member's home of record; to record name changes in status bureaus of vital statistics; and for National Guard affairs.

Civilian educational and training institutions: To accomplish student registration, tuition support, tests, and related requirements incident to in-service education programs in compliance with 10 U.S.C., Chapters 102 and 103.

Social Security Adminsitration: To obtain or verify Social Security Account Number; to transmit Federal Insurance Compensation Act deductions from member's wages.

Department of Transportation: To coordinate and exchange necessary information pertaining to inter-service relationships between US Coast Guard and US Army when service members perform duty with the USCG.

Civil authorities: For compliance with 10 U.S.C., section 814.

Federal Emergency Management Agency: To facilitate participation of Army members in civil defense planning, training, and emergency operations pursuant to the military support of civil defense as prescribed by DOD Directive 3025.10 and Army Regulation 500–70.

Director of Selective Service System: Report of Non-Registration at time of separation processing, of individuals who decline to register with Selective Service System; such report will contain name of individual, date of birth, SSN, and mailing address at time of separation.

U.S. Information Agency: To investigate applicants for sensitive positions pursuant to Executive Order 10450.

Military banking facilities: Information as to current miltiary addresses and assignments may be provided to military banking facilities who provide banking service overseas and who are reimbursed by the Government for certain checking and loan losses. For personnel separated, discharged or retired from the Armed Forces, information as to last known residential or home of record address may be provided to the military banking facility upon certification by a banking facility officer that the facility has a returned or dishonored check negotiated by the individual or the individual has defaulted on a loan that, if restitution is not made by the individual, the U.S. Government will be liable for the losses the facility may incur.

Note.—Record of the identity, diagnosis, prognosis, or treatment of any client/patient, irrespective of whether or when he/she ceases to be a client/patient, maintained in connection with the alcohol or drug abuse prevention and treatment function conducted, regulated, or directly or indirectly assisted by any department or agency of the United States shall, except as provided therein, be confidential and be disclosed only for the purposes and under the circumstances expressly authorized in 21 U.S.C., section 1175 and 42 U.S.C., section 4582. These statutes take precedence over the Privacy Act of 1974, as amended, in regard to accessibility of such records except to the individual about whom the record pertains. Blanket "routine uses" identified at 48 FR 25503 June 6, 1983, do not apply to these records.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Microfiche stored randomly in electro-mechanical storage/retrieval devices. Temporary files consist of paper records in file folders; selected data automated for management purposes on tapes, discs, card, and other computer media.

**RETRIEVABILITY:**

By surname; automated data retrieved by name, SSN or ADP parameter; records of reserve, retired, and deceased persons retrieved by SSN terminal digit sequence.

**SAFEGUARDS:**

Records are maintained in areas accessible only to authorized personnel; automated records are further protected by authorized password system for access terminals, controlled access to operations locations, and controlled output distribution.

**RETENTION AND DISPOSAL:**

Microfiche and paper records are permanent; retained in active file until termination of service, following which they are retired to the US Army Reserve Components Personnel and Administration Center, St. Louis, MO 63132.

**SYSTEM MANAGER(S) AND ADDRESS:**

Commander, US Army Military Personnel Center, 200 Stovall Street, Alexandria, VA 22332.

**NOTIFICATION PROCEDURE:**

Inquiries for records of commissioned or warrant officers (including members of Reserve Components serving on active duty) should be sent to the System Manager.

Inquiries for records of enlisted members (including members of Reserve Components serving on active duty) should be sent to Commander, US Army Enlisted Records and Evaluation Center, Ft Benjamin Harrison, IN 46249.

Inquiries for records of commissioned officers or warrant officers in a reserve status not on active duty, or Army enlisted reservists not on active duty, or members of the National Guard who performed active duty, or commissioned officers, warrant officers, or enlisted members in a retired status should be sent to: Commander, US Army Reserve Components Personnel and Administration Center, 9700 Page Boulevard, St Louis, MO 63132.

Inquiries for records of commissioned officers and warrant officers who were completely separated from the service after June 30, 1917, or enlisted members who were completely separated after October 31, 1912 should be sent to: Chief, National Personnel Records Center, GSA, 9700 Page Boulevard, St Louis, MO 63132.

**RECORD ACCESS PROCEDURES:**

Individuals desiring access to their record must provide full names, service identification number/SSN, military status, and mailing address.

**CONTESTING RECORD PROCEDURES:**

The Army's rules for access to records and for contesting contents and appealing initial determinations are contained in Army Regulation 340–21 (32 CFR Part 505).

**RECORD SOURCE CATEGORIES:**

From the individual; correspondence, forms, records, documents, and other relevant papers in Department of the Army, other Federal agencies, and/or State and local governmental entities; civilian education and training institutions; and members of the public when information is relevant to the service number.

**SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

None.

**AO708.03aDAPE**

**SYSTEM NAME:**

Special Review Board Appeal Case Summary File

**SYSTEM LOCATION:**

Office of the Deputy Chief of Staff for Personnel, Special Review Board (SRB), The Pentagon, Washington, DC 20310.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Army officer personnel who have submitted substantive, as opposed to administrative, appeal of officer Evaluation Reports, Academic Evaluation Reports, and cases referred for promotion reconsideration.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Identification data on individual, date of appeal, dates of contested OER/AER period, and supporting documentation; promotion reconsideration referrals including information provided by promotion board and relevant documents from individual's Official Military Personnel File; names of voting SRB members, names of persons contacted by SRE, summary of evidence considered, discussion, recommendations, conclusions, final determination of appeal, and disposition.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

10 U.S.C., section 3012.

**PURPOSE:**

To review and adjudicate appeals of Officer Evaluation Reports, Academic Ratings, and promotion board reconsideration cases.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

See blanket routine uses at 48 FR 25503, June 6, 1983.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Paper records in folders.

**RETRIEVABILITY:**

By individual's surname.

**SAFEGUARDS:**

Records are maintained in areas accessible only to designated authorized persons in buildings which employ security guards.

**RETENTION AND DISPOSAL:**

Records are retained by SRB for 20 years; then destroyed by shredding.

**SYSTEM MANAGER(S) AND ADDRESS:**

Deputy Chief of Staff for Personnel, Headquarters, Department of the Army, The Pentagon, Washington, DC 20310.

**NOTIFICATION PROCEDURE:**

Information may be obtained from the System Manager, ATTN: DAPE–MPD–CD; telephone: 202/697–7619.

**RECORD ACCESS PROCEDURES:**

Individuals desiring access to records pertaining to them should write to the System Manager, ATTN: DAPE–MPD–CD, Room 2C–749, The Pentagon, Washington, DC 20310, furnishing full name, current address and telephone number. For personal visits, individual must provide acceptable identification such as military identification card.

**CONTESTING RECORD PROCEDURES:**

The Army's rules for contesting contents and appealing initial determinations are contained in Army Regulations 340–21 (32 CFR Part 505).

**RECORD SOURCE CATEGORIES:**

From the individual; relevant Army records and reports.

**SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

None.

**A0912.04DASG**

**SYSTEM NAME:**

Medical Staff Credentials File

**SYSTEM LOCATION:**

Medical treatment facilities at Army activities, installations, and commands.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Individuals performing clinical practice in medical treatment facilities.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Documents reflecting delineation of clinical privileges and clinical performance.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

5 U.S.C., section 301; 10 U.S.C., section 1071.

**PURPOSE:**

To determine and assess capability of practitioner's clinical practice.

**ROUTINE USES OF RECORD'S MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

Clinical privilege information may be released to civilian and military medical facilities, Federation of State Medical Board of the U.S. State Licensure Authorities, and other appropriate professional regulating bodies.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORD'S IN THE SYSTEM:**

**STORAGE:**

Paper records in file folders.

**RETRIEVABILITY:**

By individual's surname.

**SAFEGUARDS:**

Records are maintained in areas accessible only to the medical treatment facility commander and credentials committee members.

**RETENTION AND DISPOSAL:**

Retained in medical treatment facility of individual's last assignment. Records of military members are transferred to the Military Personnel Records Jacket upon separation or retirement. Records on civilian personnel are destroyed 5 years after employment terminates.

**SYSTEM MANAGER(S) AND ADDRESS:**

The Surgeon General, Headquarters, Department of the Army, The Pentagon, Washington, DC 20310.

**NOTIFICATION PROCEDURE:**

Information may be requested from the commander of the medical treatment facility where clinical service was performed.

**RECORD ACCESS PROCEDURES:**

Individuals should contact the commander of the medical treatment facility where clinical service was provided, furnishing full name, SSN, and signature.

**CONTESTING RECORD PROCEDURES:**

The Army's rules for access to records and for contesting contents and appealing initial determinations are contained in Army Regulation 340–21 (32 CFR Part 505).

**RECORD SOURCE CATEGORIES:**

Interviewer, individual's application, medical audit results, other administrative or investigative records obtained from civilian or military sources.

**SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

None.

**A0917.09aDAPE**

**SYSTEM NAME:**

Alcohol and Drug Abuse Rehabilitation Files

**SYSTEM LOCATION:**

Primary: Alcohol and Drug Abuse Prevention and Control Program (ADAPCT) rehabilitation/counseling facilities (e.g., Community Counseling Centers/ADAPCP Counseling Facilities) at Army installations and activities.

Secondary: U.S. Army Safety Center (PESC-D), Ft Rucker, AL 36362.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Any individual (military, civilian, family member) who is eligible for care, is referred to and enrolled in the ADAPCP for rehabilitation, pursuant to Army Regulation 600–85.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Primary: Copies of client intake records, progress reports, psychosocial histories, counselor observations and impressions of client's behavior and rehabilitation progress, copies of medical consultation and laboratory procedures performed, results of biochemical urinalysis for alcobol/drug abuse, and similar of related documents.

**SECONDARY:**

Copies of client in-take records, progress reports, and demographic composites thererof.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

Act of September 28, 1971, Pub. L. 92–129, Title V, Section 501, 85 Stat. 381 (reprinted in 10 U.S.C. section 1071 note (1976)); Section 413, Pub. L. 92–255.

**PURPOSE:**

To identify alcohol and other drug abusers and either restores such persons to effective duty or identify rehabilitation failures for separation from Government service. At the primary location, information is used to treat, counsel, and rehabilitate individuals who participate in the Alcohol and Drug Abuse Prevention and Control Program. At the secondary location, client in-take and progress reports are used to provide essential management and statistical information.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

Information in this system of records is exempt from the blanket routine uses identified at 48 FR 25503, June 6, 1983. Information is disclosable only to the following persons/agencies:

To health care components of the Veterans Administration.

To qualified personnel conducting scientific research, or audits, or program evaluations, provided that a patient may not be identified in such reports, or his or her identity further disclosed by such personnel.

In response to a court order based on the showing of good cause in which the need for disclosure and the public's interest is shown to exceed the potential harm that would be incurred by the patient, the physician-patient relationship, and the Army's treatment program.

Note.—Records of identity, diagnosis, prognosis or treatment of any client/patient, irrespective of whether or when he/she ceases to be a client/patient, maintained in connection with the performance of any alcohol or drug abuse prevention and treatment function conducted, regulated, or directly or indirectly assisted by any department or agency of the United States, shall, except as provided therein, be confidential and be disclosed only for the purposes and under the circumstances expressly authorized in 21 U.S.C., section 1175, as amended by 88 Stat. 137 and 42 U.S.C. 4582, as amended by 88 Stat. 131. These statutes are controlling and supersede the Privacy Act of 1974, as amended, to the extent that disclosure is more limited. However, access to the record by the individual to whom the record pertains is governed by the Privacy Act.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Primary: Paper records in the file folders at Alcohol and Drug Abuse Prevention and Control Program facilities are maintained for 1 year

following termination of treatment or referral (if not enrolled). Seleced forms are transferred to individual's health record.

Secondary: Paper records (client intake and progress reports) are stored in locked file cabinets. Computer data are entered on line at the US Army Drug and Alcohol Technical Activity, Falls Church, VA 22041 and transferred to magnetic disc or tape at US Army Safety Center, Ft Rucker.

**RETRIEVABILITY:**

Primary: Alphabetically by individual's surname.

Secondary: By client's SSN or ID code, date and installation where individual was in the Alcohol and Drug Abuse Prevention and Control Program.

**SAFEGUARDS:**

Primary: Records are maintained in central storage areas in locked file cabinet where access is restricted to authorized persons having an official need to know.

Secondary: Manual records are stored in locked file cabinets. Automated records are maintained in random access mode in controlled access areas. Primary records on magnetic disc are stored with the computer in a secure vault separated from the primary computer. Data are processed in batch mode and are subjected to standard executive and system control programs plus the audit/edit and data base management system designed by the U.S. Army Safety Center.

**RETENTION AND DISPOSAL:**

Primary: Records are destroyed 1 year after termination of the patient's treatment unless the Army Medical Department Activity/Facility commander authorized retention for an additional 6 months.

Secondary: Manual records are retained up to 18 months or until information taken therefrom and entered into computer is transferred to the "history" file, whichever is sooner. Disposal of manual records is by burning or shredding. Computer records are retained permanently for historical and/or research purposes.

**SYSTEM MANAGER(S) AND ADDRESS:**

The Deputy Chief of Staff for Personnel, Headquarters, Department of the Army, The Pentagon, Washington, DC 20310.

**NOTIFICATION PROCEDURE:**

Individuals wishing to know whether this system contains information about them should contact either the commander of the medical center/medical department activity where treatment was obtained, or the US Army Drug and Alcohol Technical Activity, Room 323, Nassif Building, Falls Church, VA 22041. Individuals should furnish their full name, date of birth, SSN, current address and telephone number, and signature.

**RECORD ACCESS PROCEDURES:**

Individuals seeking access to their records should contact the appropriate official as specified in the "Notification procedure" section, furnishing information required by that section.

**CONTESTING RECORD PROCEDURES:**

The Army's rules for access to records and for contesting contents and appealing initial determinations are contained in Army Regulation 340–21 (32 CFR Part 505). Denial to amend records in this system can be made only by The Deputy Chief of Staff for Personnel, in coordination with The Surgeon General.

**RECORD SOURCE CATEGORIES:**

From the individual by interviews and history statements; abstracts or copies of pertinent medical records; abstracts from personnel records; results of tests; physicians' notes, observations of client's behavior; related notes, papers, and forms from counselor, clinical director, and/or commander.

**SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

None.

## Army Service Board; Meeting Change

The following change has occurred for the meeting of the Army Science Board Personnel Factors in Weapons System Performance Subpanel of the 1984 Summer Study on Leading and Manning Army 21, which was originally announced in the **Federal Register** issue of Friday, 17 February 1984 (49 FR150), FR Doc 84–4417:

Dates of meeting: Thursday, 15 March 1984 (instead of Thursday and Friday, 15 and 16 March 1984).

**Sally A. Warner,**

*Adminstrative Officer.*

[FR Doc. 84–6435 Filed 3–6–84; 8:45 am]

BILLING CODE 3710–08–M

# DEPARTMENT OF EDUCATION

## Office of Special Education and Rehabilitative Services

## Training Personnel for the Education of the Handicapped Program

*Correction*

In FR Doc. 84–4112, beginning on page 5814, in the issue of Wednesday, February 15, 1984, on page 5816, in the first column, in the **"FOR FURTHER INFORMATION CONTACT"** paragraph, in the last line, the telephone number should read "(202) 245–0055."

BILLING CODE 1505–01–M

# DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

**[Docket No. ER84–290–000]**

## Arizona Public Service Co.; Filing

March 6, 1984.

Take notice that on February 23, 1984, Arizona Public Service Company (Arizona) tendered for filing Amendment No. 3 (Agreement) to Service Schedule D of its Power Coordination Agreement (PCA) between Arizona and Plains Electric Generation & Transmission Cooperative, Inc. (Plains), executed by the parties on January 18, 1984.

Arizona states that this Agreement proposes to eliminate the Wagon Wheel, Apache, and Pinetop Lakes Points of Delivery from Service Schedule D (Transmission Service) of the PCA, and to consolidate the sum of the Contract Demands previously allocated to these three Points of Delivery at the Show Low Point of Delivery.

Arizona further states that this Agreement became effective concurrent with the title transfer date under a proposed sale of certain electrical facilities from Arizona to the Navopache Electrical Coperative, Inc. (Docket No. EC84–9–000). If this date shall occur less than sixty days or more than one hundred and twenty days from the date of filing of this Agreement, Arizona hereby requests that the notice requirements be waived pursuant to 18 CFR 35.3 and 18 CFR 35.11.

Copies of this filing have been served upon Plains and the Arizona Corporation Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before March 20, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to

intervene. Copies of this filing are on file with the Commission and are available for public inspection.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 84-6455 Filed 3-8-84; 8:45 am]

BILLING CODE 6717-01-M

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**[Docket No. ER84-295-000]**

## Arizona Public Service Co.; Filing

March 6, 1984.

The filing Company submits the following:

Take notice that on February 27, 1984, Arizona Public Service Company (Arizona) tendered for filing as an initial rate schedule an Interruptible Transmission Service Agreement between Arizona and El Paso Electric Company (El Paso), dated February 6, 1984.

Arizona requests that the Agreement become effective 60 days from the date of filing.

Copies of this filing have been served upon the Arizona Corporation Commission and El Paso Electric Company.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before March 20, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 84-6456 Filed 3-8-84; 8:45 am]

BILLING CODE 6717-01-M

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**[Docket No. ER84-291-000]**

## Central Hudson Gas & Electric Corp.; Filing

March 6, 1984.

The filing Company submits the following:

Take notice that on February 23, 1984, Central Hudson Gas & Electric Corporation (Central Hudson) tendered for filing as a supplement to its Rate Schedule FPC No. 22 a letter of agreement and notification dated February 9, 1984 between Central Hudson and New York State Electric and Gas Corporation. Central Hudson states that this letter provides for a decrease in the monthly facilities charge from $7,282.25 to $7,121.23 in accordance with Article IV.1. of its Rate Schedule FPC No. 22, an increase in the monthly transmission charge from $4,431.73 to 6,090.89 in accordance with Articles V. and VI. of its Rate Schedule FPC No 22 and an increase in the annual operation and maintenance charge from $2,825.32 to $2,994.84 in accordance with Article IV.2. of its Rate Schedule FPC No. 22.

Central Hudson requests an effective date of January 1, 1984, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing have been served upon New York State Electric and Gas Corporation.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before March 20, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 84-6457 Filed 3-8-84; 8:45 am]

BILLING CODE 6717-01-M

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**[Docket No. ER84-293-000]**

## Dayton Power & Light Co.; Filing

March 6, 1984.

The filing Company submits the following:

Take notice that on February 27, 1984, Dayton Power and Light Company (Dayton) tendered for filing a proposed revision to its Rate Schedule FERC No. 34 (City of Piqua, Ohio). The proposed revision is to recognize the additional temporary increase of 0.5% and a temporary surtax of approximately 0.03% in the excise tax on gross receipts imposed by the Ohio Legislature in House Bill No. 100, and an 0.5% increase in the permanent tax under Ohio Revised Code sections 5727.38 and 5721.81 imposed by the Ohio Legislature in House Bill 291. The proposed revision is pursuant to the Tax Adjustment Clauses in Dayton's FERC Electric Tariffs and is limited to the recovery of the tax increases.

Dayton requests an effective date of May 1, 1984, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should filed a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before March 20, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 84-6458 Filed 3-8-84; 8:45 am]

BILLING CODE 6717-01-M

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**[Docket No. ER84-297-000]**

## Dayton Power & Light Co.; Filing

March 6, 1984.

The filing Company submits the following:

Take notice that on February 27, 1984, Dayton Power & Light Company (Dayton) tendered for filing a proposed revision to its FERC Electric Tariffs, Original Volume No. 1 and Original Volume No. 2. The proposed revision is to recognize the additional temporary increase of 0.5% and a temporary surtax of approximately 0.03% in the excise tax on gross receipts imposed by the Ohio Legislature in House Bill No. 100, and an 0.5% increase in the permanent tax under Ohio Revised Code sections 5727.38 and 5721.81 imposed by the Ohio Legislature in House Bill 291. The proposed revision is pursuant to the Tax Adjustment Clauses in Dayton's FERC Electric Tariffs and is limited to the recovery of the tax increases.

Dayton requests an effective date of May 1, 1984, and therefore requests waiver to the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington,

D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before March 20, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 84-6459 Filed 3-8-84; 8:45 am]

BILLING CODE 6717-01-M

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**[Docket No. CP84-236-000]**

## El Paso Natural Gas Co.; Request Under Blanket Authorization

March 6, 1984

Take notice that on February 9, 1984, El Paso Natural Gas Company (El Paso), Post Office Box 1492, El Paso, Texas 79978, filed in Docket No. CP84-236-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that El Paso proposes to construct and operate a sales tap and valve assembly in Lamb County, Texas, in order to permit the delivery of natural gas to Westar Transmission Company (Westar) for resale to Mr. Stan Simon under the authorization issued in Docket No. CP82-435-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

El Paso proposes to install one 2⅜-inch sales tap and valve assembly at a point on its existing 24-inch Dumas pipeline in Lamb County, Texas, for the sale of gas to Westar for further resale to Mr. Stan Simon. It is stated that the gas would be utilized as fuel for pumping water from four wells in the area for irrigation purposes, annually, from April through August. Maximum peak day and annual requirements are estimated to be 96 Mcf and 14,400 Mcf, respectively. El Paso estimates the cost of facilities to be $7,530, which would be paid from internally generated funds.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for a filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 84-6460 Filed 3-8-84; 8:45 am]

BILLING CODE 6717-01-M

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**[Docket No. ID-2097-000]**

## Frank A. Metz, Jr.; Application

March 6, 1984.

The filing individual submits the following:

Take notice that on February 18, 1984, Frank A. Metz, Jr. filed an application pursuant to section 305(b) of the Federal Power Act to hold the following positions:

Director—Monongahela Power Company
Director—The Potomac Edison Company
Director—West Penn Power Company.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR section 385.211, 385.214). All such motions or protests should be filed on or before March 20, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 84-6461 Filed 3-8-84; 8:45 am]

BILLING CODE 6717-01-M

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**[Docket No. ER84-292-000**

## Iowa Public Service Co., Filing

March 6, 1984.

The filing Company submits the following:

Take notice that on February 27, 1984, Iowa Public Service Company (Iowa) tendered for filing the First Amendment to the Interconnection Agreement with the Omaha Public Power District, dated August 11, 1983.

Iowa states that the First Amendment adopts the rates agreed upon for energy exchange between the parties and the compensation for transmission service provided by Iowa.

Iowa requests an effective date of January 1, 1983, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before March 20, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 84-6462 Filed 3-8-84; 8:45 am]

BILLING CODE 6717-01-M

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**[Docket No. ER83-420-000]**

## Northern State Power Co. (Wisconsin); Refund Report

March 6, 1984.

Take notice that on February 23, 1984 Northern States Power Company (Wisconsin) submitted for filing its Refund Report pursuant to the Commission order letter of January 19, 1984.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before March 15, 1984. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 84-6464 Filed 3-8-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP84-27-000]

## Northwest Central Pipeline Corp.; Application for Withdrawal of Tariff Filing Under Suspension

March 6, 1984.

Take notice that on February 28, 1984, Northwest Central Pipeline Corporation (Northwest Central) filed an application for withdrawal of its proposed increased rates suspended until May 31, 1984, in Docket No. RP84-27-000. The suspended tariff sheets proposed to be withdrawn are Fourth Revised Sheet No. 6; First Revised Sheet Nos. 77 through 80 and Second Revised Sheet No. 81 to Original Volume No. 1 and, Alternate First Revised Sheet No. 2A, Alternate Second Revised Sheet No. 2B, Original Sheet No. 2C, and Second Revised Sheet Nos. 91 and 219 to Original Volume No. 2 of its FERC Gas Tariff.

Northwest Central states that significant changes have occurred since its original filing in this proceeding, including a considerable reduction in its current estimate of take-or-pay payments to be made during the test period, a reorganization of the Company which is expected to reduce the estimated increases in Northwest Central's future overall operation and maintenance expenses, stabilization of the Company's sales volumes which have been declining significantly, and an agreement for lower depreciation rates to be effective during the period which is included in a Stipulation and Agreement filed for approval in the Company's underlying rate case in Docket No. RP82-14-000.

Northwest Central states that in view of the foregoing, the rate increase in Docket No. RP84-27-000 is no longer required and its prosecution is no longer in the public interest, and that it has therefore applied for withdrawal of the rate increase in Docket No. RP84-27-000.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before March 15, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 84-6465 Filed 3-8-84; 8:45 am]

BILLING CODE 6717-01-M

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[Docket No. ER84-38-001]

## Otter Tail Power Co.; Compliance Filing

March 6, 1984.

Take notice that on February 21, 1984, Otter Tail Power Company submitted for filing its Compliance Report pursuant to a Commission Order dated December 13, 1983.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before March 15, 1984. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 84-6466 Filed 3-8-84; 8:45 am]

BILLING CODE 6717-01-M

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[Docket No. TA84-2-62-000]

## Pacific Offshore Pipeline Co.; Proposed Changes in FERC Gas Tariff Pursuant to Purchased Gas Cost Adjustment Provision

March 6, 1984.

Take notice that Pacific Offshore Pipeline Company (Pacific Offshore) on February 29, 1984, tendered for filing as part of its FERC Gas Tariff, original Volume No. 1, the following sheets: First Revised Sheet No. 4.

Pacific Offshore states that this tariff sheet is issued pursuant to Pacific Offshore's Purchase Gas Cost Adjustment (PGCA) Provisions as set forth in section 14 of the General Terms and Conditions of its FERC Gas Tariff, Original Volume No. 1. The proposed effective date of this tendered tariff sheet and the rates thereon is April 1, 1984.

Pacific Offshore also states that the above-tendered tariff sheet reflects a proposed April 1, 1984 Pacific Offshore Rate Schedule G-1 commodity rate of $1.935 per decatherm, an increase of $.332 per decatherm from the $1.603 per decatherm rate effective December 28, 1983, the date of the initial commodity rate, and that such increase reflects a current Gas Cost Adjustment and a change in the Surcharge Adjustment.

Pacific Offshore states that the Current Gas Cost Adjustment is based on an annualized gas cost increase of $542,520 and that the Surcharge Adjustment is designed to recover over a six-month period beginning April 1, 1984 an amount of $5,074.34, which is the amount of Pacific Offshore's Unrecovered Purchased Gas Cost account at December 31, 1983.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before March 15, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 84-6467 Filed 3-8-84; 8:45 am]

BILLING CODE 6717-01-M

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[Docket No. ER81-620-002]

## Public Service Co. of New Hampshire; Refund Report

March 6, 1984.

Take notice that on February 21, 1984, Public Service Company of New Hampshire (PSNH) submitted for filing its Refund Report pursuant to Opinion No. 161, issued February 24, 1984.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before March 15, 1984. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 84-6468 Filed 3-8-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-294-000]

### Southern California Edison Co.; Filing

March 6, 1984.

The filing Company submits the following:

Take notice that on February 27, 1984, Southern California Edison Company (Edison) tendered for filing Amendment No. 1 to Edison-IID Salton Sea Geothermal Project Power Purchase and Sales Agreement (Amendment No. 1) between Edison and the Imperial Irrigation District (IID) (Rate Schedule FERC No. 156).

Edison requests an effective date of February 1, 1984, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing were served upon the Public Utilities Commission of the State of California and the Imperial Irrigation District.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before March 20, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 84-6469 Filed 3-8-84; 8:45 am]

BILLING CODE 6717-01-M

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[Docket No. TA84-2-41-000]

### Southwest Gas Corp.; Change in Rates Pursuant to Purchased Gas Cost Adjustment

March 6, 1984.

Take notice that SOUTHWEST GAS CORPORATION ("Southwest") on February 29, 1984 tendered for filing Twenty-second Revised Sheet No. 10 and Eighth Revised Sheet No. 10A pursuant to section 9, Purchased Gas Adjustment Clause ("PGAC"), of the General Terms and Conditions contained in its FERC Gas Tariff, Original Volume No. 1. The purpose of said filing is to reflect an increase in rates occasioned by an increase in rates from Southwest's northern Nevada sole supplier of gas, Northwest Pipeline Corporation, effective April 1, 1984. The proposed effective date for Southwest's proposed increase in rates is April 1, 1984.

Southwest states that a copy of this filing has been mailed to the Nevada Public Service Commission, the California Public Utilities Commission, Sierra Pacific Power Company and CP National.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before March 15, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 84-6470 Filed 3-8-84; 8:45 am]

BILLING CODE 6717-01-M

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[Docket No. QF84-188-000]

### Small Power Producers; Merc Sharp & Dohme Quimica de Puerto Rico, Inc.; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

March 6, 1984.

On February 24, 1984, Merck Sharp & Dohme Quimica de Puerto Rico, Inc., P.O. Box 601, Barceloneta, Puerto Rico 06617, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The combined cycle cogeneration facility is located in Barceloneta, Puerto Rico. Steam from the waste heat recovery boiler is used in manufacturing operations. The electric power production capacity of the facility is 2,650 kilowatts. The primary energy source is kerosene.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 84-6463 Filed 3-8-84; 8:45 am]

BILLING CODE 6717-01-M

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## Office of Hearings and Appeals

### Implementation of Special Refund Procedures

**AGENCY:** Office of Hearings and Appeals, Energy.

**ACTION:** Notice of Implementation of Special Refund Procedures and Solicitation of Comments.

**SUMMARY:** The Office of Hearings and Appeals of the Department of Energy solicits comments concerning the appropriate procedures to be followed in refunding $38,713,647 in consent order funds to members of the public. This money is being held in escrow following the settlement of enforcement proceedings brought by the Economic Regulatory Administration of the Department of Energy involving the 27 natural gas processing firms set forth below.

**DATE AND ADDRESS:** Comments must be filed within 30 days of publication of this notice in the **Federal Register** and should be addressed to the Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585. All comments should conspicuously display a reference to case numbers HEF-0275, *et al.*

**FOR FURTHER INFORMATION CONTACT:** Thomas L. Wieker, Deputy Director, Office of Hearings and Appeals, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-2390.

**SUPPLEMENTARY INFORMATION:** In accordance with Section 205.282(b) of the procedural regulations of the Department of Energy, 10 CFR 205.282(b), notice is hereby given of the issuance of the Proposed Decision and Order set out below. The Proposed Decision and Order relates to consent orders entered into by the DOE and the

27 natural gas processing firms set out in the Appendix below.

The Proposed Decision and Order sets forth the procedures and standards that the DOE has tentatively formulated to distribute the contents of escrow accounts funded by these natural gas processing firms pursuant to the consent orders. The DOE has tentatively decided that Applications for Refund should be accepted from firms and individuals that purchased natural gas liquids (NGLs) and natural gas liquid products (NGLPs) from any of the 27 named firms during the relevant consent order period set forth in the Appendix. The Proposed Decision and Order provides that in order to receive a portion of the settlement funds, a purchaser must furnish the DOE with evidence that it was injured by the allegedly unlawful prices for NGLs or NGLPs charged by the relevant gas processing firm. This evidence should include specific documentation concerning the date, place, price, and volume of product purchased, indicate whether the increased costs were absorbed by the claimant or passed through to other purchasers, and state the extent of any injury alleged to have been suffered. However, the Proposed Decision indicates that no specific showing of injury will be required of end users of the relevant product, or of firms which file refund claims based on average purchases of less than 50,000 gallons per month of NGLs or of any single NGLP. According to the Proposed Decision and Order, the amount of the refund will generally be a pro rata share of the fund made available by the natural gas processing firm.

Until a final Decision and Order is issued, no claims for refund can be accepted. Applications for Refund therefore should not be filed at this time. Appropriate public notice, including notice published in the **Federal Register**, will be given when the submission of claims is authorized. The dealine for filing such claims will be no less than 90 days from publication of such notice in the **Federal Register**.

Any member of the public may submit written comments regarding the proposed refund procedures. Commenting parties should submit two copies of their comments. Comments should be submitted within 30 days of publication of this notice in the **Federal Register**, and should be sent to the address set forth at the beginning of this notice. All comments received in this proceeding will be available for public inspection between the hours of 1:00 to 5:00 p.m., Monday through Friday, except federal holidays, in the Public Docket Room of the Office of Hearings and Appeals, located in Room 1E–234, 1000 Independence Avenue, SW., Washington, D.C. 20585.

Date: February 24, 1984.

**George B. Breznay,**

*Director, Office of Hearings and Appeals.*

February 24, 1984.

**Proposed Decision and Order of the Department of Energy—Special Refund Procedures**

*Names of Cases:* Texas Oil & Gas Corporation, *et al.*

*Date of Filing:* October 13, 1983.

*Case Numbers:* HEF–0275, *et al.*

Under the procedural regulations of the Department of Energy, the Economic Regulatory Administration (ERA) may request that the Office of Hearings and Appeals formulate and implement special procedures to make refunds, in order to remedy the effects of alleged violations of the DOE regulations. See 10 CFR Part 205, Subpart V.

In accordance with these regulatory provisions, the ERA filed a Petition for the Implementation of Special Refund Proceedings in connection with consent orders entered into with the 27 natural gas processing firms set forth in the exhibits to the Appendix to this Proposed Decision. An audit of the records of those firms revealed possible pricing violations with respect to their sales of natural gas liquids (NGLs) and natural gas liquid products (NGLPs) during the periods indicated in the exhibits.[1] In order to settle all claims and disputes with the DOE regarding their sales of NGLs and NGLPs during their respective audit periods, the firms entered into consent orders. The amount of funds made available by those firms that is subject to distribution in this proceeding is $38,713,647.

**Jurisdiction and Authority to Fashion Refund Procedures**

The procedural regulations of the DOE set forth general guidelines by which the Office of Hearings and Appeals may formulate and implement a plan of distribution for funds received as a result of an enforcement proceeding. 10 CFR Part 205, Subpart V. The Subpart V process may be used in situations where the DOE is unable to readily identify persons who may have been injured as a result of alleged regulatory violations resolved by a DOE consent order or remedial order or where the DOE is unable to readily ascertain the amount of each person's injuries. For a more detailed discussion of Subpart V and the authority of the Office of Hearings and Appeals to fashion procedures to distribute refunds obtained as part of settlement agreements, see *Office of Enforcement*, 9 DOE ¶ 82,553 (1982); *Office of Enforcement*, 9 DOE ¶ 82,553 (1982); *Office of Enforcement*, 9 DOE ¶ 82,508 (1981); *Office of Enforcement*, 8 DOE ¶ 82,597 (1981).

After reviewing the records developed in these cases, we have concluded that the implementation of a Subpart V proceeding is appropriate in this instance because there is a significant degree of difficulty in identifying and locating most of the persons who were injured by the alleged overcharges. Further, as a result of decontrol of petroleum products, price rollbacks are no longer an effective means of refunding money to purchasers who were overcharged in the past. See Exec. Order No. 12287, 46 FR 9909 (January 30, 1981).

**Proposed Refund Procedures**

In so far as possible the $38,713,647 in consent order funds should be distributed to customers of the named firms, as well as to customers of resellers which purchased from the named firms. Applicants must demonstrate that they have been injured by the alleged overcharges during the relevant period. To the extent that any individual or firm can establish that it was injured by the alleged overcharges, it will be entitled to receive a portion of the consent order funds.

In order to qualify for a refund, resellers must demonstrate that they were injured by the alleged overcharges. While there are a variety of ways in which such a showing may be made, resellers will generally be expected to show that they had banks of unrecovered costs and that they would have kept their prices for NGLs or NGLPs at the same level had the alleged overcharges not occurred. *Office of Enforcement*, 10 DOE ¶ 85,056 (1983); *Office of Enforcement*, 10 DOE ¶ 85,029 (1982); *Office of Enforcement*, 9 DOE ¶ 82,508 (1981).

With respect to purchasers who are ultimate consumers of the relevant product, we believe that in most cases a detailed showing of injury should not be necessary in order for a customer to qualify for a refund. Customers in this group might include, for example, businesses and individuals that purchased propane for heating purposes. In order to establish a claim, this type of purchaser need only demonstrate that it

[1] NGLPs include propane, butane, ethane and natural gasoline. In some instances a gas plant operator may have sold small quantities of other products, such as condensate. Those volumes are indicated in the exhibits to the attached Appendix. We will also consider Applications for Refund filed by purchasers of these other products.

purchased a specific quantity of product that was sold by one of the identified gas plant operators during the relevant time period.

Furthermore, the type of showing referred to above may also be too complicated and burdensome for resellers which purchased relatively small amounts of NGLs or NGLPs. For example, such firms may have limited accounting and data-retrieval capabilities and therefore be unable to produce the records necessary to prove the existence of banks of unrecovered costs, or that they did not pass on the alleged overcharges to their own customers. Therefore, any firm claiming a refund based on average purchases of less than 50,000 gallons of NGLs or of any single NGLP per month or less than 600,000 gallons per year of NGLs or any single NGLP from one of the natural gas processors identified below need not make a detailed showing of injury in order to be eligible to receive a refund based on alleged overcharges with respect to that product. Such applicants will only be required to submit proof of the amount of product purchased during the consent order period. See *Office of Enforcement*, 8 DOE ¶82,597 (1981).

**Calculation of Refund Amounts**

We must further determine the proper method for dividing the consent order funds provided by each firm among successful refund applicants. It may be difficult for applicants to measure precisely the extent of their injury. We have tentatively decided to generally follow the volumetric approach to determining the amount of the refund to which an applicant may be entitled. *Office of Special Counsel*, 9 DOE ¶82,545 (1982). Such an approach will permit a successful claimant to receive a pro rata share of the individual consent order fund made available by the gas plant operator listed in the Appendix from which that claimant purchased NGLs or NGLPs. The refund pool made available by each gas plant operator will therefore be divided as follows. We will multiply the number of gallons of product purchased by a qualified applicant by a factor using the total amount of the consent order fund provided by the individual gas plant operator as the numerator and using the relevant total sales in gallons of all products covered by the relevant consent order during the consent order period as the denominator. The volumetric amounts may later be adjusted in order to take into account additional information made available to us.

Further, a number of the audit files developed with respect to the natural gas processors involved in this proceeding specifically identified customers who were allegedly overcharged by those processors, as well as the amounts by which such customers were allegedly overcharged for a particular product. We will consider approving a refund for such named customers based on the amount of the overcharge alleged in the audit file for a particular product, rather than limiting such a customer to a pro rata refund share. Where possible, these identified customers will be served with copies of this Proposed Decision and Order.

Refund applications should not be filed until issuance of a final Decision and Order establishing procedures in this matter. Applicants will be asked to provide all relevant information necessary to establish a claim, including specific documentation concerning the date, place, price, and volume of product purchased, the retention of increased costs, and the extent of any injury alleged. Detailed procedures for filing applications will be provided in the final Decision and Order. Before disposing of any of the funds received as a result of the consent orders set out below, we intend to publicize the distribution process in the **Federal Register** and to provide an opportunity for any affected party to file a claim. Comments regarding the tentative distribution process set forth in this Proposed Order should be filed with the Office of Hearings and Appeals within 30 days of publication of this Proposed Order in the **Federal Register.** We will consider at a future date the appropriate disposition of any funds remaining after all successful claimants have been paid.

It Is Therefore Ordered That:

The refund amount remitted to the Department of Energy by the natural gas processors set forth in the exhibits to the attached Appendix will be distributed in accordance with the foregoing Decision.

**Appendix**

CASE NAMES

| Firm | Case No. |
|---|---|
| Texas Oil & Gas Corp | HEF-0275 |
| Associated Program, Inc | HEF-0232 |
| Gulf Energy & Development Corp | HEF-0248 |
| Houston Natural Gas Corp | HEF-0251 |
| Gary Energy Corp | HEF-0245 |
| Mitchell Energy Corp | HEF-0261 |
| Tipperary Corp | HEF-0277 |
| Atlanta Petroleum Production, Inc | HEF-0233 |
| Devon Corp | HEF-0242 |
| Mississippi River Transmission Corp | HEF-0260 |
| Horner & Smith, a partnership | HEF-0250 |
| Pioneer Corp | HEF-0270 |
| Crystal Oil Co | HEF-0241 |
| Ensearch Corp | HEF-0244 |
| Pronto Gas Co | HEF-0273 |
| Gas Systems, Inc | HEF-0246 |
| Montana Power Co | HEF-0262 |
| J. M. Haber Corp | HEF-0252 |
| Apache Corp | HEF-0230 |

CASE NAMES—Continued

| Firm | Case No. |
|---|---|
| Adolf Coors Co | HEF-0140 |
| Breckenridge Gasoline Co | HEF-0235 |
| H. A. Chapman | HEF-0237 |
| Cap Oil Co | HEF-0236 |
| Texas Gas Exploration | HEF-0274 |
| Petro-Lewis Corp | HEF-0267 |
| | HEF-0268 |
| Planet Engineers, Inc | HEF-0271 |
| Continental Resource Co | HEF-0239 |

**Index to Exhibits**

*Exhibit and Firm*

1 Texas Oil & Gas Corp.
2 Associated Programs, Inc.
3 Gulf Energy & Development Corp.
4 Houston Natural Gas Corp.
5 Gary Energy Corp.
6 Mitchell Energy Corp.
7 Tipperary Corp.
8 Atlanta Petroleum Production, Inc.
9 Devon Corp.
10 Mississippi River Transmission Corp.
11 Horner & Smith, a partnership
12 Pioneer Corp.
13 Crystal Oil Co.
14 Ensearch Corp.
15 Pronto Gas Co.
16 Gas Systems, Inc.
17 Montana Power Co.
18 J. M. Haber Corp.
19 Apache Corp.
20 Adolf Coors Co.
21 Breckenridge Gasoline Co.
22 H. A. Chapman
23 Cap Oil Co.
24 Texas Gas Exploration
25 Petro-Lewis Corp.
26 Planet Engineers, Inc.
27 Continental Resource Co.

**Exhibit 1**

Name of Consent Order Firm: Texas Oil & Gas Corporation.

Consent Order Case Numbers: ERA—6D0V00067, OHA—HEF-0275.

Consent Order Period: April 1, 1976—January 27, 1981.

Consent Order Fund: $3,440,000.

Names of Plants:

1. Denton Plant.
2. Coyanosa Plant.
3. Custer Plant.
4. Cimmarron Plant.
5. Shackelford Plant.
6. Harmony Plant.
7. East Texas Plant.
8. Laredo Plant.
9. Jeffries Plant.
10. Elmwood Plant.
11. Laverne Plant.
12. Slocum Plant.
13. Seiling Plant.

Alleged Overcharges: (Propane, Butane & Gasoline)—$9,352,600.

| Gallons sold: | |
|---|---|
| Propane | 272,714,260 |
| Butane | 156,637,700 |
| Natural gasoline | 121,373,352 |
| Total | 550,725,312 |

Per Gallon Refund Amount: $.00624.

Identified Purchasers:

1. Bruin Corporation, 1300 Main Street, Houston, TX 77002.
2. Commerce, Inc., 1520 Capital Nat'l Bank Bldg., Houston, TX 77002.
3. Koch Industries, Inc., P.O. Box 2256, Wichita, KS 67201.
4. Conoco, Inc., Conoco Towers, 5 Greenway Plaza East, P.O. Box 2197, Houston, TX 77001
5. Coastal States Gas Corp., 5 Greenway Plaza East, Houston, TX 77001.
6. Columbia LNG Corporation, 20 Montchanin Road, Wilmington, DE 19807.
7. Wanda Petroleum Company, P.O. Box 53120, Houston, TX 77052.
8. Mobil Oil Corporation, Southern Region, P.O. Box 1774, Houston, TX 77001.
9. Mapco, Inc., Oil and and Gas Division, 1800 S. Baltimore Avenue, Tulsa, OK 74119.
10. Gulf States Oil & Refining Co., 2000 Smith Street, Box 53137, Houston, TX 77052.
11. Excel Corporation, P.O. Box 12340, Oklahoma City, OK 73112.
12. UPG, Inc., 2223 Dodge Street, Omaha, NE 68102.

**Exhibit 2**

Name of Consent Order Firm: Associated Programs, Inc.

Consent Order Case Numbers: ERA—OHA—740V01389, HEF—0232.

Consent Order Period: September 1, 1973–June 30, 1980.

Consent Order Fund: $225,000.

Name and Location of Plant and Percentage of Ownership: Yenter Gas Processing Plant, Sterling, CO—50%.

Alleged Overcharges: $496,197.81.

Gallons Sold: (mixed stream & fractionated covered products)—30,664,474.

Per Gallon Refund Amount: $.007337.

Identified Purchasers:

1. Western Gas Corporation.
2. Union Oil Company.

**Exhibit 3**

Name of Consent Order Firm: Gulf Energy & Development Corp.

Consent Order Case Numbers: ERA—OHA—710V03013, HEF–0248.

Consent Order Period: September 1, 1973–December 31,1975.

Consent Order Fund: $210,000.

Names and Locations of Plants and Percentage of Ownership:

1. Lambert Plant (25%).
2. Runge Plant (100%).
3. Rio Grande City Plant (50%).
4. Powell Plant, Navarro County, TX.

Alleged Overcharges: $1,580,048.80.

Gallons Sold: Natural Gasoline, Propane & Butane—$.39,941,756.

Per Gallon Refund Amount: $005257.

Identified Purcahsers:

1. Wanda Petroleum Company.
2. Tesoro Petroleum Corporation.
3. Enterprise Products Company.
4. The Permian Corporation.
5. Link Petroleum Company.
6. Highway Pipeline Company.

**Exhibit 4**

Name of Consent Order Firm: Houston Natural Gas Corporation.

Consent Order Case Numbers: ERA—6EOV00053; OHA—HEF–0251.

Consent Order Period: September 1, 1973—January 27, 1981.

Consent Order Fund: $750,000.

Names of Plants:

1. Tuleta Plant.
2. Gregory Plant.
3. Victoria Plant.
4. Liverpool Plant.
5. Nueces River Plant.
6. Bammel Plant.
7. Robstown Plant.
8. Sonora Plant.
9. Loma Blanca Plant.
10. Pavey Plant.
11. Lafayette Plant.
12. Dubose Plant.
13. Refugio Plant.
14. Corpus Christi Bay Plant.
15. Mission Valley Plant.
16. Sutton Plant.
17. Thomaston Plant.
18. Tivoli Plant.
19. Alvin Plant.
20. Wharton Compressor Plant.

Alleged Overcharges: $2,476,549.

| Gallons sold: | |
|---|---|
| Propane | 172,845,375 |
| Butane | 109,489,945 |
| B–P Mix | 2,460,325 |
| Gasoline | 94,662,545 |
| Condensate | 7,135,155 |
| Total | 386,593,345 |

Per Gallon Refund Amount: $.001940.

Identified Purchasers:

1. Wanda Petroleum Company.
2. Enterprise Products Company.
3. Sun Oil Company.
4. Tenneco Oil Company.
5. Tersoro Crude Oil Company.
6. Mobil Oil Corporation.
7. Coastal States Gas Processing Co.
8. Phillips Petroleum Company.

**Exibit 5**

Name of Consent Order Firm: Gary Energy Corporation.

Consent Order Case Numbers: ERA—810V00002 and 810V00003, OHA—HEF–0245.

Consent Order Period: January 1, 1973–January 27, 1981.

Consent Order Fund: $600,000.

Names and Locations of Plants and Percentage of Ownership:

1. Altonah Plant (25%).
2. Bluebell Plant (36%), Duchesne County, UT.

Alleged Overcharges: $1,466,054.95.

| Gallons sold | Altonah | Bluebell | Total |
|---|---|---|---|
| Propane | 3,908,865 | 15,725,463 | 19,634,328 |
| Butane | 3,274,593 | | 3,274,593 |
| Butane plus | 183,983 | 28,791,735 | 28,975,718 |
| Natural gasoline | 3,797,865 | | 3,797,865 |
| Total | 11,165,306 | 44,517,198 | 55,682,504 |

Per Gallon Refund Amount: $.010775.

Identified Purchasers:

1. Action Gas.
2. Amerada Hess Corporation.
3. Arizona Fuels Corporation.
4. Cal Gas.
5. Chevron Oil Company.
6. Dix-O-Gas.
7. Flying Diamond Corporation.
8. Warren Petroleum Company.
9. L.C.L. Oil.
10. Par Gas.
11. Petrolane.
12. Tenneco Oil Company.
13. Western Crude Oil, Inc.
14. Mapco, Inc.
15. Van Gas, Inc.
16. H. S. Sowards.
17. Utah-Colorado Gas.
18. Searle Bros.
19. Ideal Gas.
20. G. M. Wallace.
21. Husky Oil Company.
22. Knudsen Philgas.
23. Bob's Gas & Chemical.
24. Butane Power & Equipment.
25. Rio Algon Corporation.
26. California Liquid Gas Corp.
27. Jay's Gas.
28. Independent Gas Co.
29. Solar Petroleum.

**Exhibit 6**

Name of Consent Order Firm: Mitchell Energy Corporation.

Consent Order Case Numbers: ERA—6D0V00053, OHA—HEF–0261.

Consent Order Period: September 1, 1973–October 31, 1978.

Consent Order Fund: $708,000.

Names and Locations of Plants:

1. Barton Chapel Plant, Perin, TX 76075.
2. LaFitte's Gold Plant, Galveston, TX 77550.
3. Huckabay 1 and 2 Plants, Huckabay, TX.
4. La Sal Vieja Plant, Raymondville, TX 78580.
5. Lone Camp 1, 2, 3, and 4 Plants, Lone Camp, TX.
6. Mineral Wells Plant, Mineral Wells, TX 76067.
7. Ponder 1, and 2 Plants, Ponder, TX 76259.
8. Ranger 1 and 2 Plants, Ranger, TX 76470.
9. Seven Oaks Plant, Seven Oaks, TX.
10. Sutton County Plant, Senora, TX 76950.
11. Gibtown Plant, Gibtown, TX.
12. Converse County Plant, Douglas, WY 82633.
13. Jackson Parish Plant, Chaudrant, LA 71227.
14. Leabo Plant.
15. Winnie Plant.
16. Gordon Plant.
17. Galveston Plant.
18. Cameron Plant.
19. Lone Pine Plant.
20. Cisco Plant.
21. Devil's River Plant.

Alleged Overcharges: Natural Gas Liquids—$3,078,735.11.

Gallons Sold: 283,131,418.

Per Gallon Refund Amount: $.002500.

Identified Purchasers:

1. Tenneco Oil Company.
2. Mobil Oil Corporation.

3. Warren Petroleum Company.
4. Swanee Petroleum
5. Union Texas.
6. Phillips Petroleum Company.

**Exhibit 7**

Name of Consent Order Firm: Tipperary Corporation.
Consent Order Case Numbers: ERA—670V00323, OHA—HEF-0277.
Consent Order Period: September 1, 1973–January 27, 1981.
Consent Order Fund: $400,000.
Names and Locations of Plants and Percentage of Ownership:

1. Bowie Plant (90%), Montague County, TX.
2. Claytonville Plant (90%), Fisher County, TX.
3. Denton Plant (90%), Lea County, NM.
4. Pearsall Plant, Austin Chalk, South, TX.

| Alleged overcharges: | |
|---|---|
| Natural gas liquid products and natural gas liquids | $1,374,426 |
| Condensate | 383,638 |
| Total | 1,758,064 |

Gallons Sold: 465,640,830.
Per Gallon Refund Amount: $.000859.
Identified Purchasers:

1. El Paso Natural Gas.
2. Southern Union Refining Co.
3. Lone Star Gas.
4. Western Crude Oil, Inc.
5. Compton Corporation.
6. Koch Oil Company.

**Exhibit 8**

Name of Consent Order Firm: Atlanta Petroleum Production, Inc.
Consent Order Case Numbers: ERA—6D0V00010, OHA—HEF-0233.
Consent Order Period: September 1, 1973–November 30, 1976.
Consent Order Fund: $22,500.
Names and Locations of Plants and Percentage of Ownership:

1. Cushing Plant (100%), Payne County, OK.
2. Sandusky Plant (100%), Grayson County, TX.
3. Stillwater Plant (100%), Payne County, OK.

Alleged Overcharges: $63,985.
Gallons Sold: Liquid Products—1,767,018.
Per Gallon Refund Amount: $.012733.
Identified Purchasers:

1. Warren Petroleum Corporation.
2. TLOK Marketing Corporation.
3. Pioneer Energy Corporation.

**Exhibit 9**

Name of Consent Order Firm: Devon Corporation.
Consent Order Case Numbers: ERA—740V01313; OHA—HEF-0242.
Consent Order Period: September 1, 1973–April 30, 1980.
Consent Order Fund: $340,000.
Names and Locations of Plants and Percentage of Ownership:

1. Dubach Plant (25%), Lincoln Parish, LA.
2. Dubach Plant (25%), Calhoun, LA.
3. Lacassine Plant (9.895%), Louisiana.
4. West Seminole Plant (.4356%), Gaines County, TX.
5. Fairway Plant (.00612%), Henderson County, TX.
6. Fort Trinidad Plant (.34474%), Texas.
7. Garza Plant (5%), Texas.

Alleged Overcharges: $848,339.

| Gallons sold: | |
|---|---|
| Propane | 20,735,839 |
| ISO/Butane | 8,202,846 |
| Normal butane | 11,959,678 |
| Total | 40,898,363 |

Per Gallon Refund Amount: $.006313.
Identified Purchasers:

1. Kerr-McGee Corporation.
2. Triangle Refineries, Inc.

**Exhibit 10**

Name of Consent Order Firm: Mississippi River Transmission Corp.
Consent Order Case Numbers: ERA—720V00590; OHA—HEF-0260.
Consent Order Period: September 1, 1973–December 31, 1979.
Consent Order Fund: $76,500.
Names and Locations of Plants:

Perryville Plant, Perryville, LA.
West Unionville Plant, West Unionville, LA.

Alleged Overcharges: Natural Gas Liquids $384,511.40.[1]

| Leases | Condensate | NGLPs | Total |
|---|---|---|---|
| Parcel 3 | $1,907.27 | $1,121,271.06 | $1,123,178.33 |
| Miss Murphy | 33,946.86 | 731,213.70 | 765,160.56 |
| Overcharges at the leases | | | 1,888,338.89 |

| Gallons sold: | |
|---|---|
| Natural gas liquids | 4,225,281 |
| Condensate | 10,236 |
| Total | 4,235,517 |

Per Gallon Refund Amount: $018061.
Identified Purchasers:

1. Kerr-McGee Corporation.
2. Kim Petroleum Company.

Name of Consent Order Firm: Horner and Smith, A Partnerships.
Consent Order Case Numbers: ERA—6BOV00005, OHA—HEF-0250.
Consent Order Period: September 1973–December 1976.
Consent Order Fund: $175,000.
Name and Location of Plant and Percentage of Ownership: Locust Ridge Plant, Tensas Parish, LA, 100%.

| Alleged overcharges: | |
|---|---|
| Propane | $184,225.45 |
| Butane | 116,261.41 |
| Total | 300,486.86 |

| Gallons sold: | |
|---|---|
| Propane | 4,851,250 |
| Butane | 2,938,750 |
| Total | 7,790,000 |

Per Gallon Refund Amount: $.0224646
Identified Purchasers:

1. Triangle Refineries, Inc.
2. Falco, Inc.

**Exhibit 12**

Name of Consent Order Firm: Pioneer Corporation.
Consent Order Case Numbers: ERA—675V00279, OHA—HEF-0270.
Consent Order Period: September 1, 1973–January 28, 1981.
Consent Order Fund: $14,907,060.
Names and Locations of Plants and Percentage of Ownership:

1. Pampa Plant Gray County, TX (50%).
2. Turkey Creek Plant, Potter County, TX (100%).
3. Fain Plant, Potter County, TX (100%).
4. East Godsmith Plant, Ector County, TX (100%).
5. Ranchland Hills Plant, Midland, TX (100%).
6. Arrington Plant, Hemphill County, TX (100%).
7. Ringwood Plant, Major County, OK (100%).
8. Mandill Plant, Marshall County, Ok (100%).
9. Binger Plant, Catto County, OK (100%).

Alleged Overcharges:——.
Gallons Sold: Estimated Annual Volume—190,000,000; Consent Order, Period Total—1,409,166,667.
Per Gallon Refund Amount: $.010573.
Identified Purchasers:

1. Philips Petroleum Corp., Bartelsville, Okahoma.
2. Koch Oil Co., Wichita, Kansas.
3. Warren Petroleum Corp., Tulsa, Oklahoma.

**Exhibit 13**

Name of Consent Order Firm: Crystal Oil Company.
Consent Order Case Numbers: ERA—810V00249; OHA—HEF-0241.
Consent Order Period: August 19, 1973–July 31, 1977.
Consent Order Fund: $175,000.
Name and Location of Plant and Percentage of Ownership: Vallery Plant, Sterling, CO (100%), 100%.

| Alleged overcharges: | |
|---|---|
| Condensate | $80,000 |
| Butane/natural gasoline mix | 120,000 |
| Total | 200,000 |

Gallons Sold: 7,273,000.
Per Gallon Refund Amount: $.0009624.
Identified Purchasers:

1. Farmland Industries, Kansas City, MO.
2. Western Gas Corp., Hastings, ME.
3. Union Oil Co. of California, Palatine, IL.

[1] Comments: In addition to these specific overcharges on the natural gas liquids sold from the Perryville and West Unionville gas plants, the firm also allegedly overcharged prices in the sales of condensate and natural gas liquid products from two leases as follows:

Comments: A direct payment of $93,940.68 was made by Crystal Oil Company (formerly Vallery Corporation) to Union Oil Company (Union) on November 8, 1976 for the express purpose of refunding amounts which Crystal believed it had overcharged. Crystal also determined that it had improperly overcharged its customers in prior sales of NGL's and NGLP's. Therefore, on September 13, 1976, Crystal initiated a refund plan, as shown by statements made on Form P–110 submitted by Vallery to the DOE, to reduce its sales prices to amounts less than its maximum legal selling price which resulted in a refund of $74,059.32 to its customers. Accordingly, of the total consent order fund of $175,000, Crystal refunded only $7,000 directly to the DOE and it is this $7,000 that is subject to the present refund proceeding.

**Exhibit 14**

Name of Consent Order Firm: Ensearch Corporation.

Consent Order Case Numbers: ERA—6D0V00039, OHA—HEF–0244.

Consent Order Period: September 1, 1973–July 31, 1975.

Consent Order Fund: $2,997,500.

Name of Plant:

1. Springtown Plant.
2. Gordon Plant.
3. Pueblo Plant.
4. Ranger Plant.
5. Trinidad Plant.
6. Carlsbad Plant.
7. Katie Plant.
8. Wallville Plant.
9. Needville Plant.
10. Red Oak Plant.
11. Madisonville Plant.
12. Snyder Plant.
13. Diamond M Plant.
14. Person Plant.
15. Nueces River Plant.
16. Houston Central Plant.
17. Graham Plant.
18. East Panhandle Plant.
19. Elk City Plant.
20. Opelika Plant.
21. DeLeon Plant.

Alleged Overcharges: $9,775,850.

Gallons Sold: Annual Estimate—225,000,000; Consent Order Period Total—431,250,000.

Per Gallon Refund Amount: $.006951.

Identified Purchasers:

1. Warren Petroleum.
2. UPG, Inc.
3. Koch Oil Company.
4. Coastal States.
5. Permian Corporation.
6. Koch/Esperanza.
7. Shell Oil Company.
8. Atlantic Richfield.
9. Shell/Dow Chemical.
10. Enterprise Products.
11. Western Crude.
12. Stargas Company.

**Exhibit 15**

Name of Consent Order Firm: Pronto Gas Company.

Consent Order Case Number: ERA—6D0V00024; OHA—HEF–0273.

Consent Order Period: September 1973–March 1977.

Consent Order Fund: $20,000.

Names of Plants and Percentage of Ownership:

1. Sweetwater Plant (100%).
2. Robert Lee Plant (100%).

Alleged Overcharges: $125,410.

Gallons Sold: 3,029,000.

Per Gallon Refund Amount: $.006602.

Identified Purchaser: Warren Petroleum.

**Exhibit 16**

Name of Consent Order Firm: Gas Systems, Inc., Ft. Worth, TX.

Consent Order Case Number: ERA—6D0V00013; OHA—HEF–0246.

Consent Order Period: September 1, 1973–October 31, 1976.

Consent Order Fund: $44,500.

Names of Plants and Percentage of Ownership: McGregor Plant, 100%.

Alleged Overcharges: $86,749.91.

| Gallons sold: | |
|---|---|
| Propane | 791,002 |
| Butane | 1,772,487 |
| Total | 2,563,489 |

Per Gallon Refund Amount: $.0173591.

Identified Purchaser:

1. John's Tractor & Gas Co., ($16,050).
2. TLOK Marketing/Dub Noble (67,857).

Comments: The figures following the name of each purchaser indicate the proportion of the alleged overcharges incurred by each purchaser according to the Notice of Probable Violation. Claimants may apply for refunds on the basis of these proportions, rather than using the per gallon refund amount.

**Exhibit 17**

Name of Consent Order Firm: Montana Power Company.

Consent Order Case Numbers: ERA—820V00210, OHA—HEF–0262.

Consent Order Period: March 1, 1979–July 31, 1980.

Consent Order Fund: $77,187.

Names and Locations of Plants and Percentage of Ownerhip: Dry Creek Plant, Carbon County, MT, 100%.

| Alleged overcharges: | |
|---|---|
| Propane | $39,847 |
| Butane | 15,026 |
| Natural gas | 22,314 |
| Total | 77,187 |

| Gallons sold: | |
|---|---|
| Propane | 316,711 |
| Butane | 440,002 |
| Natural Gas | 660,861 |
| Total | 1,417,574 |

Per Gallon Refund Amount: $0.5445.

Identified Purchasers:

1. American Smelt & Refining Co., East Helena, MT.
2. U.S. Gypsum Co., Lewistown, MT.
3. Kaiser Cement & Gypsum, Montana City, MT.
4. Burlington Northern, Inc., Livingston, MT.
5. Ideal Cement, Trident, Mt.
6. Georgia-Pacific Corp., Lovell, WY.
7. Cenex; Laurel, MT.

Comments: Montana Power Company provided natural gas service to 100 customers, ninety-three of which were identified communities and retail customers, and seven of which were the wholesale customers listed above.

**Exhibit 18**

Name of Consent Order Firm: J. M. Haber Corporation.

Consent Order Case Numbers: ERA—733V02028, OHA—HEF—0252.

Consent Order Period: September 1, 1973–January 28, 1981.

Consent Order Fund: $207,000.

Names and Locations of Plants and Percentage of Ownership:

1. Ambrose Plant, Kay County, OK.
2. Apache Plant, Caddo County, OK (10%)
3. Beaver Plant, Beaver County, OK.
4. Edgewood Plant, Van Zandt County, TX.
5. Elk City Plant, Bechham County, OK (5%).
6. Elmwood Plant Beaver County, OK (1%).
7. Laverne Plant, Harper County, OK (1%).
8. Mooreland Plant, Woodward County, OK (8%).
9. Rock Creek Plant, Hutchinson County, TX.
10. Sanford Plant, Hutchinson County, TX.
11. Seiling Plant, Dewey County, TX (6%).
12. West Lucky Plant, Matagorda County, TX (25%).

Alleged Overcharges: $743,434.62.

| Gallons sold: | |
|---|---|
| Propane | 80,930,348 |
| Butane | 72,977,967 |
| Natural gasoline | 57,566,949 |
| Depropanized mix | 5,742,272 |
| Total | 217,217,536 |

Per Gallon Refund Amount: $.00095296.

Identified Purchaser: Unidentified.

**Exhibit 19**

Name of Consent Order Firm: Apache Corporation.

Consent Order Case Numbers: ERA—660V00637, OHA—HEF–0230.

Consent Order Period: September 1973–December 1976.

Consent Order Fund: $495,000.

Name of Plant and Percentage of Ownership: Recluse Plant, 50%.

Alleged Overcharges: $1,753,529.37.

Gallons Sold: 13,222,691.

Per Gallon Refund Amount: $.0374356.

Identified Purchaser: Montana-Dakota Utilities Co.

**Exhibit 20**

Name of Consent Order Firm: Adolf Coors Company.

Consent Order Case Numbers: ERA—840V00203, OHA—HEF–0140.

Consent Order Period: January 1, 1977–January 28, 1981.

Consent Order Fund: $65,000.

Name of Plant and Percentage of Ownership: Wattenberg Plant, 100%.

Alleged Overcharges: $96,370.

Gallons Sold: 4,627,397.

Per Gallon Refund Amount: $.0140467.

Identified Purchasers:

1. Bob's Gas & Chemical, Morrison, CO.
2. UPG, Inc.
3. Flatiron.

**Exhibit 21**

Name of Consent Order Firm: Breckenridge Gasoline Company.

Consent Order Case Numbers: ERA—710V03020, OHA—HEF–0235.

Consent Order Period: September 1973–January 28, 1981.

Consent Order Fund: $251,000.

Names and Locations of Plants:

1. Eliasville Plant, Stephens County, TX.
2. Lodi Plant, Cass County, TX.

| | |
|---|---|
| Alleged overcharges: | |
| Propane | $93,914 |
| Propane/butane mix | 43,313 |
| Butane | 161,926 |
| Natural gas | 294,807 |
| Total | 493,960 |
| Gallons sold: | |
| Propane | 3,742,928 |
| Propane/butane mix | 2,028,549 |
| Butane | 2,749,151 |
| Natural gas | 7,796,178 |
| Total | 16,311,806 |

Per Gallon Refund Amount: $.0153876.

Identified Purchaser: Warren Petroleum, Tulsa, OK.

**Exhibit 22**

Name of Consent Order Firm: H.A. Chapman.

Consent Order Case Numbers: ERA—740V01397, OHA—HEF–0237.

Consent Order Period: September 1, 1973–November 30, 1979.

Consent Order Fund: $125,000.

Name of Plant: Walker Creek Plant.

| | |
|---|---|
| Alleged overcharges: | |
| Propane | $46,630.20 |
| Butane | 74,650.81 |
| Natural gasoline | 37,505.92 |
| Total | 158,786.93 |
| Gallons sold: | |
| Propane | 6,016,666 |
| Butane | 6,681,666 |
| Natural gasoline | 5,858,333 |
| Total | 18,556,665 |

Per Gallon Refund Amount: $.0067361.

Identified Purchasers:

1. Texas Petroleum Gas.
2. Aeropress Gas.

**Exhibit 23**

Name of Consent Order Firm: Cap Oil Company.

Consent Order Case Numbers: ERA—740V01397, OHA—HEF–0236.

Consent Order Period: September 1, 1973–November 30, 1979.

Consent Order Fund: $55,400.

Name of Plant: Walker Creek Plant.

Alleged Overcharges: Condensate—$55,416.55.

Gallons Sold: Condensate—1,519,910.

Per Gallon Refund Amount: $.0364495.

Identified Purchasers:

1. Texas Petroleum Gas.
2. Aeropress Gas.

**Exhibit 24**

Name of Consent Order Firm: Texas Gas Exploration.

Consent Order Case Numbers: ERA—6E0V00015 OHA—HEF–0274.

Consent Order Period: September 1, 1973–January 28, 1981.

Consent Order Fund: $2,060,000.

Name and Location of Plant: Eunice Plant, Arcadia Parish, LA.

| | |
|---|---|
| Alleged overcharges: | |
| Propane | $1,176,648.41 |
| Butane | 1,869,734.20 |
| Natural gasoline | 542,377.42 |
| Total | 3,588,760.03 |
| Gallons sold: | |
| Propane | 549,802,470 |
| Butane | 331,484,000 |
| Natural gasoline | 428,565,370 |
| Total | 1,309,851,840 |

Per Gallon Refund Amount: $.0015726.

Identified Purchasers:

1. Union Oil Co. of California.
2. Enterprise Products Co.
3. Wanda Petroleum.
4. Northern Propane.
5. Union Texas Petroleum.
6. Texas Petroleum Gas.
7. Phillips Petroleum.
8. Eldorado Petroleum.
9. Goldking Refining.
10. Union Petroleum Corp.
11. Chevron Oil Co.
12. Canal Refining Co.
13. Crystal Oil Co.
14. Coastal States.
15. Ashland Oil Co.
16. Amoco Oil Co.

**Exhibit 25**

Name of Consent Order Firm: Petro-Lewis Corporation.

Consent Order Case Numbers: ERA—840V00202; OHA—HEF–0267; HEF–0268.

Consent Order Period: August 19, 1973–June 30, 1980.

Consent Order Fund: $5,900,000.

Names and Locations of Plants:

1. Ames-Rodman Plant, Garfield County, OK.
2. Rodman-Basin-Choate Plant, Kingfisher County, OK.
3. Aline Plant, Alfalfa County, OK.

Alleged Overcharges: $5,724,190.22.

| | |
|---|---|
| Gallons sold: | |
| 1. Ames-Rodman Plant | 374,090,130 |
| 2. Rodman-Basin Choate Plant | 63,544,605 |
| 3. Aline Plant | 3,762,556 |
| Total | 441,397,291 |

Per Gallon Refund Amount: $.013367.

Identified Purchasers:

1. Cities Service Co.
2. Koch Industries.

Comments:

PLANT OWNERSHIP

[In percent]

| | Total petro | | | | |
|---|---|---|---|---|---|
| | Rodman share | Choate share | Acquired interest | Cities share | Reserve share |
| Rodman plant, 5/73 | 100 | | | | |
| Rodman plant, 8/73–8/77 | 50 | | 50 | 50 | |
| Ames addition to Rodman plant, 5/73–4/75 | 75 | 12.5 | 87.5 | | 12.5 |
| Ames addition to Rodman plant, 4/75–8/77 | 37.5 | 6.25 | 43.75 | 50 | 6.25 |
| Rodman-Basin Choate plant, 5/73–5/75 | 75 | 12.5 | 87.5 | | 12.5 |
| Rodman-Basin Choate plant, 5/75–8/77 | 37.5 | 6.25 | 43.75 | 50 | 6.25 |
| Aline plant, 5/75–8/77 | 87.5 | 12.5 | 100 | | |

**Exhibit 26**

Name and Consent Order Firm: Planet Engineers, Inc.

Consent Order Case Numbers: ERA—710V03016, OHA—HEF–0271.

Consent Order Period: September 1, 1973–January 28, 1981.

Consent Order Fund: $55,000.

Name and Location of Plant: McClave Plant, Lamar, CO.

Alleged Overcharges: $209,341.89.

Gallons Sold: 19,065,000.

Per Gallon Refund Amount: $.0028848.

Identified Purchasers: Unidentified.

**Exhibit 27**

Name and Consent Order Firm: Continental Resource Company, (formerly Florida Gas Company).

Consent Order Case Numbers: ERA—413V00001, OHA—HEF–0239.

Consent Order Fund: $4,500,000.

Name and Location of Plant and Percentage of Ownership: Brooker Plant, Brooker, FL. 100%.

Alleged Overcharges: $12,938,723.

Gallons Sold: 349,186,760.

Per Gallon Refund Amount: $.012887.

Identified Purchaser: Warren Petroleum Corp.

Comments: The total volume figure indicated above was derived from limited data located in the Decision and Order issued by the DOE on July 21, 1977. *Florida Gas Company*, 1 DOE ¶ 80,226 (1977). That Decision contained volume figures for the second quarter of 1973 (21,300,612 gallons) and the last quarter of 1976 (7,399,670 gallons). Based on this limited information, we calculated an average monthly volume of 4,783,380 gallons. By multiplying this monthly average by the 73 months encompassed by the consent order period we arrived at the

total volume indicated above of 349,186,760 gallons.

[FR Doc. 84-6356 Filed 3-8-84; 8:45 am]

BILLING CODE 6450-01-M

## ENVIRONMENTAL PROTECTION AGENCY

[OPTS-59148; TSH-FRL 2537-4]

### Modified, Maleated Metal Resinate; Premanufacture Exemption Applications

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** EPA may upon application exempt any person from the premanufacturing notification requirements of section 5 (a) or (b) of the Toxic Substances Control Act (TSCA) to permit the person to manufacture or process a chemical for test marketing purposes under section 5(h)(1) of TSCA. Requirements for test marketing exemption (TME) applications, which must either be approved or denied within 45 days of receipt, are discussed in EPA's final rule published in the Federal Register of May 13, 1983 (48 FR 21722. This notice, issued under section 5(h)(6) of TSCA, announces receipt of one application for exemption, provides a summary, and requests comments on the appropriateness of granting the exemption.

**DATE:** Written comments by: March 26, 1984.

**ADDRESS:** Written comments, identified by the document control number "[OPTS-59148]" and the specific TME number should be sent to: Document Control Officer (TS-793), Information Management Division, Office of Toxic Substances, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-409, 401 M Street, SW, Washington, D.C. 20460.

**FOR FURTHER INFORMATION CONTACT:** Margaret Stasikowski, Acting Chief, Premanufacture Notice Management Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-216, 401 M Street, SW, Washington, D.C. 20460.

**SUPPLEMENTARY INFORMATION:** The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the TME received by EPA. The complete non-confidential document is available in the Public Reading Room E-107.

**TME 84-35**

*Close of Review Period.* April 6, 1984.

*Manufacturer.* Confidential.

*Chemical.* (G) Modified, maleated metal resinate.

*Use/Production.* (S) Industrial publications gravure printing inks. Prod. range: Confidential.

*Toxicity Data.* No data submitted.

*Exposure.* Manufacture: dermal, a total of 6 workers, up to 2 da/yr.

*Environmental Release/Disposal.* 0 released to air, with less than 0.2 kg/batch to water and 20 kg to land. Disposal by landfill and plant air oxidation lagoon.

Dated: February 24, 1984.

**V. Paul Fuschini,**

*Acting Director, Information Management Division.*

[FR Doc. 84-5958 Filed 3-8-84; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-59149; TSH-FRL 2540-8]

### Monocyclic Acetate; Premanufacture Exemption Applications

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** EPA may upon application exempt any person from the premanufacturing notification requirements of section 5(a) or (b) of the Toxic Substances Control Act (TSCA) to permit the person to manufacture or process a chemical for test marketing purposes under section 5(h)(1) of TSCA. Requirements for test marketing exemption (TME) applications, which must either be approved or denied within 45 days of receipt, are discussed in EPA's final rule published in the Federal Register of May 13, 1983 (48 FR 21722. This notice, issued under section 5(h)(6) of TSCA, announces receipt of one application for an exemption, provides a summary, and requests comments on the appropriateness of granting the exemption.

**DATE:** Written comments by March 26, 1984.

**ADDRESS:** Written comments, identified by the document control number "[OPTS-59149]" and the specific TME number should be sent to: Document Control Officer (TS-793), Chemical Information Branch, Information Management Division, Office of Toxic Substances, Environmental Protection Agency, Rm. E-409, 401 M Street, SW, Washington, DC 20460.

**FOR FURTHER INFORMATION CONTACT:** Margaret Stasikowski, Acting Chief, Premanufacture Notice Management Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-216, 401 M Street, SW, Washington, DC 20460.

**SUPPLEMENTARY INFORMATION:** The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the TME received by EPA. The Complete non-confidential document is available in the Public Reading Room E-107.

**TME 84-36**

*Close of Review Period.* April 8, 1984.

*Importer.* Grau Aromatics GmbH & Co. KG.

*Chemical.* (G) Monocyclic acetate.

*Use/Import.* (S) Used as a component in perfume compounds for soap and detergent. Import range: 25 kg/yr.

*Toxicity Data.* No data on the TME substance submitted.

*Exposure.* Import: inhalation, a total of 120 workers.

*Environmental Release/Disposal.* No release.

Dated: March 2, 1984.

**Linda A. Travers,**

*Acting Director, Information Management Division.*

[FR Doc. 84-6245 Filed 3-8-84; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-51509; TSH-FRL 2540-7]

### Certain Chemicals; Premanufacture Notices

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of the final rule published in the Federal Register of May 13, 1983 (48 FR 21722). This notice announces receipt of twenty-seven PMNs and provides a summary of each.

**DATES:** Close of Review Period:

PMN 84-441—May 23, 1984

PMN 84-442, 84-444, 84-445, 84-446, 84-447, 84-448, 84-449, 84-450 and 84-451—May 26, 1984.

PMN 84-452, 84-453, 84-454, 84-455, 84-456, 84-457, 84-458, 84-459, 84-460 and 84-461—May 27, 1984.

PMN 84–462, 84–463, 84–464, and 84–465—May 28, 1984.

PMN 84–466, 84–467 and 84–468—May 29, 1984.

Written comments by:

PMN 84–441; PMN 84–442, 84–444, 84–445, 84–446, 84–447, 84–448, 84–449, 84–450 and 84–451—April 23, 1984.

PMN 84–452, 84–453, 84–554, 84–455, 84–456, 84–457, 84–458, 84–459, 84–460 and 84–461—April 27, 1984.

PMN 84–462, 84–463, 84–464 and 84–465—April 28, 1984.

PMN 84–466, 84–467 and 84–468—April 29, 1984.

**ADDRESS:** Written comments, identified by the document control number "[OPTS–51509]" and the specific PMN number should be sent to: Document Control Officer (TS–793), Chemical Information Branch, Information Management Division, Office of Toxic Substances, Environmental Protection Agency, Rm. E–409, 401 M St., SW., Washington, D.C. 20460 (202–382–3532).

**FOR FURTHER INFORMATION CONTACT:** Margaret Stasikowski, Acting Chief, Premanufacture Notice Management Branch, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–216, 401 M St., SW., Washington, D.C. 20460 (202–382–3729).

**SUPPLEMENTARY INFORMATION:** The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete non-confidential document is available in the Public Reading Room E–107 at the above address.

**PMN 84–441**

*Manufacturer.* Adhesive Engineering Company.

*Chemical.* (G) Amine adduct of epoxy resin.

*Use/Protection.* (S) Commercial curing agent for epoxy adhesives used in underwater application. Prod. range: 1,000–4,000 kg/yr.

*Toxicity Data.* No data submitted.

*Exposure.* Manufacture: dermal, a total of 4 workers, up to 2 hrs/da, up to 4 da/yr.

*Environmental Release/Disposal.* 0.1 kg/batch released to water. Disposal by approved off site disposal.

**PMN 84–442**

*Manufacturer.* Confidential.

*Chemical.* (G) Epoxy-modified urethane polymer.

*Use/Production.* (G) Open, non-dispersive use, as a component of sealants and adhesives. Prod. range: Confidential.

*Toxicity Data.* Acute oral: 5,000 mg/kg; Acute dermal: 200 mg/kg; Skin Corrosion: Not corrosive.

*Exposure.* Manufacture: dermal, a total of 2 workers, up to 1 hr/da, up to 130 da/yr.

*Environmental Release/Disposal.* Confidential.

**PMN 84–444**

*Manufacturer.* Confidential.

*Chemical.* (G) Modified, maleated metal resinate.

*Use/Production.* (S) Industrial publication gravure printing inks. Prod. range: Confidential.

*Toxicity Data.* No data on the PMN substance submitted.

*Exposure.* Manufacture: dermal, a total of 6 workers.

*Environmental Release/Disposal.* Less than 0.2 kg/batch released to air and water with 20 kg/batch to land. Disposal by sanitary landfill, burned as a fuel or treated in plant air oxidation lagoon.

**PMN 84–445**

*Manufacturer.* Confidential.

Chemical. (G) Substituted ketone.

*Uses/Productions.* (G) Ingredient for composite product (contained use). Prod. range. Confidential.

*Toxicity Data.* Acute oral: >17,000 mg/kg; Irritation: Skin—Non-irritant, Eye—Mild; Ames Test: Weak; Chinese hamster ovary assay: Not mutagenic; Skin sensitization: Mild.

*Exposure.* Manufacture and processing: dermal.

*Environmental Release/Disposal.* Release to land. Disposal by approved landfill and recovering process.

**PMN 84–446**

*Manufacturer.* Confidential.

*Chemical.* (G) Substituted ketone.

*Use/Production.* (G) Chemical intermediate (destructive use). Prod. range: Confidential.

*Toxicity Data.* Acute oral: 1,500 mg/kg; Irritation: Skin—Mild.

*Exposure.* Manufacture and processing: dermal.

*Environmental Release/Disposal.* Release to water and land. Disposal by approved landfill and recovering treatment.

**PMN 84–447**

*Manufacturer.* Confidential.

*Chemical.* (G) Substituted amine.

*Use/Production.* (G) Site-limited chemical intermediate (destructive use). Prod. range: Confidential.

*Toxicity Data.* Acute oral: 670 mg/kg; Irritation: Skin—Moderate.

*Exposure.* Manufacture: dermal.

*Environmental Release/Disposal.* Release to water and land. Disposal by landfill.

**PMN 84–448**

*Manufacturer.* Confidential.

*Chemical.* (G) Substituted aldehyde.

*Use/Production.* (G) Site-limited chemical intermediate (destructive use). Prod. range: Confidential.

*Toxicity Data.* Acute oral: 3,400 mg/kg; Irritation: Skin—Mild.

*Exposure.* Manufacture: dermal.

*Environmental Release/Disposal.* Release to water.

**PMN 84–449**

*Importer.* Confidential.

*Chemical.* (G) Terpene ester.

*Use/Import.* (S) Perfumery ingredient used in compounding of perfumes. Import range: Confidential.

*Toxicity Data.* Acute oral: 5.0 ml/kg; Irritation: Skin—Moderate, Eye—Slight/moderate; Ames Test: Non-mutagenic up to 500 ug/plate; Skin sensitization: Non-sensitizer; Photo-irritation: Not a photo-irritant.

*Exposure.* Manufacture: dermal.

*Environmental Release/Disposal.* No release.

**PMN 84–450**

*Importer.* Confidential.

*Chemical.* (G) Hydrolysis product of terpene ester.

*Use/Import.* (S) Perfumery ingredient used in compounding of perfumes. Import range: Confidential.

*Toxicity Data.* Acute oral: Between 5.0 and 10.0 ml/kg; Irritation: Skin—Slight/moderate, Eye—Slight; Photo-irritation: Not a photo-irritant; Skin sensitization: Non-sensitizer.

*Exposure.* Manufacture: dermal.

*Environmental Release/Disposal.* No release.

**PMN 84–451**

*Importer.* Confidential.

*Chemical.* (G) Phenoxazin imine.

*Use/Import.* (G) Dye for fibers. Import range: 2,000–3,000 kg/yr.

*Toxicity Data.* Acute oral: 599 mg/kg; Irritation: Skin—Minimal, Eye—Moderate; Ames Test: Positive; Micronucleus: Negative; $BOD_5$: 0 mg/g $0_2$; COD: 1,486 mg/$10_2$; COD/TOC: 0.97; $TL_0$ 48 hr (trout): 3 mg/l; $TL_{50}$ 48 hr (trout): 5.7 mg/l; $TL_{100}$ 48 hr (trout): 10 mg/ml; $LC_{50}$ 96 hr (zebra fish): 1 mg/l; $LC_0$ 48 hr (zebra fish); $LC_{50}$ 96 hr (zebra fish): 5.5 mg/l; $LC_{50}$ 48 hr (zebra fish): 1 mg/l; $LC_{100}$ 96 hr (zebra fish): 30 mg/l; $LC_{100}$ 48 hr (zebra fish): 30 mg/l; $TL_0$ 96 hr (zebra fish): 1 mg/l; $TL_{50}$ 96 hr (zebra fish): 1.8 mg/l; $TL_{100}$ 96 hr (zebra fish): 10 mg/l; $TL_0$ 96 hr (trout): 3 mg/l; $TL_{50}$ 96 hr

(trout): 4.8 mg/l; $TL_{100}$ hr (trout): 10 mg/l; $TL_0$ 48 hr (zebra fish): 1 mg/l; $TL_{50}$ 48 hr (zebra fish): 3.2 mg/l; $TL_{100}$ 48 hr (zebra fish): 10 mg/l.

*Exposure.* Processing: inhalation, a total of 2 workers, up to .50 hr/da, up to 3 da/yr.

*Environmental Release/Disposal.* 1 kg/batch released to water. Disposal by publicly owned treatment works (POTW).

**PMN 84–452**

*Manufacturer.* National Starch and Chemical Corporation.

*Chemical.* (G) Poly (vinyl-acrylate).

*Use/Production.* (G) Industrial adhesive. Prod. range: 45,000–250,000 kg/yr.

*Toxicity Data.* No data on the PMN substance submitted.

*Exposure.* Manufacture: dermal, a total of 7 workers, up to 8 hrs/da, up to 10 da/yr.

*Environmental Release/Disposal.* 25 kg/batch released to water. Disposal by approved landfill and plant treatment works.

**PMN 84–453**

*Importer.* Metacomet Incorporated.

*Chemical.* (G) Thiadiazole derivative.

*Use/Import.* (S) Commercial stabilizer for photographic film or paper. Import range: 1–5 kg/yr.

*Toxicity Data.* No data submitted.

*Exposure.* Processing: dermal, a total of 3 workers, up to 5 hrs/da, up to 5 da/yr.

*Environmental Release/Disposal.* No release.

**PMN 84–454**

*Importer.* Metacomet Incorporated.

*Chemical.* (G) Substituted mercapto triazole.

*Use/Import.* (G) Chemical additive. Import range: Confidential.

*Toxicity Data.* No data submitted.

*Exposure.* Processing: dermal, a total of 4 workers, up to 2 hrs/da, up to 3 da/yr.

*Environmental Release/Disposal.* No release.

**PMN 84–455**

*Importer.* Metacomet Incorporated.

*Chemical.* (G) Substituted tetrazole.

*Use/Import.* (S) Commercial stabilizer for photographic emulsion systems. Import range: Confidential.

*Toxicity Data.* Acute oral: 1,16 g/kg; Irritation: Skin—Nonirritant.

*Exposure.* Processing: dermal, a total of 11 workers, up to 5 hrs/da, up to 5 da/yr.

*Environmental Release/Disposal.* No release.

**PMN 84–456**

*Importer.* Metacomet Incorporated.

*Chemical.* (G) Substituted benzimidazole/benzoxazole.

*Use/Import.* (S) Commercial sensitizer for photographic materials. Import range: Confidential.

*Toxicity Data.* No data submitted.

*Exposure.* Import and processing: dermal, a total of 11 workers, up to 5 hrs/da, up to 5 da/yr.

*Environmental Release/Disposal.* No release.

**PMN 84–457**

*Manufacturer.* Confidential.

*Chemical.* (G) Alkyd resin.

*Use/Production.* (G) Resin coatings. Prod. range: Confidential.

*Toxicity Data.* No data on the PMN substance submitted.

*Exposure.* Confidential.

*Environmental Release/Disposal.* Confidential.

**PMN 84–458**

*Manufacturer.* Confidential.

*Chemical.* (G) Carboxylic acid derivatives of polyalkylene glycols.

*Use/Production.* (G) Oil additive. Import range: Confidential.

*Toxicity Data.* No data submitted.

*Exposure.* Confidential.

*Environmental Release/Disposal.* Confidential.

**PMN 84–459**

*Manufacturer.* Confidential

*Chemical.* (G) Modified metal carboxylate.

*Use/Production.* (G) Rheology modifier for printing inks. Prod. range: Confidential.

*Toxicity Data.* No data submitted.

*Exposure.* Manufacture and processing: dermal.

*Environmental Release/Disposal.* Release to air, water and land. Disposal by POTW and landfill.

**PMN 84–460**

*Importer.* Max Marx Color and Chemical.

*Chemical.* (S) Copper ferrocyanide salt of C.I. basic green 1 and C.I. basic yellow 1.

*Use/Import.* (S) A colourant for printing inks. Import range: 250–1,000 kg/yr.

*Toxicity Data.* No data submitted.

*Exposure.* Import: dermal and inhalation, a total of 20 workers, up to 4 hrs/da, up to 60 da/yr.

*Environmental Release/Disposal.* Less than 0.5 kg/yr released to air.

**PMN 84–461**

*Importer.* Max Marx Color and Chemical.

*Chemical.* (S) Copper ferrocyanide salt of C.I. basic blue 11.

*Use/Import.* (S) A colourant for printing inks. Import range: 250–1,000 kg/yr.

*Toxicity Data.* No data submitted.

*Exposure.* Import: dermal and inhalation, a total of 20 workers, up to 4 hrs/da, up to 60 da/yr.

*Environmental Release/Disposal.* 0.5 kg/yr released to air.

**PMN 84–462**

*Manufacturer.* Confidential.

*Chemical.* (G) Substituted urethane ester.

*Use/Production.* (G) An additive in manufacturing industrial coatings. Prod. range: 5,000–18,000 kr/yr.

*Toxicity Data.* No data submitted.

*Exposure.* Manufacture and processing: dermal, a total of 67 workers, up to 8 hrs/da, up to 57 da/yr.

*Environmental Release/Disposal.* 0.5–30 kg/batch released to land. Disposal by incineration and landfill.

**PMN 84–463**

*Manufacturer.* Confidential.

*Chemical.* (G) Modified alkyd resin from fatty acids, carbomonocyclic acids and alkane diols.

*Use/Production.* (G) A dispersive use in coating articles in an industrial setting. Prod. range: 20,000–200,000 kg/yr.

*Toxicity Data.* No data submitted.

*Exposure.* Manufacture and processing: dermal, a total of 33 workers, up to 8 hrs/da, up to 150 da/yr.

*Environmental Release/Disposal.* 5–140 kg/batch released to land. Disposal by incineration and landfill.

**PMN 84–464**

*Manufacturer.* Ethyl Corporation.

*Chemical.* (G) Halogenated aromatic ether.

*Use/Production.* (S) Industrial and commercial flame retardant additive. Prod. range: Confidential.

*Toxicity Data.* Acute oral: >5 g/kg; Acute dermal: >5 g/kg; Irritation: Skin—Not an irritant, Eye—Not an irritant; Ames Test: Not mutagenic.

*Exposure.* Manufacture: dermal, a total of 4 workers, up to 8 hrs/da, up to 240 da/yr.

*Environmental Release/Disposal.* Release to air and water. Disposal by POTW.

**PMN 84–465**

*Manufacturer.* Confidential.

*Chemical.* (G) Substituted urea.

*Use/Production.* (G) Open, non-dispersive use. Prod. range: Confidential.

*Toxicity Data.* No data submitted.
*Exposure.* Confidential.
*Environmental Release/Disposal.* Confidential.

**PMN 84–466**

*Manufacturer.* Spencer Kellog Division of Textron, Inc.
*Chemical.* (G) Polyurethane resin.
*Use/Production.* (G) A component of an adhesive to be used in an open, non-dispersive manner. Prod. range: Confidential.
*Toxicity Data.* No data submitted.
*Exposure.* Confidential.
*Environmental Release/Disposal.* No data submitted.

**PMN 84–467**

*Importer.* Confidential.
*Chemical.* (G) Hydrogen 2–[alpha–(2–hydroxy–3–sulfo–5–ethenylsulfonyphenylazo)–benzilidenehydrazino]–5–=substituted, cuprate, sodium salt.
*Use/Import.* (S) Textile dye. Import range: 600–1,200 kg/yr.
*Toxicity Date.* Acute oral: 5,000 mg/kg; Irritation: Skin—Slight, Eye—Non-irritant.
*Exposure.* Import and processing: a total of 8–10 workers, up to 30 manhours/yr.
*Environmental Release/Disposal.* 120 kg/yr released. Disposal by POTW.

**PMN 84–468**

*Manufacturer.* Confidential.
*Chemical.* (G) Functionalized polyacrylic acid derivative.
*Use/Production.* G Coatings additive in open non-dispersive uses (pertinent to both categories of us). Prod. range: Confidential.
*Toxicity Data.* No data on the PMN substance submitted.
*Exposure.* Manufacture: dermal a total of 8 workers.
*Environmental Release/Disposal.* Release to water and land. Disposal by POTW, bilogical treatment system and landfill.

Dated: March 2, 1984.

**Linda A. Travers,**

*Acting Director, Information Management Division.*

[FR Doc. 84–6246 Filed 3–8–84; 8:45 am]
BILLING CODE 6560–50–M

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[SA–FRL 2542–3]

## Science Advisory Board, Environmental Effects, Transport and Fate Committee; Open Meeting

Under Pub. L. 92–463, notice is hereby given of a two-day meeting of the Science Advisory Board's Environmental Effects, Transport and Fate Committee. The meeting will be held on March 26–27, 1984 in the Holiday Inn, 165 Fort Pickens Road, Pensacola Beach, Florida in Conference Room "Langley" and "Antietam". The meeting will begin at 9:00 a.m. and will adjourn at approximately 5:00 p.m. on March 26, Monday, and from 10:00 a.m. to 5:00 p.m. on March 27, Tuesday.

This will be the second meeting of the Committee on the assessment of environmental impacts involved with the incineration of hazardous wastes at sea. Agency personnel from the Gulf Breeze, Florida, Office of Research and Development Laboratory will provide the Committee information on their extensive experience with the distribution and uptake of organochlorine compounds under the climatic and hydrologic conditions that exist in the Gulf of Mexico. These briefings will help to enable the Committee to determine an appropriate course of action to carry out its independent scientific review.

The meeting is open to the public. Any member of the public wishing to attend should contact Dr. Douglas B. Seba, Executive Secretary, Environmental Effects, Transport and Fate Committee or Joanna Foellmer (202) 382–2552 by close of business March 19, 1984. Those wishing to obtain information or submit comments to the Committee should contact Dr. Terry F. Yosie, Director, Science Advisory Board (202) 382–4126 or Dr. Douglas B. Seba, by close of business March 19, 1984.

Dated: March 5, 1984.

**Terry F. Yosie,**

*Staff Director, Science Advisory Board.*

[FR Doc. 84–6364 Filed 3–8–84; 8:45 am]
BILLING CODE 6560–50–M

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[ER–FRL–2541–1]

## Availability of Environmental Impact Statements Filed February 27 Through March 2, 1984

Responsible Agency: Office of Federal Activities, General Information (202) 382–5073 or (202) 382–5075.

EIS No. 840085, Draft, COE, AL, Bulk Coal and Grain Handling Facility Permit, Theodore Ship Channel, Mobile County, Due: April 23, 1984.
EIS No. 840086, Report, COE, MI, Pointe Mouillee Maintenance Dredging of Sediments, Monroe and Wayne Counties,
EIS No. 840087, Report, COE, MI, Michigan Maintenance Dredging of Unpolluted Sediments, Ludington, Muskegon, and St. Joseph Harbors,
EIS No. 840089, Draft, FHWA, GA, President/East Broad Streets to Islands Expressway/US 80, Improvements, Chatham Co. Due: Apr. 23, 1984.
EIS No. 840090, DSuppl, UMT, FL, Jacksonville/River Crossing Automated Transit Extension Alternative, Duval County, (DS–1) Due: Apr. 23, 1984.
EIS No. 840091, Draft, COE, MS, Jackson Flood Control Plan, Pearl River, Rankin County, Due: Apr. 24, 1984.
EIS No. 840092, Draft, BLM, CO, Mobile/Pacific Oil Shale Project, Development, Garfield County, Due: May 4, 1984.
EIS No. 840093, Draft, FHW, KY, US 27/Nicholasville Bypass Construction, Jessamine County, Due: Apr. 23, 1984.

Amended Notices:

EIS No. 840040, Draft, SFW, AK, Kenai National Wildlife Refuge, Conservation Management Plan, Kenai Peninsula Borough Due: Apr. 4, 1984. Published FR 3–9–84 Review Extended.
EIS No. 830568, Draft, OSM, WY Red Rim Coal Development Leasing, Fremont, Sweetwater and Carbon Counties, Due: Apr. 20, 1984. Published FR 01–20–84—Notification of closing date for comments.

Dated: March 6, 1984.

**Allan Hirsch,**

*Director, Office of Federal Activities.*

[FR Doc. 84–6429 Filed 3–8–84; 8:45 am]
BILLING CODE 6560–50–M

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[OW–FRL–2533–1]

## Development of Water Quality-Based Permit Limitations for Toxic Pollutants; National Policy

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** EPA has issued a national policy statement entitled "Policy for the Development of Water Quality-Based Permit Limitations for Toxic Pollutants." This policy addresses the technical approach for assessing and controlling the discharge of toxic substances to the Nation's waters through the National Pollutant Discharge Elimination System (NPDES) permit program.

**FOR FURTHER INFORMATION CONTACT:** Bruce Newton or Rick Brandes, Permits Division (EN–336), Office of Water Enforcement and Permits, U.S. Environmental Protection Agency, Washington, D.C. 20460, 426–7010.

**SUPPLEMENTARY INFORMATION:** As the water pollution control effort in the United States progresses and the "traditional" pollutants (oxygen demanding and eutrophying materials) become sufficiently treated to protect water quality, attention is shifting towards pollutants that impact water quality through toxic effects. Compared with the traditional pollutants, regulation of toxic pollutants is considerably more difficult. The difficulties include (1) the great number of toxic chemicals that may potentially be discharged to receiving waters and the difficulties in their analysis; (2) the changes in the toxic effects of a chemical resulting from reactions with the matrix of constituents in which it exists; and (3) the inability to predict the effects of exposure to combinations of chemicals.

To overcome some of these problems, EPA and the States have begun to use aquatic toxicity tests and various human health assessment techniques to complement chemical analyses of effluents and receiving water samples. Because these techniques or their application to effluent testing are new, EPA and the States have been cautious in their use. Based on EPA's evaluation of these techniques and the experiences of several States, EPA is now recommeding the use of biological techniques as a complement to chemical-specific analyses to assess effluent discharges and express permit limitations. EPA has issued these recommendations through a statement of policy and is developing a technical guidance document to help implement the policy.

The complete test of the national policy statement follows:

**Policy for the Development of Water Quality-Based Permit Limitations for Toxic Pollutants**

*Statement of policy*

To control pollutants beyond Best Available Technology Economically Achievable (BAT), secondary treatment, and other Clean Water Act technology-based requirements in order to meet water quality standards, the Environmental Protection Agency (EPA) will use an integrated strategy consisting of both biological and chemical methods to address toxic and nonconventional pollutants from industrial and municipal sources. Where State standards contain numerical criteria for toxic pollutants, National Pollutant Discharge Elimination System (NPDES) permits will contain limits as necessary to assure compliance with these standards. In addition to enforcing specific numerical criteria, EPA and the States will use biological techniques and available data on chemical effects to assess toxicity impacts and human health hazards based on the general standard of "no toxic materials in toxic amounts."

EPA, in its oversight role, will work with States to ensure that these techniques are used wherever appropriate. Under section 308 and section 402 of the Clean Water Act (the Act), EPA or the State may require NPDES permit applicants to provide chemical, toxicity, and instream biological data necessary to assure compliance with standards. Data requirements may be determined on a case-by-case basis in consultation with the State and the discharger.

Where violations of water quality standards are identified or projected, the State will be expected to develop water quality-based effluent limits for inclusion in any issued permit. Where necessary, EPA will develop these limits in consultation with the State. Where there is a significant likelihood of toxic effects to biota in the receiving water, EPA and the States may impose permit limits on effluent toxicity and may require an NPDES permittee to conduct a toxicity reduction evaluation. Where toxic effects are present but there is a significant likelihood that compliance with technology-based requirements will sufficiently mitigate the effects, EPA and the States may require chemical and toxicity testing after installation of treatment and may reopen the permit to incorporate additional limitations if needed to meet water quality standards. (Toxicity data, which are considered "new information" in accordance with 40 CFR 122.62(a)(2), could constitute cause for permit modification where necessary.)

To carry out this policy, EPA Regional Administrators will assure that each Region has the capability to conduct water quality assessments using both biological and chemical methods and provide technical assistance to the States.

*Background*

The Clean Water Act establishes two principal bases for effluent limitations. First, existing dischargers are required to meet technology-based effluent limitations that reflect the best controls available considering economic impacts. New source dischargers must meet the best demonstrated technology-based controls. Second, where necessary, additional requirements are imposed to assure attainment and maintenance of water quality standards established by the States and approved by EPA. In establishing or reviewing NPDES permit limits, EPA must ensure that the limits will result in the attainment of water quality standards and protect designated water uses, including an adequate margin of safety.

For toxic and nonconventional pollutants it may be difficult in some situations to determine attainment or nonattainment of water quality standards and set appropriate limits because of complex chemical interactions which affect the fate and ultimate impact of toxic substances in the receiving water. In many cases, all potentially toxic pollutants cannot be identified by chemical methods. In such situations, it is more feasible to examine the whole effluent toxicity and instream impacts using biological methods rather than attempt to identify all toxic pollutants, determine the effects of each pollutant individually, and then attempt to assess their collective effect.

The scientific basis for using biological techniques has advanced significantly in recent years. There is now a general consensus that an evaluation of effluent toxicity, when adequately related to instream conditions, can provide a valid indication of receiving system impacts. This information can be useful in developing regulatory requirements to protect aquatic life, especially when data from toxicity testing are analyzed in conjunction with chemical and ecological data. Generic human health effects methods, such as the Ames mutagenicity test, and structure-activity relationship techniques are showing promise and should be used to identify potential hazards. However, pollutant-specific techniques are the best way to evaluate and control human health hazards at this time.

Biological testing of effluents is an important aspect of the water quality-based approach for controlling toxic pollutants. Effluent toxicity data in conjunction with other data can be used to establish control priorities, assess compliance with State water quality standards, and set permit limitations to achieve those standards. All States have water quality standards which include narrative statements prohibiting the discharge of toxic materials in toxic amounts. A few State standards have criteria more specific than narrative criteria (for example, numerical criteria for specific toxic pollutants or a toxicity criterion to achieve designated uses). In States where numerical criteria are not specified, a judgment by the regulatory authority is required to set quantitative water quality-based limits on chemicals and effluent toxicity to assure

compliance with water quality standards.

Note.—Section 308 of the Act and corresponding State statutes authorize EPA and the States to require of the owner/operator any information reasonably required to determine permit limits and to determine compliance with standards or permit limits. Biological methods are specifically mentioned. Toxicity permit limits are authorized under Section 301 and 402 and supported by Section 101.

*Application*

This policy applies to EPA and the States. The policy addresses the use of chemical and biological methods for assuring that effluent discharges are regulated in accordance with Federal and State requirements. This policy was prepared, in part, in response to concerns raised by litigants to the Consolidated Permit Regulations (see FR 52079, November 18, 1982). Use of these methods for developing water quality standards and trend monitoring are discussed elsewhere (see 48 FR 51400, November 8, 1983 and *Basic Water Monitoring Program* EPA–440/9–76–025). This policy is part of EPA's water quality-based control program and does not supersede other regulations, policy, and guidance regarding use attainability, site-specific criteria modification, wasteload allocation, and water quality management.

*Implementation*

**State Role**

The control of toxic substances to protect water quality must be done in the context of the Federal-State partnership. EPA will work cooperatively with the States in identifying potential water quality standards violations, assembling relevant data, developing appropriate testing requirements, determining whether standards are being violated, and defining appropriate permit limits.

Note.—Under sections 303 and 401 of the Act, States are given primary responsibility for developing water quality standards and limits to meet those standards. EPA's role is to review the State standards and limits and develop revised or additional standards or limits as needed to meet the requirements of the Act.

**Integration of Approaches**

The type of testing that is most appropriate for assessing water quality impacts depends on the type of effluent and discharge situation. EPA recommends that an integrated approach, including both biological and chemical techniques, be used to assess and control water quality. The principal advantages of chemical-specific techniques are that (1) chemical analyses are usually less expensive than biological measurements in simple cases; (2) treatment systems are more easily designed to meet chemical requirements than toxicity requirements; and (3) human health hazards and bioaccumulative pollutants can best be addressed at this time by chemical-specific analysis. The principal advantages of biological techniques are that (1) the effects of complex discharges of many known and unknown constituents can be measured only by biological analyses; (2) bioavailability of pollutants after discharge is best measured by toxicity testing; and (3) pollutants for which there are inadequate chemical analytical methods or criteria can be addressed.

Pollutant-specific chemical analysis techniques should be used where discharges contain few, well-quantified pollutants and the interactions and effects of the pollutants are known. In addition, pollutant-specific techniques should be used where health hazards are a concern or bioaccumulation is suspected. Biological techniques should be used where effluents are complex or where the combined effects of multiple discharges are of concern. EPA recognizes that in many cases both types of analysis must be used.

**Testing Requirements**

Requirements for dischargers to collect information to assess attainment or nonattainment of State water quality standards will be imposed only in selected cases where the potential for nonattainment of water quality standards exists. Where water quality problems are suspected but there is a strong indication that complying with BCT/BAT will sufficiently mitigate the impacts, EPA recommends that applicable permits include testing requirements effective after BCT/BAT compliance and reopener clauses allowing reevaluation of the discharge.

The chemical, physical, and biological testing to be conducted by individual dischargers should be determined on a case-by-case basis. In making this determination, many factors must be considered, including the degree of impact, the complexity and variability of the discharge, the water body type and hydrology, the potential for human health impact, the amount of existing data, the level of certainty desired in the water quality assessment, other sources of pollutants, and the ecology of the receiving water. The specific data needed to measure the effect that a discharger has on the receiving water will vary according to these and other factors.

An assessment of water quality should, to the extent practicable, include other point and nonpoint sources of pollutants if the sources may be contributing to the impacts. Special attention should be focused on Publicly Owned Treatment Works (POTW's) with a significant contribution of industrial waste-water. Recent studies have indicated that such POTW's are often significant sources of toxic materials. When developing monitoring requirements, interpreting data, and determining limitations, permit engineers should work closely with water quality staff at both the State and Federal levels.

A discharger may be required to provide data upon request under section 308 of the Act, or such a requirement may be included in its NPDES permit. The development of a final assessment may require several iterations of data collection. Where potential problems are identified, EPA or the State may require monitoring to determine whether more information is needed concerning water quality effects.

**Use of Data**

Chemical, physical, and biological data will be used to determine whether, after compliance with BCT/BAT requirements, there will be violations of State water quality standards resulting from the discharge(s). The narrative prohibition of toxic materials in toxic amounts contained in all State standards is the basis for this determination taking into account the designated use for the receiving water. For example, discharges to waters classified for propagation of cold water fish should be evaluated in relation to acute and chronic effects on cold water organisms, potential spawning areas, and effluent dispersion.

**Setting Permit Limitations**

Where violations of water quality standards exist or are projected, the State and EPA will determine pollution control requirements that will attain the receiving water designated use. Where effluent toxicity is an appropriate control parameter, permit limits on effluent toxicity should be developed. In such cases, EPA may also require a permittee to conduct a toxicity reduction evaluation. A toxicity reduction evaluation is an investigation conducted within a plant or municipal system to isolate the sources of effluent toxicity, specific causative pollutants if possible, and determine the effectiveness of pollution control options in reducing the effluent toxicity. If specific chemicals are identified as the cause of the water

quality standards violation, these individual pollutants should be limited. If a toxicity reduction evaluation demonstrates that limiting an indicator parameter will ensure attainment of the water quality-based effluent toxicity requirement, limits on the indicator parameter should be considered in lieu of limits on effluent toxicity. Such indicator limits are not limits on causative pollutants but limits demonstrated to result in a specific toxicity reduction.

### Monitoring

Where pollution control requirements are expressed in terms of a chemical or toxicological parameter, compliance monitoring must include monitoring for that parameter. If an indicator parameter is used based on the results of a toxicity reduction evaluation, periodic toxicity testing may be required to confirm the adequacy of the indicator. Where biological data were used to develop a water quality assessment or where the potential for water quality standards violations exist, biological monitoring (including instream monitoring) may be required to ensure continuing compliance with water quality standards.

EPA believes that the intelligent application of an integrated strategy using both biological and chemical techniques for water quality assessment will facilitate the development of appropriate controls and the attainment of water quality standards. EPA looks forward to working with the States in a spirit of cooperation to further refine these techniques.

Policy signed February 3, 1984 by Jack E. Ravan, Assistant administrator for Water.

Dated: February 16, 1984.

**Jack E. Ravan,**

*Assistant Administrator for Water.*

[FR Doc. 84-6445 Filed 3-8-84; 8:45 am]

BILLING CODE 6560-50-M

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[SA-FRL 2542-7]

## Science Advisory Board, Subcommittee on Risk Assessment for Radionuclides; Meeting

Under Pub. L. 92-463, notice is hereby given of a two day meeting of the Science Advisory Board's Subcommittee on Risk Assessment for Radionuclides. The meeting will be held on March 22-23, 1984 in Room 1112, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, Virginia. The public phase of the meeting will begin at 1:00 p.m. March 22 and close at 4:30 p.m. of the same day.

The purpose of the meeting is two fold: to enable the Subcommittee to develop an outline of its report to the Agency and make writing assignments to individual Subcommittee members. To effectively carry out this part of the meeting, the Subcommittee plans to hold an executive session the morning of March 22 and 23. The second part of the meeting which will be open to the public during the afternoon of March 22, will consist of additional Office of Radiation Program (ORP) staff briefings and any further presentations from members of the public. The ORP briefings will consist of presentations that define the relationship between the elemental phosphorus industrial source category to the ORP's risk assessment to illustrate the intended use of the risk assessment in the Agency's decision making process.

Any member of the public wishing to obtain information or submit comments to the Subcommittee should write or call by close of business March 15, Dr. Terry F. Yosie, Director, Science Advisory Board (A-101), EPA, 401 M Street SW., Washington, D.C. 20460 (202) 382-4126.

Dated: February 28, 1984.

**Terry F. Yosie,**

*Director, Science Advisory Board.*

[FR Doc. 84-6516 Filed 3-8-84; 8:45 am]

BILLING CODE 6560-50-M

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## FEDERAL DEPOSIT INSURANCE CORPORATION

## Penn Square Bank, N.A., Oklahoma City, Oklahoma; Issuance of Powers of Attorney

**AGENCY:** Federal Deposit Insurance Corporation.

**ACTION:** Public notice.

**SUMMARY:** On October 27, 1982, the Federal Deposit Insurance Corporation (hereinafter "FDIC") published notice of its appointment as Receiver of the Penn Square Bank, N.A., Oklahoma City, Oklahoma, and of the issuance by the FDIC of general powers of attorney in favor of Thomas R. Procopio, Liquidator, and six Assistant Liquidators (See 47 FR 47677, October 27, 1982). The notice was published in order to facilitate FDIC's discharge of its responsibilities as Receiver and specifically to comply with the provisions of Title 16, Section 20 of the Oklahoma Statutes (16 O.S. Section 20), which creates an exception, based upon such publication, to the otherwise applicable requirement that powers of attorney be recorded locally in order to effect conveyances of interests in property. Supplemental notices updating that notice were published on January 21, 1983 (see 48 FR 2829), March 23, 1983 (see 48 FR 12434), and June 23, 1983 (see 48 FR 28731). This notice supplements the prior notices.

### Notice

On December 5, 1983, the Director of the FDIC's Division of Liquidation appointed Paul G. Heafy Bank Liquidation Specialist (Liquidator-In-Charge) and provided him with power of attorney to act on behalf of the FDIC in this capacity.

On the same date, a power of attorney that had previsouly been issued to Thomas R. Procopio, as Liquidator-In-Charge, had been revoked.

On December 13, 1983, the Associate Director of the FDIC's Division of Liquidation appointed Robert L. Carman Bank Liquidation Specialist and provided him with power of attorney to act on behalf of the FDIC. On the same date, powers of attorney were revoked that had previsously been issued to John M. Schill and Edward L. McManaman, Jr.

Previously, on October 28, 1983, the power of attorney was revoked that had been issued to Donald J. Lubitz.

And on October 11, 1983, the Associate Director of the FDIC's Division of Liquidation appointed Neil C. Steimer Bank Liquidation Specialist and provided him with power of attorney to act on behalf of the FDIC. On the same date, powers of attorney were revoked that had previously been issued to Patrocinio T. Villarreal and Ronald W. Carris.

Accordingly, with respect to Messrs. Heafy, Carman, and Steimer, each have been authorized and empowered to:

(1) Sign, seal and deliver as the act and deed of the FDIC any instrument in writing, and to do every other thing necessary and proper for the collection and recovery of any and all monies and properties of every kind and nature whatsoever for and on behalf of the FDIC and to give proper receipts and acquittances therefore in the name and on behalf of the FDIC;

(2) Release, discharge or assign any and all judgments, mortgages on real estate or personal property [including the release and discharge of the same of record in the office of any Prothonotary or Register of Deeds wherever located where payments on account of the same in redemption or otherwise may have been made by the debtor(s)], and to endorse receipt of such payment upon the records in any appropriate public office;

(3) Receive, collect and give all proper acquittances for any other sums of money owing to the FDIC for any asset

which the attorney-in-fact may sell or dispose of;

(4) Execute any and all transfers and assignments as may be necessary to assign any securities or other choices in action;

(5) Sign, seal, acknowledge and deliver any and all agreements as shall be deemed necessary or proper by the attorney-in-fact in the car and management of the Acquired Assets;

(6) Sign, seal, acknowledge and deliver indemnity agreements and surety bonds in the name of and on behalf of the FDIC;

(7) Sign receipts for the payment of all rents and profits due or to become due on the Acquired Assets;

(8) Extend, postpone, release and satisfy or take such other action regarding any mortgage lien held in the name of the FDIC;

(10) Execute, acknowledge and deliver in the name of the FDIC a power of attorney wherever necessary or required by law to any attorney employed by the FDIC;

(11) Foreclose any mortgage or other lien on either real or personal property, wherever located;

(12) Do and perform every act necessary for the use, liquidation or collection of the Acquired Assets held in the name of the FDIC;

(13) Sign, seal, acknowledge and deliver any and all documents as may be necessary to settle any action(s) or claim(s) asserted against the FDIC, either in its Receivership or Corporate capacity.

Dated: March 5, 1984.

Federal Deposit Insurance Corporation.

**Hoyle L. Robinson,**

*Executive Secretary.*

[FR Doc. 84-6340 Filed 3-8-84; 8:45 am]

BILLING CODE 6714-01-M

## FEDERAL EMERGENCY MANAGEMENT AGENCY

**[Docket No. FEMA-REP-5-IL-4]**

### The Illinois Plan For Radiological Accidents Site-Specific to the Quad Cities Nuclear Power Plant

**ACTION:** Certification of FEMA findings and determination.

In accordance with the Federal Emergency Management Agency (FEMA) rule 44 CFR Part 350, the State of Illinois submitted its plans relating to the Quad Cities Nuclear Power Plant to the Director of FEMA Region V on December 15, 1982, for FEMA review and approval. On October 25, 1983, the Regional Director forwarded his evaluation to the Associate Director for State and Local Programs and Support in accordance with Section 350.11 of the FEMA rule. Included in this evaluation is a review of the State and local plans around the Quad Cities facility, and evaluations of the joint exercises conducted on August 24, 1982, and May 20, 1981, in accordance with § 350.9 of the FEMA rule, and a report of the public meeting held on June 17, 1981, to discuss the site-specific aspects of the State and local plans in accordance with § 350.10 of the FEMA rule. In addition, the Regional Director submitted an addendum dated November 14, 1983, that considered the revision in plans and preparedness since April 13, 1983, and the final report on the May 11, 1983, exercise. This last evaluation reported that the remaining outstanding deficiencies have been resolved.

Based on the evaluation by the Regional Director and the review by the FEMA Headquarters staff, I find and determine that, subject to the condition stated below, the State and local plans and preparedness for the Quad Cities Nuclear Power Plant are adequate to protect the health and safety of the public living in the vicinity of the plant. These offsite plans and preparedness are assessed as adequate in that they provide reasonable assurance that appropriate protective actions can be taken offsite in the event of a radiological emergency and are capable of being implemented. The condition for the above approval is that the adequacy of the public alert and notification system already installed and operational must be verified as meeting the standards set forth in Appendix 3 of the Nuclear Regulatory Commission (NRC)/FEMA criteria of NUREG-0654/FEMA-REP-1, Revision 1.

FEMA will continue to review the status of offsite plans and preparedness associated with the Quad Cities Nuclear Power Plant in accordance with Section 350.13 of the FEMA rule.

For further details with respect to this action, refer to Docket File FEMA-REP-5-IL-4 maintained by the Regional Director, FEMA Region V, Federal Center, Battle Creek, Michigan 49016.

Dated: March 2, 1984.

For the Federal Emergency Management Agency.

**Samuel W. Speck,**

*Associate Director, State and Local Programs and Support.*

[FR Doc. 84-6337 filed 3-8-84; 8:45 am]

BILLING CODE 6718-01-M

**[Docket No. FEMA-REP-5-IL-3]**

### The Illinois Plan for Radiological Accidents Site-Specific to the Zion Nuclear Power Plant

ACTION: Certification of FEMA findings and determination.

In accordance with the Federal Emergency Management Agency (FEMA) rule 44 CFR Part 350, the State of Illinois submitted its plans relating to the Zion Nuclear Power Plant to the Director of FEMA Region V on December 15, 1982, for FEMA review and approval. On October 25, 1983, the Regional Director forwarded his evaluation to the Associate Director for State and Local Programs and Support in accordance with § 350.11 of the FEMA rule. Included in this evaluation is a review of the State and local plans around the Zion facility, and evaluations of the joint exercises conducted on July 29, 1981, and January 18, 1983, in accordance with § 350.9 of the FEMA rule, and a report of the public meeting held on August 12, 1981, to discuss the site-specific aspects of the State and local plans in accordance with Section 350.10 of the FEMA rule.

Based on the evaluation by the Regional Director and the review by the FEMA Headquarters staff, I find and determine that, subject to the condition stated below, the State and local plans and preparedness for the Zion Nuclear Power Plant are adequate to protect the health and safety of the public living in the vicinity of the plant. These offsite plans and preparedness are assessed as adequate in that they provide reasonable assurance that appropriate protective actions can be taken offsite in the event of a radiological emergency and are capable of being implemented. The condition for the above approval is that the adequacy of the public alert and notification system already installed and operational must be verified as meeting the standards set forth in Appendix 3 of the Nuclear Regulatory Commission (NRC)/FEMA criteria of NUREG-0654/FEMA-REP-1, Revision 1.

FEMA will continue to review the status of offsite plans and preparedness associated with the Zion Nuclear Power Plant in accordance with Section 350.13 of the FEMA rule.

For further details with respect to this action, refer to Docket File FEMA-REP-5 IL-3 maintained by the Regional Director, FEMA Region V, Federal Center, Battle Creek, Michigan 49016.

Dated: March 2, 1984.

For the Federal Emergency Management Agency.

**Samuel W. Speck,**

*Associate Director, State and Local Programs and Support.*

[FR Doc. 84-6338 Filed 3-8-84; 8:45 am]

BILLING CODE 6718-01-M

## FEDERAL RESERVE SYSTEM

### Acquisition of Company Engaged in Permissible Nonbanking Activities; European American Bancorp

The organization listed in this notice has applied under § 225.23 (a)(2) or (f) of the Board's Regulation Y (49 FR 794) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (49 FR 794) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompained by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank or the offices of the Board of Governors not later than March 30, 1984.

A. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *European American Bancorp,* New York, New York; to acquire I. Wharton & Co., Inc., and Wharton Funding Corporation, Great Neck, New York, and thereby engage in processing mortgage insurance commitment approvals, the arranging of conventional mortgages, the placement of commercial real estate equities of more than one million dollars and incidental advising related thereto.

Board of Governors of the Federal Reserve System, March 5, 1984.

**James McAfee,**

*Associate Secretary of the Board.*

[FR Doc. 84-6330 Filed 3-8-84; 8:45 am]

BILLING CODE 6210-01-M

### Formations of; Acquisitions by; and Mergers of Bank Holding Companies; First Glen Bancorp, Inc., et al.

The companies listed in this notice have applied for the Board's approval under secton 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (49 FR 794) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Baord of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than March 30, 1984.

A. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President), 33 Liberty Street, New York, New York 10045:

1. *First Glen Bancorp, Inc.,* Glens Falls, New York; to acquire 100 percent of the voting shares or assets of The Keeseville National Bank, Keeseville, New York.

B. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President), 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *First McMinnville Corporation,* McMinnville, Tennessee; to become a bank holding company by acquiring 100 percent of the voting shares of The First National Bank of McMinnville, McMinnville, Tennessee.

C. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President), 925 Grand Avenue, Kansas City, Missouri 64198:

1. Ashland Bancshares, Inc., Omaha, Nebraska; to become a bank holding company by acquiring at least 99 percent of the voting shares of Ashland State Bank, Ashland, Nebraska.

D. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President), 400 South Akard Street, Dallas, Texas 75222:

1. *Alliance Holdings, Inc.,* Austin, Texas; to become a bank holding company by acquiring at least 80 percent of the voting shares of Alliance Bank, N.A., Austin, Texas.

Board of Governors of the Federal Reserve System, March 5, 1984.

**James McAfee,**

*Associate Secretary of the Board.*

[FR Doc. 84-6331 Filed 3-8-84; 8:45 am]

BILLING CODE 6210-01-M

### Formations of; Acquisitions by; and Mergers of Bank Holding Companies; the First Jermyn Corp., et al.

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (49 FR 794) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1942(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than March 28, 1984.

A. **Federal Reserve Bank of Philadelphia** (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *The First Jermyn Corp.*, Jermyn, Pennsylvania; to become a bank holding company by acquiring 100 percent of the voting shares of The First National Bank of Jermyn, Jermyn, Pennsylvania.

B. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *Baxley State Banking Company*, Baxley, Georgia; to become a bank holding company by acquiring 100 percent of the voting shares of Baxley State Bank, Baxley, Georgia.

2. *Plaquemine Bancshares Corporation*, Plaquemine, Louisiana; to become a bank holding company by acquiring 100 percent of the voting shares of Plaquemine Bank & Trust Company, Plaquemine, Louisiana.

C. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Rose Capital Bancshares, Inc.*, Tyler, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of Rose Capital Bank, Tyler, Texas.

2. *Sabinal Bancshares, Inc.*, Sabinal, Texas; to become a bank holding company by acquiring 80 percent of the voting shares of Sabinal Bank, Sabinal, Texas.

Board of Governors of the Federal Reserve System, March 5, 1984.

**James McAfee,**

*Associate Secretary of the Board.*

[FR Doc. 84-6332 Filed 3-8-84; 8:45 am]

BILLING CODE 6210-01-M

## Applications to Engage de Novo in Permissible Nonbanking Activities; First National Bancorp of Shelbyville, et al.

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (49 FR 794) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (49 FR 794) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 28, 1984.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *First National Bancorp of Shelbyville*, Shelbyville, Tennessee; to engage *de novo* through its subsidiary, First Leasing Corp. of Shelbyville, Shelbyville, Tennessee, in making leases of personal or real property in the State of Tennessee. Comments on this application must be received not later than March 26, 1984.

B. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Norwest Corporation*, Minneapolis, Minnesota; to engage through its direct or indirect subsidiaries, Norwest Financial Services, Inc. and its subsidiaries, in the activities of consumer finance; sales finance; commercial finance (including, but not limited to, accounts receivable financing, factoring and other secured lending activities); lease financing; and underwriting and sale of credit life and credit accident and health insurance related to extensions of credit by Norwest Corporation or its subsidiaries, and the sale of credit property and credit-related casualty insurance related to extensions of credit by Norwest Financial Services, Inc., or its subsidiaries (such underwriting and sale of credit-related insurance being permissible activities under Subparagraph D of Title VI of the Garn-St Germain Depository Institutions Act of 1982); the offering for sale and selling of travelers checks; servicing loans and other extensions of credit for other persons; and the offering for sale and selling of bookkeeping, payroll and other management financial reporting services. This notification is for Norwest Financial Services, Inc. or its subsidiaries to engage in any of the aforementioned activities at any location within the United States except in the states of Alaska, Arkansas, Delaware, Maine, Michigan, New York, Vermont, Virginia, and Wisconsin, and except that no authorization is requested (i) for the sale of credit property and credit-related casualty insurance in the States of Connecticut, Kentucky, Maryland, Massachusetts, New Hampshire, New Jersey, West Virginia, and Wyoming; (ii) for the offering for sale and selling of travelers checks in the states of Georgia, Kentucky, Nevada, and Washington; or (iii) for the underwriting of credit life and credit accident and health insurance in Wyoming.

C. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Americo Bancshares, Inc.*, Wolfforth, Texas; to engage *de novo* through its subsidiary, Americo Bancshares, Inc., in the processing and funding of mortgage loans for sale in the secondary market.

2. *Broadway Bancshares, Inc.*, San Antonio, Texas; to engage directly in making or acquiring for its own account and for the account of others and servicing loans and other extensions of credit, both secured and unsecured and including, but not limited to consumer and business lines of credit, installment loans for personal, household and business purposes and mortgage loans secured by real property; insurance and sale of travelers checks and the sale at retail of money orders having a face value of not more than $1,000.

3. *River Oaks Bancshares, Inc.*, Houston, Texas; to engage, through an equity investment by its subsidiary, River Oaks Trust Corporation, Houston, Texas in a newly formed corporation known as Texas First Brokerage Services, Inc., Houston, Texas, in securities brokerage services and incidental activities including the provision of discount brokerage services to individuals and institutions; private label order execution; and clearing services to non-investor and investor financial institutions on a contractual basis.

Board of Governors of the Federal Reserve System, March 5, 1984.

**James McAfee,**

*Associate Secretary of the Board.*

[FR Doc. 84-6328 Filed 3-8-84; 8:45 am]

BILLING CODE 6210-01-M

## Formation of a Bank Holding Co.; Gore Valley Bancorporation, Inc.

The company listed in this notice has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring voting shares or assets of a bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated. With respect to the application, interested persons may express their views in writing to the address indicated. Any comment on the application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Gore Valley Bancorporation, Inc.*, Vail, Colorado, to become a bank holding company by acquiring 100 percent of the voting shares of First National Bank of Vail, Vail, Colorado, a *de novo* bank. Comments on this application must be received not later than April 5, 1984.

Board of Govenors of the Federal Reserve System, March 5, 1984.

**James McAfee,**

*Associate Secretary of the Board.*

[FR Doc. 84-6333 Filed 3-8-84; 8:45 am]

BILLING CODE 6210-01-M

## Applications to Engage de Novo in Permissible Nonbanking Activities; Old Stone Corp., et al.

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (49 FR 794) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. § 1843(c)(8)) and § 225.21(a) of Regulation Y (49 FR 794) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 29, 1984.

A. **Federal Reserve Bank of Boston** (Richard E. Randall, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *Old Stone Corporation*, Providence, Rhode Island; to engage *de novo* through its subsidiaries, UniMortgage Corporation and UniMortgage Corporation of TN, both located in Jacksonville, Florida, in the origination, sale and servicing of first and second mortgage loans, through American Standard Insurance Agency, Inc., Jacksonville, Florida, and to act as agent in the sale of credit life and credit accident and health insurance. The insurance to be sold would be reinsured by an affiliate company, The Motor Life Insurance Company.

B. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Citicorp*, New York, New York; to engage *de novo* in the leasing of personal or real property or acting as agent, broker or advisor in leasing such property.

Board of Governors of the Federal Reserve System, March 5, 1984.

**James McAfee,**

*Associate Secretary of the Board.*

[FR Doc. 84-6329 Filed 3-8-84; 8:45 am]

BILLING CODE 6210-01-M

## Formations of; Acquisitions by; and Mergers of Bank Holding Companies and Acquisitions of Nonbanking Companies; State Holding Co., et al.

The companies listed in this notice have applied under § 225.14 of the Board's Regulation Y (49 FR 794) for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) to become a bank holding company or to acquire voting securities of a bank or bank holding company. The listed companies have also applied to under § 225.23(a)(2) of Regulation Y (49 FR 794) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843 (c)(8)) and § 225.21(a) of Regulation Y (49 FR 794) to acquire or control voting securities or assets a company engaged in a nonbanking activity that is listed in section 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies, or to engage in such activity. Unless otherwise noted, these activities will be conducted throughout the United States.

The applications are available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank

indicated or the offices of the Board of Governors not later than March 30, 1984.

A. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *State Holding Company*, Sherwood, Arkansas; to acquire 80 percent or more of the voting shares of First State Bank, Sherwood, Arkansas, and to offer, from its banking office, insurance relating to collateral securing the bank's loans, general casualty, fire and allied lines and surety (excluding life and annuities). In addition Applicant intends to offer real estate appraisal services in Pulaski, Lonoke, Saline, and Faulkner Counties, Arkansas.

B. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Canton Bancshares, Inc.*, Canton, South Dakota; to acquire at least 80 percent of the voting shares of First American Bank, Canton, South Dakota. Canton Bancshares, Inc., has also applied to acquire Fairview Insurance Agency, Canton, South Dakota, and thereby engage in general insurance agency activities in communities with populations not exceeding 5,000 in Lincoln County, South Dakota and adjoining counties in South Dakota and Iowa. Comments on this application must be received not later than April 2, 1984.

Board of Governors of the Federal Reserve System, March 5, 1984.

**James McAfee,**

*Associate Secretary of the Board.*

[FR Doc. 84-6334 Filed 3-8-84 8:45 am]

BILLING CODE 6210-01-M

## Bank of Montreal, et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies and Acquisitions of Nonbanking Companies

The companies listed in this notice have applied under § 225.14 of the Board's Regulation Y (49 FR 794) for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) to become a bank holding company or to acquire voting securities of a bank or bank holding company. The listed companies have also applied under §225.23(a)(2) of Regulation Y (49 FR 794) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (49 FR 794) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies, or to engage in such an activity. Unless otherwise noted, these activities will be conducted throughout the United States.

The applications are available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consumation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 5, 1984.

A. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Bank of Montreal*, Montreal, Quebec, Canada, and its wholly owned subsidiary, *First Canadian Financial U.S. Holdings, Inc.*, New York, New York, have applied to become bank holding companies through the acquisition by merger of APLN, Inc., a wholly-owned subsidiary of First Canadian Financial U.S. Holdings Inc., with Harris Bankcrop, Inc., Chicago, Illinois, which owns the following banks and bank holding companies: Harris Trust and Savings Bank, Chicago, Illinois; Harris Bank Argo, Summit, Illinois; Harris Bank Roselle; Roselle, Illinois; Bank of Naperville, Naperville, Illinois; Hinsdale Capital Corporation, Chicago, Illinois, and its subsidiary, The First National Bank of Hinsdale, Hinsdale, Illinois; Firstwin Corporation, Winnetka, Illinois, and its subsidiary, The First National Bank of Winnetka, Winnetka, Illinois; Glencoe Capital Corporation, Glencoe, Illinois, and its subsidiary, Glencoe National Bank, Glencoe, Illinois; and First National Bank of Wilmette, Wilmette, Illinois.

*Bank of Montreal and First Canadian Financial U.S. Holdings, Inc.*, have also applied to acquire the following non-bank subsidiaries of Harris Bankcorp, Inc., and to engage through them in the following activities: Harris Trust Company of New York, New York, New York, which is a nondeposit trust company authorized by the laws of New York, acting as a transfer agency and co-transfer agency (with respect to equity services, proxy processing, dividend disbursement, dividend reinvestment and stock registration), tender offer agency, exchange agency and similar transactional agency (in connection with mergers, tender offers, exchange offers, conversions, subscription offerings, and similar transactions involving equity securities), and as a drop agency, and would serve corporate issuers, throughout the United States.

Harris Trust Company of Arizona, Scottsdale, Arizona; which is a nondeposit trust company authorized by Arizona law, acting as a fiduciary, investment advisory agency and custodian, servicing customers in Arizona, California, Colorado, Nevada, New Mexico and Utah.

Harris Trust Company of Florida, West Palm Beach, Florida, which is a nondeposit trust company authorized by Florida law, acting as a fiduciary, investment advisory agency and custodian, serving the entire state of Florida.

Harris Futures Corporation, Chicago, Illinios, which operates as a futures commission merchant as authorized by Illinois law, including acting as a futures commission merchant for nonaffiliated persons in the execution and clearance on major commodity exchanges of futures contracts and options on futures contracts for bullion, foreign exchange, government securities, certificates of deposit and other money market instruments that a bank may buy or sell in the cash market for its own account, serving customers in both the United States and abroad.

Harriscorp Finance, Inc., Chicago, Illinois, which operates as a consumer finance company as authorized by the laws of Illinois, including engaging in the activities of making or acquiring for its own account first mortgage residential real estate loans and other extensions of credit (including through the acceptance of drafts) primarily to individuals, and selling participations in (but not acting as underwriter, agent or broker with respect thereto) group credit life and credit health and accident insurance coverage directly related to such loans and other extensions of credit, serving the southwest and northwest quadrants of the six-county

Chicago, Illinois Standard Metropolitan Statistical Area.

In addition, *Bank of Montreal* proposes to convert the operations of two existing subsidiaries as follows: Bank of Montreal (California), San Francisco, California, which will operate a nondeposit trust company as authorized by California law, including acting as a fiduciary, investment advisory agency, issuing agent, paying agent, and custodian, serving customers in the state of California; Bank of Montreal Trust Company, New York, New York, which will operate as a nondeposit trust company as authorized by the laws of New York, including acting as a fiduciary, investment advisory agency, custodian, issuing agent and paying agent, serving corporate and governmental customers in Canada and the United States.

Board of Governors of the Federal Reserve System, March 6, 1984.

**William W. Wiles,**

*Secretary of the Board.*

[FR Doc. 84-6446 Filed 3-8-84; 8:45 am]

BILLING CODE 6210-01-M

## FEDERAL TRADE COMMISSION

### "Tar", Nicotine and Carbon Monoxide Content of the Smoke of 207 Varieties of Cigarettes

*Correction*

In FR Doc. 84-5828 beginning on page 7871 in the issue of Friday, March 2, 1984, make the following correction.

In the table appearing on page 7872, second column, under the heading "Type", the eighth entry "king size; filter (hard pack)" should read "100mm; filter; menthol; (hard pack)".

BILLING CODE 1505-01-M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Office of the Secretary

### Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Department of Health and Human Services (HHS) publishes a list of information collection packages it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). The following are those packages submitted to OMB since the last list was published on March 2.

**Public Health Service**

*Food and Drug Administration*

Subject: Infant Formula Recall Regulations—Existing Collection
Respondents: Infant formula manufacturers
OMB Desk Officer: Bruce Artim

**Health Care Financing Administration**

Subject: Hospital Wage Index Survey—New
Respondents: Short-term, acute care hospitals participating in Medicare
Subject: Municipal Health Services Cost Report Form (0938-0155)—Reinstatement
Respondents: Clinics participating in the municipal health services demonstration project
Subject: Billing Forms for Medicare/Medicaid Hospital Hospice Demonstration (0938-0150)—Extension/no change
Respondents: Hospices participating in the Medicare/Medicaid hospice demonstration
OMB Desk Officer: Fay S. Iudicello

**Office of the Secretary**

Subject: Front-End Automated Eligibility Verification Systems Survey—New
Respondents: State governments
OMB Desk Officer: Milo Sunderhauf

Copies of the above information collection clearance package can be obtained by calling the HHS Reports Clearance Officer on 202-245-6511.

Written comments and recommendations for the proposed information collections should be sent directly to the appropriate OMB Desk Officer designated above at the following address: OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington, D.C. 20503, Attn: (name of OMB Desk Officer).

Dated: March 2, 1984.

**Robert F. Sermier,**

*Deputy Assistant Secretary for Management Analysis and Systems.*

[FR Doc. 84-6270 Filed 3-8-84; 8:45 am]

BILLING CODE 4150-04-M

### Public Hearings on Physical Fitness of Children and Youth

**AGENCY:** President's Council on Physical Fitness and Sports (PCPFS), Department of Health and Human Services.

**ACTION:** Notice of hearings.

**SUMMARY:** This notice announces that a series of six public hearings will be held on the dates and times listed below. The PCPFS has established youth fitness as a high priority concern and wishes to obtain more information on this subject. The information will assist in the determination of future policies and programs of the Council.

**DATES AND ADDRESSES:** Public hearings on physical fitness of children and youth will be held from 10 a.m. to 3 p.m. on the dates and at the locations listed below:

Thursday, March 29, 1984—The Harry Chandler Auditorium, Los Angeles Times Mirror Building, 202 West First Street, Los Angeles, CA
Tuesday, April 10, 1984—Amphitheatre Room, American Productivity Center, 111 North Post Oak Lane, Houston, TX
Thursday, April 19,1984—Palladium Theatre, Regency Hotel, 3900 Elati, Denver, CO
Monday, April 23, 1984—Judiciary Plaza Building, Room 1C-30, 450 Fifth Street NW., Washington, DC
Thursday, April 26, 1984—Public Health Council Room, Massachusetts Department of Public Health, 150 Tremont Street, Boston, MA
Monday, April 30, 1984—Mt. McKinley Room, Hyatt Regency Hotel, 101 West Washington Street, Indianapolis, IN.

Person requesting to participate in the hearings should furnish a copy of their presentation seven days before the hearing date at which they wish to appear. Any person desiring to be heard at one of the hearings should (1) notify the Council in writing of their desire, or (2) call the Council at (202) 272-3424. Any person desiring to submit a written statement only, should do so before May 1, 1984. All Correspondence shall be addressed to: Youth Fitness Hearings, PCPFS, 450 Fifth Street NW., Suite 7103, Washington, DC 20001.

**FOR FURTHER INFORMATION CONTACT:** Dr. Ash E. Hayes, Director, Sports Administration, President's Council on Physical Fitness and Sports, 450 Fifth Street NW., Suite 7103, Washington, DC 20001 (202) 272-3424.

**SUPPLEMENTARY INFORMATION:** To fulfill its responsibilities under Executive Order 12399 issued December 31, 1982, the PCPFS is seeking to obtain factual data and views from all interested and knowledgeable sources (individuals, institutions, or organizations) with information about the physical fitness of children and youth in the following areas:

1. Views on the importance of physical fitness for these age groups.
2. The status of physical fitness as evidenced by research and clinical studies.
3. Current support for and emphasis on physical fitness in programs for these age groups provided in schools, recreation, youth agencies or elsewhere.

4. Examples of exemplary programs in school physical education, public recreation, youth agencies or elsewhere.

5. Responsibilities for programs of physical fitness for these age groups.

6. The availability of trained and experienced program and administrative leadership for such programs at local, state, regional, and national levels.

7. Recommendations for policy and programs of physical fitness for these age groups in the future.

Requests to be heard at one of the scheduled times should be made in writing to the appropriate address or by calling (202) 272-3424 before the date of that hearing. All parties wishing to make verbal presentations should present a written copy of their statement seven days before the day of their presentation. Participants will be given 15 minutes each to make their presentation after which the hearing panel will ask questions. No written verbatim record of the hearing will be made.

Each participant in the hearing and each presenter of a written statement is requested to conclude their remarks with a summary of their statement and recommendations for policy and/or programs of physical fitness for children and youth in the future.

Dated: March 6, 1984.

**C. Carson Conrad,**

*Executive Director, President's Council on Physical Fitness and Sports.*

[FR Doc. 84-6427 Filed 3-8-84; 8:45 am]

BILLING CODE 4160-17-M

## Food and Drug Administration

**[Docket No. 84M-0055]**

## Alden Optical Laboratories, Inc.; Premarket Approval of AL-47 (Isofilcon) Soft Contact Lens

**AGENCY:** Food and Drug Administration.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing its approval of the application for premarket approval under the Medical Device Amendments of 1976 of the AL-47 (isofilcon) Soft Contact Lens sponsored by Alden Optical Laboratories, Inc., Alden, NY. After reviewing the recommendation of the Ophthalmic Device Section of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel, FDA notified the sponsor that the application was approved because the device had been shown to be safe and effective of use as recommended in the submitted labeling.

**DATE:** Petitions for administrative review by April 9, 1984.

**ADDRESS:** Requests for copies of the summary of safety and effectiveness data and petitions for administrative review may be sent to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

**FOR FURTHER INFORMATION CONTACT:** Charles H. Kyper, National Center for Devices and Radiological Health (HFZ-402), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7445.

**SUPPLEMENTARY INFORMATION:** On October 27, 1982, Alden Optical Laboratories, Inc., Alden, NY 14004, Submitted to FDA an application for premarket approval of the AL-47 (isofilcon) Soft Contact Lens. The lens ranges in powers from −10.00 diopters to +5.00 diopters and is indicated for daily wear by not-aphakic persons with nondiseased eyes who are nearsighted (myopic) or farsighted (hyperopic) and who may have astigmatism of 1.50 diopters or less. The lens may be disinfected using either a chemical or heat disinfection system. The application was reviewed by the Ophthalmic Device Section of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel, and FDA advisory committee, which recommended approval of the application. On January 30, 1984, FDA approved the application by a letter to the sponsor from the Acting Director of the Office of Device Evaluation of the National Center for Devices and Radiological Health.

Before enactment of the Medical Device Amendments of 1976 (the amendments) (Pub. L. 94-295, 90 Stat. 539-583), contact lenses made of polymers other than polymethylmethacrylate (PMMA) were regulated as new drugs. Because the amendments broadened the definition of the term "device" in section 201(h) of the Federal Food, Drug, and Cosmetic Act (the act ) (21 U.S.C. 321 (h)), contact lenses made of polymers other than PMMA are now regulated as class III devices (premarket approval). As FDA explained in a notice published in the **Federal Register** of December 16, 1977 (42 FR 63472), the amendments provide transitional provisions to ensure continuation of premarket approval requirements for class III devices formerly regulated as new drugs. Further-more, FDA requires, as a condition to approval, that sponsors of applications for premarket approval of contact lenses made of polymers other than PMMA comply with the records and reports provisions of Part 310 (21 CFR Part 310), Subpart D, until these provisions are replaced by similar requirements under the amendments.

A summary of the safety and effectiveness data on which FDA's approval is based is on file with the Dockets Management Branch (address above) and is available upon request from that office. A copy of all approved draft labeling is available for public inspection at the National Center for Devices and Radiological Health—contact Charles H. Kyper (HFZ-402), address above. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

The approved labeling for the AL-47 (isofilcon) Soft Contact Lens states that the lens is to be used only with certain solutions for disinfection and other purposes. The restrictive labeling informs new users that they must avoid using certain products, such as solutions intended for use with hard contact lenses only. However, the restrictive labeling needs to be updated periodically to refer to new lens solutions that FDA approves for use with approved contact lenses made of polymers other than PMMA. A sponsor who fails to update the restrictive labeling may violate the misbranding provisions of section 502 of the act (21 U.S.C. 352) as well as the Federal Trade Commission Act (15 U.S.C. 41-58), as amended by the Magnuson-Moss Warranty-Federal Trade Commission Improvement Act (Pub. L. 93-637). Furthermore, failure to update restrictive labeling to refer to new solutions that may be used with an approved lens may be grounds for withdrawing approval of the application for the lens under section 515(e)(1)(F) of the act (21 U.S.C. 360e(e)(1)(F)). Accordingly, whenever FDA publishes a notice in the **Federal Register** of the agency's approval of a new solution for use with an approved lens, the sponsor of the lens shall correct its labeling to refer to the new solution at the next printing or at any other time FDA prescribes by letter to the sponsor.

### Opportunity for Administrative Review

Section 515(d)(3) of the act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of FDA's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and FDA's action by an independent advisory committee of

experts. A petition is to be in the form of a petition for reconsideration of FDA's action under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the Federal Register. If FDA grants the petition, the notice will state the issues to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before April 9, 1984, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: March 5, 1984.

William F. Randolph,

*Acting Associate Commissioner for Regulatory Affairs.*

[FR Doc. 84-6322 Filed 3-8-84; 8:45 am]

BILLING CODE 4160-01-M

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[Docket No. 84M-0056]

## Vision-Ease Contact Lens Co.; Premarket Approval of V e Soft (Polymacon) Hydrophilic Contact Lens

**AGENCY:** Food and Drug Administration.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing its approval of the application for premarket approval under the Medical Device Amendments of 1976 of the V e Soft (polymacon) Hydrophilic Contact Lens, sponsored by Vision-Ease Contact Lens Co., Lincoln, NE. The lens is to be manufactured under an agreement with the National Patent Development Corp., New Brunswick, NJ, which has authorized the Vision-Ease Contact Lens Co. to incorporate by reference information contained in its approved premarket approval application for the Hydron ® (polymacon) Hydrophilic Contact Lens. After reviewing the recommendation of the Ophthalmic Device Section of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel, FDA notified the sponsor that the application was approved because the device had been shown to be safe and effective for use as recommended in the submitted labeling.

**DATE:** Petitions for administrative review by April 9, 1984.

**ADDRESS:** Requests for copies of the summary of safety and effectiveness data and petitions for administrative review may be sent to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

**FOR FURTHER INFORMATION CONTACT:** Charles H. Kyper, National Center for Devices and Radiological Health (HFZ-402), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7445.

**SUPPLEMENTARY INFORMATION:** On August 2, 1983, Vision-Ease Contact Lens Co., Lincoln, NE 68521, submitted to FDA an application for premarket approval of the V e Soft (polymacon) Hydrophilic Contact Lens. The Lens ranges in powers from −20.00 diopters to +20.00 diopters and is indicated for daily wear for the correction of visual acuity in persons with nondiseased eyes who are aphakic or not-aphakic and have myopia or hyperopia and refractive astigmatism of 1.50 diopters or less. The application included authorization from the National Patent Development Corp., New Brunswick, NJ, to incorporate by reference the information contained in its approved premarket approval application for the Hydron ® (polymacon) Hydrophilic Contact Lens (Docket No. 79M-0244). On February 3, 1984, FDA approved the application by letter to the sponsor from the Acting Director of the Office of Device Evaluation of the National Center for Devices and Radiological Health.

Before enactment of the Medical Device Amendments of 1976 (the amendments) (Pub. L. 94-295, 90 Stat. 539-583), contact lenses made of polymers other than polymethylmethacrylate (PMMA) and solutions for use with such lenses were regulated as new drugs. Because the amendments broadened the definition of the term "device" in section 201(h) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 321(h)), contact lenses made of polymers other than PMMA and solutions for such lenses are now regulated as class III devices (premarket approval). As FDA explained in a notice published in the Federal Register of December 16, 1977 (42 FR 63472), the amendments provide transitional provisions to ensure continuation of premarket approval requirements for class III devices formerly regulated as new drugs. Furthermore, FDA requires, as a condition to approval, that sponsors of applications for premarket approval of contact lenses made of polymers other than PMMA or solutions for such lenses comply with the records and reports provisions of Part 310 (21 CFR Part 310), Subpart D, until these provisions are replaced by similar requirements under the amendments.

A summary of the safety and effectiveness data on which FDA's approval is based is on file with the Dockets Management Branch (address above) and is available upon request from that office. A copy of all approved final labeling is available for public inspection at the National Center for Devices and Radiological Health—contact Charles H. Kyper (HFZ-402), address above. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

The labeling of the approved contact lens states that the lens is to be used only with certain solutions for disinfection and other purposes. The restrictive labeling informs new users that they must avoid using certain products, such as solutions intended for use with hard contact lenses only. The restrictive labeling needs to be updated periodically, however, to refer to new lens solutions that FDA approves for use with approved contact lenses made of polymers other than PMMA. A sponsor who fails to update the restrictive labeling may violate the misbranding provisions of section 502 of the act (21 U.S.C. 352) as well as the Federal Trade Commission Act (15 U.S.C. 41-58), as amended by the Magnuson-Moss Warranty-Federal Trade Commission Improvement Act (Pub. L. 93-637). Furthermore, failure to update restrictive labeling to refer to new solutions that may be used with an approved lens may be grounds for withdrawing approval of the application for the lens under section 515(e)(1)(F) of the act (21 U.S.C. 360e(e)(1)(F)). Accordingly, whenever FDA publishes a notice in the Federal Register of the agency's approval of a new solution for use with an approved lens, the sponsor of the lens shall correct its labeling to refer to the new solution at the next printing or at any other time FDA prescribes by letter to the sponsor.

### Opportunity for Administrative Review

Section 515(d)(3) of the act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of FDA's decision to approve this application. A petitioner

may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and FDA's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration of FDA's action under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register**. If FDA grants the petition, the notice will state the issues to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before April 9, 1984, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: March 5, 1984.

**William F. Randolph,**

*Acting Associate Commissioner for Regulatory Affairs.*

[FR Doc. 84-6323 Filed 3-8-84; 8:45 am]

**BILLING CODE 4160-01-M**

## Health Resources and Services Administration

### National Advisory Council on the National Health Service Corps; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following National Advisory body scheduled to meet during the month of March 1984:

Name: National Advisory Council on the National Health Service Corps.

Date and time: March 18-20, 1984, 1:00 p.m.

Place: March 18 (1-4:45 p.m.) and March 20 (9 a.m. till noon), President's Board Room, Clarion Four Seasons Hotel, 2500 Carlisle Boulevard NE., Albuquerque, New Mexico 87110.

NHSC sites at Cuba, El Rita, and Cayote, New Mexico, on March 19. All meetings will be open to the public, however no transportation will be provided for the public on March 19.

Purpose: The Council will advise and make appropriate recommendations on the National Health Service Corps (NHSC) program as mandated by legislation. It will also review and comment on proposed regulations promulgated by the Secretary under provisions of the legislation.

Agenda: The agenda will include discussions of: The Bureau of Health Care Delivery and Assistance program review; current NHSC program activities; proposed NHSC legislation; and NHSC plans for Fiscal Year 1985.

Anyone wishing to obtain a roster of members, minutes of meetings, or other relevant information should write to or contact Dr. Kenneth P. Moritsugu Director, National Health Service Corps, Bureau of Health Care Delivery and Assistance, Health Resources and Services Administration, Room 6-40, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, telephone: 301 443-1400.

Agenda items are subject to change as priorities dictate.

Date: March 6, 1984.

**Jackie E. Baum,**

*Advisory Committee Management Officer, HRSA*

**Note.**—This notice is late because of the difficulties encountered by the NHSC in contacting all Council members and making arrangements for the meeting.

[FR Doc. 84-6372 Filed 3-8-84; 8:45 am]

**BILLING CODE 4160-15-M**

## DEPARTMENT OF THE INTERIOR

## Fish and Wildlife Service

### Pipeline Rights-of-Way Applications; Montana

Notice is hereby given that under Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Portal Pipe Line Company, Dallas, Texas, has applied for a right-of-way for a 4-inch welded crude oil pipeline that will cross the following lands in Sheridan County, Montana:

T. 33 N., R. 58 E.,
Sec. 33: NW¼.

The pipeline will convey crude oil across 2,457 feet of the Sheridan County, Montana, Waterfowl Production Area.

The purpose of this notice is to inform the public that the United States Fish and Wildlife Service will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should do so within thirty (30) days and send their name and address to the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 25486, Denver Federal Center, Denver, Colorado 80225.

**Robert H. Shields,**

*Acting Regional Director, U.S. Fish and Wildlife Service.*

February 29, 1984.

[FR Doc. 84-6320 Filed 3-8-84; 8:45 am]

**BILLING CODE 4310-07-M**

## Bureau of Land Management

**[U-53102]**

### Utah: Amended Realty Action; Sale of Public Lands in Uintah County, Utah

This action will amend the Notice of February 24, 1984.

The Bureau of Land Management, based on land use plans, has determined that the following described tracts of land are suitable for disposal by sale under section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750, 43 U.S.C. 1713), at no less than the appraised fair market value:

**Tract #1 ($12,000)**

T. 5 S., R. 23 E., SLM,
Sec. 4, lot 4, SW¼ NW¼.
Total 80.29 acres.

**Tract #2 ($500)**

T. 5 S., R. 23 E., SLM,
Sec. 4, lot 5.
Total 8.5 acres.

**Tract #3 ($6,000)**

T. 5 S., R. 23 E., SLM,
Sec. 4, NW¼ SW¼.
Total 40 acres.

The above described land will be offered for sale on May 16, 1984, by sealed bids. All bids must be received by 12:00, May 16, 1984, at the Vernal District Office, 170 South 500 East, Vernal Utah 84078. Bids will be opened and a high bidder declared at 1300 hours, May 16, 1984. All bids must be identified on the outside of the envelope by U-53102 and the tract number.

The lands are being offered for sale in order to facilitate land-use planning in the area, enhance land-use compatibility with adjoining private lands, and to streamline administrative procedures. The lands have potential for livestock grazing and limited wildlife use. The sale is consistent with the Bureau's planning for the land involved with notification to the Uintah County Commission, the Utah State Planning Office, and the Utah Division of Wildlife Resources.

The terms and conditions applicable to the sale are:

1. The BLM may accept or reject any and all offers, or withdraw any land or

interest in land from sale if, in the opinion of the authorized officer, consummation of the sale would not be fully consistent with the Federal Land Policy and Management Act or other applicable laws.

2. The sales will involve the surface estate only. The subsurface estates will be reserved to the United States.

3. The sale of this land will be subject to all existing rights.

4. For Tract No. 1, no preference right will be given to the adjoining private land owners. No bids will be accepted for less than the appraised price and bids must include all land in the tract. Federal law requires that bidders by U.S. citizens or, in the case of a corporation, be subject to the laws of the State of Utah. Proof of citizenship may be required.

5. For Tract No. 2, the adjoining land owner will have the right to match the high bid. If the adjoining owner does not offer to match the high bid within 10 days, the land will be sold to the high bidder. Bidding requirements are the same as No. 4 above.

6. For Tract No. 3, Mr. Bill Karren will have the right to match the high bid. If Mr. Karren does not offer to match the high bid within 10 days, the land will be sold to the high bidder. Bidding requirements are the same as No. 4 above.

7. The United States will reserve the right to ingress and egress for mineral development.

8. Upon disqualification of the apparent high bidder, the next high bid will be honored.

9. A right-of-way is reserved for ditches and canals constructed by the authority of the Act of August 30, 1890 (26 Stat. 391; 43 U.S.C. 945).

The highest bid will establish the sale price. Each bid must be accompanied by a deposit of one-fifth of the full bid price. The remainder of the full bid price shall be paid within 30 days of the sale. Failure to pay the full price within 30 days shall disqualify the apparent high bidder and the deposit shall be forfeited and disposed of as other receipts of sale.

All bids will be either returned, accepted, or rejected within 30 days of the sale date.

For a period of 45 days from the date of this Notice, interested parties may submit comments to the Vernal District Manager, 170 South 500 East, Vernal, Utah 84078. Any adverse comments will be evaluated by the District Manager, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the District manager, this realty action will become the final determination of the Department of the Interior.

**Lloyd H. Ferguson,**

*District Manager.*

[FR Doc. 84-6205 Filed 3-8-84; 8:45 am]

BILLING CODE 4310-DQ-M

## Designation of an Area of Critical Environmental Concern; Bakersfield District, California

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Designation of public lands within the Mono Lake Ecological Area as an Area of Critical Environmental Concern (ACEC).

**SUMMARY:** Pursuant to the authorities in the Federal Land Policy and Management Act (FLPMA) of October 21, 1976 (Section 202(c)(3)) and in 43 CFR 1601.6-7, I hereby designate the following described lands as The Mono Lake Ecological Area of Critical Environmental Concern (ACEC).

**Mt. Diablo Meridian**

T. 1N., R. 26E., Sec. 12, Fractional S½S½ containing 37.67 acres;
T. 1N., R. 27E., Sec. 17, Fractional S½S½ containing 43.33 acres
Sec. 18, N½ Lot 2 containing 19.68 acres, S½ Lot 2 containing 40 acres, Fractional SW¼NE¼ containing 20.73 acres, Fractional NE¼SW¼ containing 39.59 acres, W½SE¼, Fractional W½SE¼ containing 43.77 acres, Fractional SE¼SE¼ containing 21.86 acres;
Sec. 19, All;
Sec. 20, N½NE¼, W½;
Sec. 30, W½;
T. 2N., R. 26E., Sec. 10, S½S½;
Sec. 11, Lots 3, 4, 5, W½SW¼;
Sec. 13, Unsurveyed fractional SE¼SE¼ containing 11 acres;
Sec. 14, Lots 1, 2, 3, 4, 5, W½NW¼;
Sec. 15, All;
Sec. 21, Lots 1, 2, 3, 4, 5, N½N½;
Sec. 22, Lots 1, 2, 3, NW¼NE¼, NW¼;
Sec. 23, Lot 1;
Sec. 24, Unsurveyed fractional E½ containing 87 acres;
T. 2N., R. 27E., Sec. 18, Fractional SW¼SW¼ containing 1.00 acres;
Sec. 19, Lot 1, unsurveyed fractional W½ containing 98 acres;
Sec. 20, Lots 1, 2;
Sec. 29, Lots 1, 2, 3, W½NW¼;
Sec. 30, Lots 1, 2, 3, 4, 5, E½NE¼, SW¼NE¼, E½SW¼, SE¼;

All unsurveyed relicted lands attached to:

T. 1N., R. 26E., Sec. 10, Fractional E½SE¼;
Sec. 12, Fractional S½S½;
Sec. 13, Fractional W½NW¼;
Sec. 14, Fractional SE¼NE¼;
T. 1N., R. 27E., Sec. 11, Fractional SE¼SW¼, Fractional E½SE¼, Fractional SW¼SE¼;
Sec. 12, Fractional NE¼NE¼, Fractional NW¼, Fractional NW¼SW¼;
Sec. 14, Fractional N½NW¼;
Sec. 15, Fractional S½NE¼, Fractional N½SW¼;
Sec. 17, Fractional S½S½;
Sec. 18, N½ Lot 2, Fractional SW¼NE¼, Fractional NE¼SW¼, Fractional W½SE¼, Fractional SE¼SE¼;
T. 1N., R. 28E., Sec. 6, Fractional E½SW¼, Fractional SW¼SW¼;
T. 2N., R. 26E., Sec. 1, Lot 2;
Sec. 2, Lots 1, 2;
Sec. 11, Lots 1, 2, 3, 4, 5;
Sec. 14, Lots 1, 2, 3, 4, 5;
Sec. 21, Lots 1, 2, 3, 4, 5;
Sec. 22, Lots 1, 2, 3;
Sec. 23, Lot 1;
Sec. 24, Unsurveyed fractional E½;
T. 2N., R. 27E., Sec. 1, Lots 1, 2;
Sec. 6, Lots 1, 2, 3;
Sec. 18, Fractional SW¼SW¼;
Sec. 19, Lot 1, Unsurveyed fractional W½;
Sec. 20, Lots 1, 2;
Sec. 29, Lots 1, 2, 3;
Sec. 30, Lots 1, 2, 3, 4, 5;
T. 2N., R. 28E., Sec. 6, Fractional S½NW¼, Fractional W½SE¼, Fractional SE¼SE¼;
Sec. 8, Fractional NW¼NW¼, Fractional SE¼NW¼, Fractional SE¼;
Sec. 21, Fractional SW¼NW¼, Fractional SW¼;
Sec. 28, Fractional NW¼, Fractional W½SW¼;
Sec. 29, Fractional SE¼SE¼;
Sec. 32, Fractional N½NE¼, Fractional E½SW¼;
T. 3N., R. 27E., Sec. 31, Lots 1, 2, 3;
Sec. 32, Lots 1, 2, 3, 4;
Sec. 33, Lots 2, 3, 4;
Sec. 34, Lots 1, 2;
Sec. 35, Lots, 1, 2, 3, 4;

All unsurveyed islands and islets.

The area of unsurveyed relicted public lands is approximately 10,860 acres (based on shoreline elevation of 6,380 ft.).

The Mono Lake Ecological Area ACEC contains approximately 15,200 acres of public land.

**SUPPLEMENTARY INFORMATION:** Mono Lake is located on the eastern slope of the Sierra Nevada Mountains in Mono County, California.

Mono Lake is one of North America's most varied and spectacular landscapes. The economy of Mono County is based almost entirely on outdoor recreation where visitors expect to see clean air and dramatic scenery. The entire Mono Basin is critically important to wildlife. The basin supports 95% of the State's nesting California gulls and 50% of the world's population of Wilson's phalarope.

Water diversions over the past 40 years have resulted in a drop in surface elevation of approximately 40 feet. Nesting habitat for California gulls on Negit Island has been eliminated. Brine shrimp and brine flies, the primary food source for gulls and migratory waterbirds, are predicted not to survive

salt and alkali concentrations when the lake level stabilizes.

Scenic values have been degraded by exposure of more than 11,000 acres of lake bottom sediments (legally termed "relicted lands"). These sediments are easily lifted by wind. Large quantities of suspended alkali dust have, on several occasions, exceeded State and Federal Air Quality Standards for total suspended particulates (TSP). Preliminary results of research indicate the alkali deposits have caused decreased reproduction and increased mortality in the Greasewood (*Sarcobatus vermiculatus*) plant community near Black Point.

Management of the ACEC will be directed at maintaining the existing resource values at current levels through means other than constraining or controlling lake level elevation. Management as an ACEC will include the following resource use restrictions:

1. A seasonal closure to all public access to gull nesting islands and islets from April 1 to August 1 of each year;
2. Livestock grazing will not be authorized on the relicted lands around Mono Lake between the 6417 foot elevation and the shoreline;
3. ORV use will be limited to existing roads and trails;
4. A closure to all vehicle use within the south tufa grove; and
5. No surface occupancy stipulations on energy and mineral development leases.

Specific details of the resource values and special management attention required to protect these values are included in the ACEC plan element and the Management Framework Plan (MFP) for the Bodie-Coleville Planning Area. The area and management criteria were developed through the planning process which included several stages of public participation. Opportunities for public participation were provided at the URA and MFP stages of both the Benton-Owens Valley and Bodie-Coleville planning efforts, and during the development of the ACEC plan element. An environmental assessment (EA) was prepared to analyze the impacts resulting from designation of the Mono Lake Ecological ACEC and six other alternatives. All of these documents are on file in the Bakersfield District Office and Bishop Resource Area Office.

**FOR FURTHER INFORMATION CONTACT:** Tim Salt, Assistant District Manager for Lands and Renewable Resources, Bureau of Land Management, Bakersfield District, 800 Truxtun Avenue, Rm. 311, Bakersfield, California, 93301, (805) 861–4191, or Jim Morrison, Area Manager, Bureau of Land Management, Bishop Resource Area, 873 N. Main St., Suite 201, Bishop, California, 93514, (619) 872–4881.

Dated: February 24, 1984.

**Robert D. Rheiner, Jr.**

*District Manager.*

[FR Doc. 84–5624 Filed 3–8–84; 8:45 am]

**BILLING CODE 4310–40–M**

## Wyoming and Montana; Powder River Regional Coal Team Meeting

**AGENCY:** Bureau of Land Management (BLM), Interior.

**ACTION:** Notice.

**SUMMARY:** Pursuant to the responsibilities set forth in 43 CFR 3400.4(b) the Powder River Regional Coal Team (RCT) will meet April 10, 1984, in Sheridan, Wyoming. Items to be discussed by the RCT include: Findings and issues identified in the Powder River Draft EIS; review of alternatives and selection of preferred alternative; re-evaluation of tract ranking; RCT guidance to the EIS team for preparation of the Final EIS; the pending Preference Right Lease Application EIS; review of coal lease exchanges; and an update of regional activities since last RCT meeting. Public attendance at the RCT meeting is welcome and encouraged. The opportunity for the public to address the Regional Coal Team will be provided during the meeting.

**DATES:** The RCT meeting will be held April 10, 1984, in Sheridan, Wyoming. The meeting is expected to last one day and will begin at 9 a.m.

**ADDRESSES:** The meeting will be held at the Holiday Inn, 1809 Sugarland, Sheridan, Wyoming, (307) 672–8931.

**FOR FURTHER INFORMATION CONTACT:** William G. Leavell, Regional Coal Team Chairperson, (503) 231–6251, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 98208 or, J. Stan McKee, Project Manager, (307) 772–2569, Bureau of Land Management, P.O. Box 1828, Cheyenne, Wyoming 82001.

Hillary A. Oden,,

*State Director.*

[FR Doc. 84–6531 Filed 3–8–84; 8:45 am]

**BILLING CODE 4310–22–M**

## National Park Service

## Alaska; Intent To Prepare a General Management Plan and Environmental Assessment and Conduct Scoping Meetings

**AGENCY:** U.S. National Park Service, Interior.

**ACTION:** Prepare a general management plan and environmental assessment and conduct scoping and public meetings for five National Park Service areas in Alaska.

**SUMMARY:** The National Park Service intends to prepare a general management plan for the conservation and management of Bering Land Bridge National Preserve, Cape Krusenstern National Monument, Gates of the Arctic National Park and Preserve, Kobuk National Park, and Noatak National Preserve. The plan will chart the strategies to solve problems of the parks, preserves, and monuments in meeting their management objectives over the next 5–10 years for resource management and protection, visitor use and interpretation, and general development at a level of detail that will facilitate implementation. An environmental assessment will be prepared in concert with the plan to evaluate major environmental issues.

The planning effort will consider the alternatives of continuing existing conditions and trends; the minimum actions required to meet the purpose of the area under the Alaska National Interest Lands Conservation Act of 1980; and, those reasonable and practical strategies developed during public and other agency participation in the planning process.

The plan will contain a review of wilderness suitability for lands within the preserve. Each plan will also contain a river conservation and management plan as appropriate under section 3(b) of the Wild and Scenic Rivers Act. Subsistence, sport hunting, access, and similar activities will continue as specified in the Alaska National Interest Lands Conservation Act and the regulations of 36 CFR Part 13.

Preliminary scoping will take place during the winter and spring of 1984 to identify the major environmental issues to be addressed in the environmental assessment and to solicit ideas for the development of reasonable and practical strategies. Public meetings will be held in the winter of 1985 following the official release of the general management plan and its environmental assessment. The time and place of these

meetings will be announced in the Federal Register and in the local news media.

**FOR FURTHER INFORMATION CONTACT:**

Larry Rose, Superintendent, Bering Land Bridge National Preserve, P.O. Box 220, Nome, Alaska 99762, (907) 443–2522

Mack Shaver, Superintendent, Northwest Alaska Areas, CAKR, NOAT, KOV, P.O. Box 287, Kotzebue, Alaska 99752, (907) 442–3890

Richard Ring, Superintendent, Gates of the Arctic National Park and Preserve, P.O. Box 74680, Fairbanks, Alaska 99707, (907) 456–0350

or:

Ms. Linda Nebel, Chief of Planning, National Park Service, Alaska Regional Office, 2525 Gambell Street, Room 107, Anchorage, Alaska 99503–2892, (907) 271–4637

Dated: March 1, 1984.

**Robert Peterson,**

*Acting Regional Director, Alaska Region.*

[FR Doc. 84-6453 Filed 3-8-84; 8:45 am]

BILLING CODE 4310-70-M

### Availability of Draft Land Protection Plan; Jean Lafitte National Historical Park, Louisiana

Pursuant to the National Environmental Policy Act of 1969, Title 40 of the Code of Federal Regulations, Part 516 of the Departmental Manual, Chapter 1 of Title 36 of the Code of Federal Regulations, and the policy statement for Preparation of Land Protection Plans printed in the Federal Register on May 11, 1983 (48 FR 21121), the National Park Service has prepared a Draft Land Protection Plan for Jean Lafitte National Historical Park, Jefferson, Orleans, and St. Bernard Parishes, Louisiana.

The Draft Land Protection Plan addresses the protection of 12,449.55 acres within the established boundaries that have not been acquired. It considers alternate means of protection, establishes priorities, provides for ublic use and safety and identifies what land or interest in land needs to be in Federal ownership in order to achieve management purposes consistent with the intent of Congress in authorizing the park.

Copies of the Draft Land Protection Plan are available from Jean Lafitte National Historical Park, 423 Canal Street, Room 206, U.S. Customs House, New Orleans, Louisiana 70130; and the Southwest Regional Office, National Park Service, P.O. Box 728, Santa Fe, New Mexico 87501, and will be sent upon request.

Anyone wishing to comment on the Draft Land Protection Plan should provide them to the Superintendent, Jean Lafitte National Historical Park, at the address provided above, within 30 days from the publication date of this notice.

Dated: March 5, 1984.

**Donald A. Dayton,**

*Acting Regional Director, Southwest Region.*

[FR Doc. 84-6454 Filed 3-8-84; 8:45 am]

BILLING CODE 4310-70-M

## INTERSTATE COMMERCE COMMISSION

**[Docket No. AB-6 (Sub- 163)]**

### Burlington Northern Railroad Co.; Abandonment and Discontinuance of Trackage Rights in Dickey County, ND; Findings

The Commission has found that the public convenience and necessity permit Burlington Northern Railroad Company to abandon its 20.11-mile rail line between Ludden Junction (milepost 29.50) and Ellendale (milepost 49.50), in Dickey County, ND and discontinue its trackage rights over the Chicago and North Western Railway Company between Oakes (C&NW milepost H–135+9.27/BN milepost 149.60) and Ludden Junction (BN milepost 29.50), a distance of 7.83 miles in Dickey County, ND. A certificate will be issued authorizing this abandonment and discontinuance unless within 15 days after this publication the Commission also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and the applicant no later than 10 days from publication on this Notice. The following notation shall be typed in bold face on the lower left-hand corner of the envelope containing the offer: "Rail Section, AB–OFA." Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.27(b).

**James H. Bayne,**

*Acting Secretary.*

[FR Doc. 84-6352 Filed 3-8-84; 8:45 am]

BILLING CODE 7035-01-M

**[Docket No. AB-14 (Sub-4)]**

### Northwestern Pacific Railroad Co.; Abandonment—in Mendocino, Trinity, and Humboldt Counties, CA

**AGENCY:** Interstate Commerce Commission.

**ACTION:** Notice of intent to prepare an environmental impact statement and proposed scope of study.

**SUMMARY:** By decision issued March 2, 1984 the entire Commission reopened the above-entitled proceeding and directed the ICC's Section of Energy and Environment (SEE) to prepare an Environmental Impact Statement (EIS) analyzing the effects of Northwestern Pacific Railroad Company's (NWP) proposed abandonment of its Eel River Line between Outlet and Eureka, CA including the Carlotta, Korblex, and Samoa branch lines. This notice identifies the principal issues the SEE tentatively proposes to treat in the EIS and invites public comment with respect to these and other environmental considerations which it is felt should be addressed in our environmental analysis.

Comments: Interested persons are encouraged to comment in writing on the issues identified below and any other pertinent environmental matters. Written comments should be addressed to: Section of Energy and Environment, Room 4143, Interstate Commerce Commission, 12th and Constitution Avenue NW., Washington, D.C. 20423.

**DATES:** Written comments should be filed at the above address on or before April 9, 1984.

**FOR FURTHER INFORMATION CONTACT:** Mr. Phillis Johnson-Ball, (202) 275–7659.

**SUPPLEMENTARY INFORMATION:** The SEE presently intends to focus its environmental analysis on those issues identified as potentially significant in its Supplemental Environmental Assessment, which was served on parties to the instant proceeding on February 3, 1984. These issues are generally identified below:

(1) Humboldt Bay Impacts. What are the likely consequences of the NWP's abandonment of and failure to maintain its right-of-way (including seawall, levees, tidegates, and bridges) in the Humboldt Bay area? How will the character of wetlands, farmland, other fish and wildlife habitat, and man-made improvements in and around Humboldt Bay be affected by abandonment?

(2) Eel River Impacts. How will rail abandonment and the cessation of maintenance on that portion of the line paralleling the Eel River affect water

quality, anadromous fisheries and spawning areas, navigation, and recreation in the Eel River?

(3) Highway Impacts. To what extent will safety, maintenance, and travel times on the local highway network (particularly U.S. Highway 101), be influenced by the proposed abandonment?

While, on the basis of what we now know, we expect to concentrate our efforts on the three general issues described above, the EIS will also address other environmental concerns including the socio-economic impacts of abandonment (e.g., the effects of abandonment on tourism, labor, and more generally upon the local economy and future prospects for commercial and industrial development in the area). Consideration will also be given to the expected effect of abandonment upon land use planning, energy consumption, air quality, ambient noise levels, endangered species, and cultural and historic resources. An important objective of our analysis will be to develop appropriate recommendations for mitigating adverse environmental impacts, where this appears both feasible and desirable.

Interested persons are invited to address the foregoing issues and any other matters that may have a bearing on the environmental consequences of the proposed rail line abandonment.

Dated: March 5, 1984.

**James H. Bayne,**

*Acting Secretary.*

[FR Doc. 84-6351 Filed 3-8-84; 8:45 am]

BILLING CODE 7035-01-M

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**[Docket No. AB-19 (Sub-65) Docket No. AB-69 (Sub-13)]**

### The Baltimore & Ohio Railroad Co., the Baltimore & Cumberland Valley Railroad Extension Co., and Western Maryland Railway Co.; Abandonment and Discontinuance of Service in Franklin County, Pa; Findings

The Commission has issued a certificate authorizing the Baltimore and Ohio Railroad Company (B&O), the Baltimore and Cumberland Valley Railroad Extension Company (B&CV) and the Western Maryland Railway Company (WM) to abandon and discontinue service on 6.86 miles of railroad in Franklin County, PA. Specifically, B&CV and WM seek to abandon that portion of the Waynesboro Branch between milepost 0.0 at or near Quinsonia, and milepost 5.89 near Waynesboro, a distance of 5.89 miles. WM seeks to abandon that portion of Waynesboro Branch between milepost 5.89 and the end of the line at milepost 6.86 in Waynesboro, a distance of 0.97 miles. B&O seeks to discontinue service over the entire described line. The abandonment and discontinuance certificate will become effective 30 days after this publication unless the Commission also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and the applicants no later than 10 days from publication of this Notice. The following notation shall be typed in bold face on the lower left-hand corner of the envelope containing the offer: "Rail Section, AB-OFA." Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.27.

**James H. Bayne,**

*Acting Secretary.*

[FR Doc. 84-6353 Filed 3-8-84; 8:45 am]

BILLING CODE 7035-01-M

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## DEPARTMENT OF JUSTICE

### Office of the Attorney General

**[Order No. 1053-84]**

### President's Commission on Organized Crime; Meeting Correction

**AGENCY:** Department of Justice.

**ACTION:** Notice; correction.

**SUMMARY:** This document corrects an address contained in a notice announcing two forthcoming meetings of the President's Commission on Organized Crime, which was published February 27, 1984 (49 FR 7158).

**FOR FURTHER INFORMATION CONTACT:** James D. Harmon, Jr., Executive Director and Chief Counsel, President's Commission on Organized Crime, 1425 K Street NW., Suite 700, Washington, D.C. 20005; (202) 633-5644.

The following corrections are made in FR Doc. 84-5194 appearing on 7158 in the issue of February 27, 1984:

1. On page 7158, column 2, third and fourth paragraphs, "42 West 43rd Street" is corrected to read "42 West 44th Street."

Dated: March 5, 1984.

**William French Smith,**

*Attorney General.*

[FR Doc. 84-6370 Filed 3-8-84; 8:45 am]

BILLING CODE 4410-01-M

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## Drug Enforcement Administration

### Manufacturer of Controlled Substances, Aerojet Strategic Propulsion Co.; Application

Pursuant to § 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on July 19, 1983, Aerojet Strategic Propulsion Company, Highway 50 at Hazel Avenue, P.O. Box 15699C, Sacramento, California 95813, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the Schedule I controlled substance Tetrahydrocannabinols (7370).

Any other such applicant and any person who is presently registered with DEA to manufacture such substance may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Deputy Assistant Administrator, Drug Enforcement Administration, United States Departmentof Justice, 1405 I Street, NW., Washington, D.C. 20537, Attention: DEA Federal Register Representative (room 1203), and must be filed no later than April 9, 1984.

Dated: March 12, 1984.

**Gene R. Haislip,**

*Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.*

[FR Doc. 84-6355 Filed 3-8-84; 8:45 am]

BILLING CODE 4410-09-M

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### Manufacturer of Controlled Substances, Du Pont Pharmaceuticals; Application

Pursuant to § 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on August 16, 1983, Du Pont Pharmaceuticals, 100 Stewart Avenue, Garden City, New York 11530, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

| Drug | Schedule |
|---|---|
| Oxycodone (9143) | II. |
| Hydrocodone (9193) | II. |
| Oxymorphone (9652) | II. |

Any other such applicant and any person who is presently registered with DEA to manufacture such substances, may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Deputy Assistant Administrator, Drug Enforcement Administration, United States Department of Justice, 1405 I Street, NW., Washington, D.C. 20537, Attention: DEA Federal Register Representative (Room 1203), and must be filed no later than April 9, 1984.

Dated: March 2, 1984.

**Gene R. Haislip,**

*Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.*

[FR Doc. 84-6354 Filed 3-8-84; 8:45 am]

BILLING CODE 4410-09-M

## DEPARTMENT OF LABOR

### Office of the Secretary

### Agency Forms Under Review by the Office of Management and Budget (OMB)

#### Background

The Department of Labor, in carrying out its responsibility under the Paperwork Reduction Act (44 U.S.C. Chapter 35), considers comments on the proposed forms and recordkeeping requirements that will affect the public.

#### List of forms Under Review

On each Tuesday and/or Friday, as necessary, the Department of Labor will publish a list of the Agency forms under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new collections, revisions, extensions, or reinstatements. The Departmental Clearance Officer will, upon request, be able to advise members of the public of the nature of any particular revision they are interested in.

Each entry will contain the following information:

The Agency of the Department issuing this form.

The title of the form.

The OMB and Agency form numbers, if applicable.

How often the form must be filled out.

Who will be required to or asked to report.

Whether small businesses or organizations are affected.

An estimate of the number of responses.

An estimate of the total number of hours needed to fill out the form.

The number of forms in the request for approval.

An abstract describing the need for and uses of the information collection.

#### Comments and Questions

Copies of the proposed forms and supporting documents may be obtained by calling the Departmental Clearance Officer, Paul E. Larson, Telephone 202-523-6331. Comments and questions about the items on this list should be directed to Mr. Larson, Office of Information Management, U.S. Department of Labor, 200 Constitution Avenue NW., Room S-5526, Washington, D.C. 20210. Comments should also be sent to the OMB reviewer, Arnold Strasser, Telephone 202-395-6880, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, NEOB, Washington, D.C. 20503.

Any member of the public who wants to comment on a form which has been submitted to OMB should advise Mr. Larson of this intent at the earliest possible date.

#### NEW

Occupational Safety and Health Administration
Respiratory Protection
OSHA 274
On occasion
Small businesses or organizations
3,342,381 hours

Information is to be collected by employers to assure that employees who must wear respiratory protective devices are properly protected and issued the type of devices appropriate to the hazard.

Signed at Washington, D.C. this 6th day of March, 1984.

**Paul E. Larson,**

*Departmental Clearance Officer.*

[FR Doc. 84-6381 Filed 3-8-84; 8:45 am]

BILLING CODE 4510-26-M

### Employment and Training Administration

### Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance; Anaconda Minerals Co., et al.

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance at the address shown below, not later than March 19, 1984.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 19, 1984.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street NW., Washington, D.C. 20213.

Signed at Washington, D.C this 29th day of February 1984.

**Glenn M. Zech,**

*Acting Director, Office of Trade Adjustment Assistance.*

APPENDIX

| Petitioner: Union/workers or former workers of— | Location | Date received | Date of petition | Petition No. | Articles produced |
|---|---|---|---|---|---|
| Anaconda Minerals Co., Butte Operation (Operating Engineers Union). | Butte, MT | 2/17/84 | 1/31/84 | TA-W-15,225 | Copper mining—concentrates. |

APPENDIX—Continued

| Petitioner: Union/workers or former workers of— | Location | Date received | Date of petition | Petition No. | Articles produced |
|---|---|---|---|---|---|
| Citrus World, Inc. (workers) | Lake Wales, FL | 2/23/84 | 2/20/84 | TA-W-15,226 | Wash, peeled, section—orange and grapefruit and juice. |
| Dynamit Nobel-Harte, Inc. (ILGPNW) | Brooklyn, NY (Commercial St) | 2/17/84 | 2/13/84 | TA-W-15,227 | Calendar vinyl sheeting, shower curtains, vinyl tubing and other related products. |
| Dynamit Nobel-Harte, Inc. (ILGPNW) | Brooklyn, NY (Dupont St) | 2/17/84 | 2/13/84 | TA-W-15,228 | Calendar vinyl sheeting, shower curtains, vinyl tubing and other related products. |
| Eastern Associated Coal Corp., Kopperston #1 & #2 Mines (UMWA). | Kopperston, WV | 2/27/84 | 2/15/84 | TA-W-15,229 | Steam and metallurgical coal—mining. |
| GAF Corp., (United Cement, Lime, Aypsum & Allied Wkrs). | So. Bound Brook, NJ | 2/27/84 | 2/21/84 | TA-W-15,230 | Roofing materials. |
| Jaynie Manufacturing, Inc. (ILGWU) | Nanty Glo, PA | 2/27/84 | 2/7/84 | TA-W-15,231 | High priced dresses. |
| Miller, Hess & Co., Inc., Hubler Shoe Co., Div. (wkrs) | Auburn, PA | 2/27/84 | 2/21/84 | TA-W-15,232 | Children's leather shoes. |
| Phoenix Forging Co., a member of the Marmon Group (Blacksmiths). | Catasauqua, PA | 2/23/84 | 2/17/84 | TA-W-15,233 | Closed die ferrous alloy forgings, pipe flanges, transitional pipe flanges, pipe fittings and commercial valves. |
| Pybus Steel Co. (Machinist Union) | Wenatchee, WA | 2/17/84 | 2/13/84 | TA-W-15,234 | Bulk steel and fabricated steel supplier (warehouse—re-sell, weld, fabricate, cut). |
| Siebe Norton, Inc. (company) | Newton, NC | 2/27/84 | 2/24/84 | TA-W-15,235 | Industrial work gloves. |
| Siebe Norton, Inc. (company) | Malden, NC | 2/27/84 | 2/24/84 | TA-W-15,236 | Industrial work gloves. |
| Lovingston Manufacturing Co. (company) | Lovingston, VA | 2/29/84 | 2/22/84 | TA-W-15,237 | Children's playclothes. |
| Modine Manufacturing Co. (Machinists) | Bloomington, Ill. | 2/29/84 | 2/20/84 | TA-W-15,238 | Radiators for tractors. |

[FR Doc. 84-6380 Filed 3-8-84; 8:45 am]
BILLING CODE 4510-30-M

## Mine Safety and Health Administration

**[Docket No. M-83-37-M]**

### American Borate Co.; Petition for Modification of Application of Mandatory Safety Standard

American Borate Company, P.O. Box 409, Death Valley, California 92328-0409 has filed a petition to modify the application of 30 CFR 57.4-61A (ventilation doors) to its Billie Mine (I.D. No. 04-04218) located in Inyo County, California. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that ventilation doors be installed at or near shaft stations of intake shafts to prevent the spread of smoke or gas in the event of a fire.

2. Petitioner states that the use of the ventilation door on the 3rd level intake would restrict 74% of the total mine intake. This quantity reduction would produce a substantial increase in the surface fan's static head, which could put the fans dangerously close to a stalled condition. If this were to occur, the fresh air bases at the 2nd and 3rd level shaft stations would be jeopardized. Reducing the intake airflow by means of fan control would require shutting of the number one surface fan, which is responsible for the direct venting of the underground shops to the return air exhaust. Stopping the number 2 surface fan would greatly reduce the effectiveness of the 2nd level fresh air base.

3. As an alternate method, petitioner proposes to use an evacuation policy based on the established primary airflow of the mine. This air flow distribution:

a. Ensures a fresh air base at the two underground shaft stations for all fire possibilities except in the main shaft itself;

b. Maintains adequate airflow through the underground shops directly to the return airway exhaust;

c. Aids underground personnel in following the established escape routes, even under adverse conditions.

4. In support of this proposed alternate method, petitioner states that the evacuation plan was derived from careful consideration of potential fire sources and the effects of these fire sources on the overall primary airflow. All the airways are rocklined and have minimal wood cribbing whenever steel sets are required. The only flammable items in the main shaft are wood guides and electrical cable. Specific fire precautions have been taken for the remaining potential fire sources.

5. Petitioner further states that the only case where fire would inundate the complete mine with smoke is in the main shaft itself, above the 2nd level. If a fire were to occur, the surface fans would be reversed and a fresh air escape would be maintained through the No.1 vent shaft emergency hoist. In the case of a fire in the shops or fuel storage, the established primary airflow would maintain a strong airflow directly to the No.1 vent shaft exhaust and leave the established escape routes and stations intact.

6. Since the bulk of the mining takes place between 1455 elevation and the 2nd level fresh air base, the longest travel time would be 21 minutes. Escape routes from other areas would be to the 1343 refuge chamber or the 3rd level fresh air base, which is an additional 10 minutes from the 1343 refuge chamber. The primary airflow would serve as a guide for these escape routes.

7. For these reasons, petitioner requests a modification of the standard.

**Request for Comments**

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before April 9, 1984. Copies of the petition are available for inspection at that address.

Dated: March 5, 1984.

**Patricia W. Silvey,**

*Director, Office of Standards, Regulations and Variances.*

[FR Doc. 84-6385 Filed 3-8-84; 8:45 am]
BILLING CODE 4510-43-M

**[Docket No. M-83-166-C]**

### Green River Coal Co., Inc.; Petition for Modification of Application of Mandatory Safety Standard

Green River Coal Co., Inc., 617 East Church, Suite 5, P.O. Box 369, Harrisburg, Illinois 62946 has filed a petition to modify the application of 30 CFR 75.1710 (cabs and canopies) to its No. 9 Mine (I.D. No. 15-13469) located in Hopkins County, Kentucky. The petition

is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cabs or canopies be installed on the mine's electric face equipment.

2. The coal seam varies in thickness from 42 to 60 inches. Supplemental roof support measures will be required in addition to roofbolts. This reduces the clearance between the mine roof and bottom by as much as eight inches.

3. Petitioner states that the installation of canopies on the mine's electric face equipment would result in a diminution of safety for the miners affected because the canopies:

a. Can rub or scrape against the roof support devices, increasing the chances of a roof fall;

b. Reduce the equipment operator's visibility, causing the operator to lean out from the canopy and expose body parts to potential injury;

c. Restrict the equipment operator's movements and cause a cramped operating position, increasing the chances of an accident.

4. For these reasons, petitioner requests a modification of the standard.

**Request for Comments**

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before April 9, 1984. Copies of the petition are available for inspection at that address.

Dated: March 1, 1984.

**Patricia W. Silvey,**

*Director, Office of Standards, Regulations and Variances.*

[FR Doc. 84-6386 Filed 3-8-84; 8:45 am]

BILLING CODE 4510-43-M

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**[Docket No. M-83-39-M]**

## Texasgulf Chemicals Co.; Petition for Modification of Application of Mandatory Safety Standard

Texasgulf Chemicals Company, P.O. Box 100, Granger, Wyoming 82934 has filed a petition to modify the application of 30 CFR 57.21-53 (stoppings construction) to its Trona Operations (I.D. No. 48-00639) located in Granger County, Wyoming. This petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that stoppings in crosscuts between intake and return entries, in entries other than room entries, be built of solid, substantial material.

2. In the past, permanent stoppings in the mine have been constructed of wood blocks, concrete blocks, sandwiched wood and squeeze block which have proven to be unsatisfactory.

3. As an alternate method, petitioner proposes to use extruded polystyrene (EPS) "styrofoam" block during the construction of permanent mine ventilation stoppings between intake and return airways.

4. MSHA has interpreted "solid and substantial" to mean materials which do not melt and dissipate when subjected to heat when the potential for heat is assumed.

5. In support of the alternate method, the petitioner states that the ore mined is incombustible; methane emissions are very low; methane ignitions would be isolated and most likely away from the stoppings; and stoppings are located where ignition heat has time to dissipate, considerable dilution can occur, and very few ignition sources exist.

6. Petitioner further states that both sides of the stopping will be coated with material having a flame spread less than 25, no combustible material will be permitted in the crosscuts between intake and return airways, no running diesel equipment will be parked in the crosscut, and no electrical equipment will be operated in the crosscut.

7. For these reasons, petitioner requests a modification of the standard.

**Request for Comments**

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before April 9, 1984. Copies of the petition are available for inspection at that address.

Dated: March 5, 1984.

**Patricia W. Silvey,**

*Director, Office of Standards, Regulations and Variances.*

[FR Doc. 84-6387 Filed 3-8-84; 8:45 am]

BILLING CODE 4510-43-M

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**[Docket No. M-76-622]**

## United States Steel Corp. Petition for Modification of Application of Mandatory Safety Standard (Amendment)

On July 6, 1976, United States Steel Corporation submitted a petition to modify the application of 30 CFR 77.803 for its Lynch District located in Lynch, Kentucky. On November 16, 1976, MSHA published notice of the petition in the **Federal Register** (41 FR 50485), allowing interested parties 30 days to submit comments. A proposed decision and order granting the petition with specific conditions was issued on February 28, 1979, and became final after 30 days. Notice of the granted petition was published in the **Federal Register** on November 9, 1979 (44 FR 65221).

On June 30, 1983, the petitioner submitted a request to amend paragraph 7b of the decision and order. That paragraph currently reads: "Low Resistance Ground Field—A ground field with a resistance to earth not exceeding $100/I_{ngr}$; where $I_{ngr}$ is the current rating of the neutral grounding resistor." Petitioner proposes that paragraph 7b be amended to read "Low Resistance Ground Field—A ground field with a resistance to earth not exceeding five (5) ohms." The decision and order further provided that the grounding resistor at each source transformer be grounded to a low resistance ground field, and that grounding circuits for each branch circuit be monitored in accordance with 30 CFR 77.803 unless the branch circuit grounding conductor is terminated at a low resistance ground field at its extreme end.

In support of this amendment, petitioner states that:

1. It has been unable to construct a low resistance ground field with a 2 ohm resistance to earth required by the decision and order;

2. in an attempt to meet the above requirement, petitioner has installed 14 low resistance ground fields incorporating approximately 1400 six to eight foot ground rods, 25 two and one-half inch holes with 1 MCM copper wire, buried 300 feet of 1 MCM copper wire, buried two sections of 25 square feet corrugated sheet metal, tied onto three 65-foot cased boreholes and tied onto approximately 25 drainage culverts;

3. The Lynch District is situated between Black Mountain and Pine Mountain with three of its four operating mines at 2500 to 3000 feet elevation. The soil in this area has a high resistivity

and the magnitude of the ground field area makes the construction of a two ohm ground field impossible;

4. Section 250–84 of the National Electrical Code (1981) prescribes that, "a single electrode consisting of a rod, pipe, or plate which does not have a resistance to ground of 25 ohms or less shall be augmented by one additional electrode of any of the types specified in Section 250–81 or 250–83. Where multiple rod, pipe, or plate electrode are installed to meet the requirements of this section, they shall not be less than six feet (1.83 m) part.";

5. Bureau of Mines Information Circular No. 8835 (1980) entitled, "Guide of Substation Grounding and Bonding for Mine Power Systems" states, "Low resistance is usually defined as being 5 ohms or less."

**Request of Comments**

Persons interested in this amendment to the decision and order may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before April 9, 1984. Copies of the original petition, the decision and order, and the amendment are available for inspection at that address.

March 1, 1984.

**Patricia W. Silvey,**

*Director, Office of Standards, Regulations and Variances.*

[FR Doc. 84–6382 Filed 3–8–84; 8:45 am]

BILLING CODE 4510–43–M

## UNITED STATES NUCLEAR REGULATORY COMMISSION

**[Docket No. 50–312]**

## Sacramento Municipal Utility District; Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR–54, issued to Sacramento Municipal Utility District (the licensee), for operation of the Rancho Seco Nuclear Generating Station located in Sacramento County, California.

The amendment would revise the Technical Specifications to change the surveillance interval for calibration of the three area radiation monitors inside the containment from quarterly to at every refueling outage. This revises the time span between calibrations from every four months to every 18 months in accordance with the licensee's application for amendment dated February 28, 1984.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The three area radiation monitors installed inside the containment were designed to inform plant personnel immediately when predetermined exposure rates are exceeded in various areas within the containment. This information was used initially to both provide an indication of radiation releases that would be expected during an accident and as a means of personnel control and monitoring. The monitors are not safety grade. Recently the licensee installed and made operational a safety-grade high range radiation monitoring system, as required by post-TMI requirements, to monitor the radiation releases that would be expected during an accident. The safety-grade monitors will have calibration conducted every 18 months pursuant to Technical Specifications currently under review by the Commission's staff. Therefore, the three area radiation monitors installed inside containment will now be primarily used for personnel control. In addition, as required by Technical Specifications, entry into the containment is controlled by the issuance of a Radiation Work Permit which requires a prior radiation survey. Therefore, personnel access to the containment does not depend upon performance of the monitors.

Since the radiation monitors are not utilized to evaluate or mitigate an accident and control of personnel access to the containment does not depend upon performance of the monitors, the proposed Technical Specifications change will not (1) involve a significant increase in the probability or consequences of an accident previously evaluated, or (2) create the possibility of a new or different kind of accident from any accident previously evaluated, or (3) involve a significant reduction in a margin of safety. On this basis, the Commission's staff has made a proposed determination that the application involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Comments should be addressed to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attn.: Docketing and Service Branch.

By April 9, 1984, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR § 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should

also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene with must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to John F. Stolz: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to David S. Kaplan, Sacramento Municipal Utility District, 6201 S Street, P.O. Box 15830, Sacramento, California 95813, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, 1717 H Steet, NW., Washington, D.C., and at the Sacramento City-County Library, 828 I Street, Sacramento, California.

Dated at Bethesda, Maryland, this 6th day of March 1984.

For the Nuclear Regulatory Commission.

**John F. Stolz,**

*Chief, Operating Reactors Branch #4, Division of Licensing.*

[FR Doc. 84–6595 Filed 3–8–84; 8:45 am]

BILLING CODE 7590–01–M

## PENSION BENEFIT GUARANTY CORPORATION

### Exemption From Bond/Escrow Requirement Relating to Sale of Assets by an Employer That Contributes to a Multiemployer Plan; U.S. Steel Mining Co., Inc.

**AGENCY:** Pension Benefit Guaranty Corporation.

**ACTION:** Notice of exemption.

**SUMMARY:** The Pension Benefit Guaranty Corporation has granted a request from U.S. Steel Mining Co., Inc. for an exemption from the bond/escrow requirement of section 4204(a)(1)(B) of the Employee Retirement Income Security Act of 1974. A notice of the request for exemption from this requirement was published on October 18, 1983 (48 FR 48305). The effect of this notice is to advise the public of the decision on the exemption request.

**ADDRESSES:** The request for an exemption, the comments received and PBGC responses to the request and comments are available for public inspection at the PBGC Communications and Public Affairs Department, Suite 7100, 2020 K Street, NW., Washington, D.C. 20006, between the hours of 9:00 a.m. and 4:00 p.m. A copy of these documents may be obtained by mail from the PBGC Disclosure Officer (160) at the above address.

**FOR FURTHER INFORMATION CONTACT:** James M. Graham, Attorney, Corporate Planning and Program Development Department (611), Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, D.C. 20006, (202) 254–4860.

**SUPPLEMENTARY INFORMATION:**

**Background**

Section 4204(a)(1) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), 29 U.S.C. 1384, provides that the sale of assets of an employer that contributes to a multiemployer pension plan will not constitute a complete or partial withdrawal from the plan if certain conditions are met. One of these conditions is that the purchaser post a bond or deposit money in escrow for five plan years after the sale.

Section 4204(c) of ERISA authorizes the Pension Benefit Guaranty Corporation ("PBGC") to grant individual or class variances or exemptions from the purchaser's bond/escrow requirement of section 4204(a)(1)(B). Under § 2643.3(a) of the PBGC's regulation on procedures for variances for sales of assets (29 CFR part 2643), the PBGC shall approve a request for a variance or exemption if it determines that approval of the request is warranted, in that it—

(1) Would more effectively or equitably carry out the purpose of Title IV of the Act; and

(2) Would not significantly increase the risk of financial loss to the plan.

The legislative history of section 4204 indicates a Congressional intent that the sales rules be administered in a manner that assures protection of the plan with the least practicable intrusion into normal business transactions.

ERISA section 4204(c) and § 2643.3(b) of the regulation require the PBGC to publish a notice of the pendency of a request for a variance or an exemption in the **Federal Register** and to provide interested parties with an opportunity to comment on the proposed variance or exemption.

**Decision**

On October 18, 1983 (48 FR 48305), the PBGC published a notice of the pendency of a request from U.S. Steel Mining Co., Inc. ("Steel Mining") for an exemption from the requirement of ERISA section 4204(a)(1)(B), pertaining to the June 12, 1982, purchase and lease by Steel Mining of certain assets of the Carbon Fuel Company ("Carbon Fuel"). Steel Mining is a wholly owned subsidiary of United States Steel Corporation ("U.S. Steel"). Carbon Fuel is a subsidiary of Carbon Industries, Inc., which in turn is a subsidiary of International Telephone and Telegraph Corporation.

In connection with this sale, Steel Mining has assumed the responsibilities fo Carbon Fuel under a collective bargaining agreement, known as the National Bituminous Coal Wage Agreement of 1981, with the United Mine Workers of America ("UMWA"). The plans involved in this request are the UMWA 1950 Pension Plan ("1950 Plan") and the UMWA 1974 Pension Plan ("1974 Plan") (collectively referred to as the "Plans").

Under ERISA section 4211(d)(2) the sale of assets provisions of section 4204 do not apply to either of the Plans, unless they are amended to so provide. Both Plans have adopted amendments to include the text of section 4204 (a) and (b). Further, as stated in the notice of pendency of this request, the PBGC has taken the position that section 4204 (c) and (d) apply as a matter of law.

The following chart lists the two multiemployer plans for which an exemption is requested, the estimated amount of Carbon Fuel's withdrawal liability with request to the assets that were sold, the estimated amount of Steel Mining's withdrawal liability with respect to all of its operations prior to the purchase, and the estimated amount of the bond/escrow that would be required under ERISA section 4204(a)(1)(B) with respect to each plan:

| Plan | Estimate of seller's liability | Estimate of purchaser's liability | Amount bond/escrow |
|---|---|---|---|
| 1950 Plan | $7,162,562 | $79,628,000 | [1]$3,416,384 |
| 1974 Plan | 11,764,823 | 83,005,000 | [2]2,026,216 |
| Total | 18,927,385 | 162,633,000 | 5,442,600 |

[1] The amount is based upon the average annual contribution that Carbon Fuel made to the 1950 Plan for the three plan years preceding the plan year in which the sale occurred.

[2] The amount represents the annual contribution required to be made by Carbon Fuel to the 1974 Plan for plan year 1981.

Since the 1950 Plan was in reorganization for the plan year beginning July 1, 1981 (the plan year in which the sale occurred), the amount of the bond/escrow shown in the table reflects the doubling required by ERISA section 4204(b)(2).

According to its audited consolidated financial statements, U.S. Steel and its subsidiaries had total net assets for its fiscal year ended December 31, 1981, of approximately $6.3 billion. U.S. Steel reported net income after taxes of approximately $1.1 billion and $505 million for its fiscal years 1981 and 1980 and a net loss after taxes of $293 million for fiscal year 1979.

Three comments were received in response to the notice. The trustees of the Plans submitted a comment objecting to the granting of the exemption on two grounds. First, the comment argued that the PBGC has no statutory authority to grant an exemption for a sale of assets that occurred in a plan year when the plan that is the subject of the request was in reorganization. The comment asserted that the PBGC's exemption authority under ERISA section 4204(c) extends only to section 4204(a)(1) (B) and (C) and not to section 4204(b)(2), which states that:

> If the plan is in reorganization in the plan year in which the sale of assets occurs, the purchaser shall furnish a bond or escrow in an amount equal to 200 percent of the amount described in (section 4204(a)(1)(B)).

The comment asserts that this provision independently "imposes a simple and unequivocal bonding requirement" for a plan in reorganization. Further, according to the comment, "the reorganization bond requirement is an integral part of the elaborate, interdependent statutory rules governing plans in reorganization." Since the 1950 Plan was in reorganization at the time of this sale, the comment concluded that the PBGC could not approve the portion of the request relating to that plan.

Second, the Plans' comment stated that, although the net assets of U.S. Steel admittedly exceed the combined withdrawal liability of Steel Mining and Carbon Fuel, "past deliquencies" by U.S. Steel indicate that it "cannot be said that the grant of an exemption * * * will 'assure the protection' " of the Plans. In support of this assertion, the comment stated that although a 1975 agreement required U.S. Steel to remit certain royalties to the Plans, the company had brought a lawsuit challenging this obligation, forcing the Plans to counterclaim for the unpaid royalties. The comment stated: "When this action was resolved in October 1977, U.S. Steel owed the Plans over $10 million in delinquent contributions." On this basis, the comment concluded that granting the exemption would significantly increase the risk of loss to the Plans.

U.S. Steel responded to the Plans' first point by arguing that nothing in ERISA section 4204 or in its legislative history would preclude an exemption from the bond/escrow requirement simply because a plan was in reorganization. In response to the second argument, U.S. Steel stated that its refusal to pay certain royalties, "the legality of which is being challenged by other coal producers and has yet to be finally adjudicated, hardly indicates that (U.S. Steel) is a delinquent whose conduct has been such that a waiver of the bond will significantly increase the risk of loss for the (Plans)." U.S. Steel also pointed out that, in the period of 1975 to 1977, it made $83 million in regular contributions to the Plans.

In a separate comment, the UMWA concurred with the comments submitted by the Plans. In addition, the UMWA alleged that U.S. Steel "had exhibited a reluctance to contribute adequately to its own single-employer pension plan" and that this reluctance should be taken into account by the PBGC in assessing the issue of risk in this case.

In response to the comments concerning the PBGC's exemption authority, the PBGC finds that the requirement that the purchaser provide a bond/escrow is established by section 4204(a)(1)(B), whether or not the plan is in reorganization. Section 4204(b)(2) merely sets forth a special rule for

determining the *amount* of the bond/escrow when the plan is in reorganization. This conclusion is based on the fact that section 4204(b)(2) says nothing else about the characteristics of the bond/escrow or when it may be realized upon and thus must relate back to section 4204(a)(1)(B). ERISA section 4204(c) expressly authorizes the PBGC to waive the latter provision and contains no exception to that authority for plans in reorganization.

The PBGC does not believe that the statements made by the opposition comments demonstrate that this exemption will significantly increase the risk of financial loss to the Plans. The matters brought forth by the Plans (concerning the litigation by U.S. Steel over its obligation to pay royalties) and the allegation made by the UMWA (concerning U.S. Steel's funding practices for its single-employer plan) must be examined in light of the purpose of the bond/escrow under section 4204(a)(1)(B). As the PBGC stated in a prior exemption decision—

> The amount of the bond or escrow is approximately equal to the seller's annual contributions to the plan. As such, it provides some indication of the purchaser's ability to meet its ongong financial obligations to the plan, and it also affords the plan protection in the event the purchaser fails to pay its contributions* * * (*Kohlberg, Kravis, Roberts and Co.*, 47 FR 40261, 40262 (Sept. 13, 1982)).

The bond/escrow is intended to provide the plan with an assurance of the purchaser's ability to pay contributions or withdrawal liability. Its degree of willingness to pay is not an issue and could not, in any case, be practicably evaluated by the PBGC.

The PBGC has therefore reviewed the exemption request on the basis of the purchaser's ability to meet its obligations to the Plan. *James River-Dixie/Northern Inc.*, 48 FR 35057 (Aug. 2, 1982). As the Plans thenselves concede, the net assets of U.S. Steel clearly exceed not only the withdrawal liability of the purchaser, but the combined withdrawal liability to the Plans of both parties to this sale of assets. Thus, this case clearly meets the standard for an exemption established in *Kohlberg, Kravis, Roberts and Co.* at 40262. (Further, this case would also qualify for an exemption under the net income test in the PBGC's proposed regulation on variances for sales of assets (48 FR 6555, February 14, 1983).)

Based on the facts of this case and the representations and statements made in connection with the request for exemption, the PBGC has determined that an exemption from the bond/escrow requirement is warranted, in that it would more effectively carry out the purposes of Title IV of ERISA and would not significantly increase the risk of financial loss to the Plans. Therefore, the PBGC hereby grants Steel Mining's request for an exemption from the bond/escrow requirement. The granting of an exemption or variance from the bond/escrow requirement of section 4204(a)(1)(B) does not constitute a finding by the PBGC that the transaction satisfies the other requirements of section 4204(a)(1). The determination of whether the transaction satisfies such other requirements is made by the plan sponsor.

Issued at Washington, D.C. on this 24th day of February 1984.

**C. C. Tharp,**

*Executive Director, Pension Benefit Guaranty Corporation.*

[FR Doc. 84-6314 Filed 3-8-84; 8:45 am]

BILLING CODE 7708-01-M

## Pendency of Request for Exemption From Bond Escrow Requirement Relating To Sale of Assets by an Employer That Contributes to a Multiemployer Plan; Beloit Manhattan, Inc.

**AGENCY:** Pension Benefit Guaranty Corporation.

**ACTION:** Notice of pendency of request.

**SUMMARY:** This notice advises interested persons that the Pension Benefit Guaranty Corporation has received a request from Beloit Manhattan, Inc. for an exemption from the bond/escrow requirement to section 4204(a)(1)(B) of the Employee Retirement Income Security Act of 1974. Section 4204(a)(1) provides that the sale of assets by an employer that contributes to a multiemployer pension plan will not constitute a complete or partial withdrawal from the plan if certain conditions are met. One of these conditions is that the purchaser post a bond or deposit money in escrow for a five plan year period beginning after the sale. The PBGC is authorized to grant individual and class exemptions from this requirement. Prior to granting an exemption, the PBGC is required to give interested persons an opportunity to comment on the exemption request. The effect of this notice is to advise interested persons of this exemption request and to solicit their views on it.

**DATE:** Comments must be submitted on or before April 23, 1984.

**ADDRESSES:** All written comments (at least three copies) should be addressed to: Director, Corporate Planning and Program Development Department (611), Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, D.C. 20006. The request for exemption and the comments received will be available for public inspection at the PBGC Communications and Public Affairs Department, Suite 7100, at the above address, between the hours of 9:00 a.m. and 4:00 p.m.

**FOR FURTHER INFORMATION CONTACT:** James M. Graham, Attorney, Corporate Planning and Program Development Department (611), Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, D.C. 20006, (202) 254-4860. (This is not a toll-free number.)

**SUPPLEMENTARY INFORMATION:**

### Background

Section 4204 of the Employee Retirement Income Security Act of 1974, as amended by the Multiemployer Pension Plan Amendments Act of 1980 (ERISA), 29 U.S.C. 1384, provides that a bona fide arm's-length sale of assets of a contributing employer to an unrelated party will not be considered a withdrawal if three conditions are met. These conditions, enumerated in section 4204 (a)(1) (A)–(C), are that—

(A) The purchaser has an obligation to contribute to the plan for substantially the same number of contribution base units for which the seller was obligated to contribute;

(B) The purchaser obtains a bond or places an amount in escrow, for a period of five plan years after the sale, in an amount equal to the greater of the seller's average required annual contribution to the plan for the three plan years preceding the year in which the sale occurred or the seller's required annual contribution for the plan year preceding the year in which the sale occurred (the amount of the bond or escrow is doubled if the plan is in reorganization in the year in which the sale occurred); and

(C) The contract of sale provides that if the purchaser withdraws from the plan within the first five plan years beginning after the sale and fails to pay any of its liability to the plan, the seller shall be secondarily liable for the liability it (the seller) would have had but for section 4204.

The bond or escrow described above will be paid to the plan if the purchaser withdraws from the plan or fails to make any required contributions to the plan within the first five plan years beginning after the sale.

Additionally, section 4204(b)(1) provides that if a sale of assets is covered by section 4204, the purchaser assumes by operation of law the contribution record of the seller for the

plan year in which the sale occurred and the preceding four plan years.

Section 4204(c) of ERISA authorizes the Pension Benefit Gurarranty Corporation ("PBGC") to grant individual or class variances or exemptions from the purchaser's bond/escrow requirement of section 4204(a)(1)(B) when warranted. The legislative history of section 4204 indicates a Congressional intent that the sales rules be administered in a manner that assures protection of the plan with the least practicable intrusion into normal business transactions. The granting of an exemption or variance from the requirements of section 4204(a)(1)(B) does not constitute a finding by the PBGC that a particular transactien satisfies the other requirements of section 4204(a)(1).

Under the PBGC's regulation on procedures for variances for sales of assets (29 CFR 2643.3(a)), the PBGC shall approve a request for a variance or exemption if it determines that approval of the request is warranted, in that it—

(1) Would more effectively or equitably carry out the purposes of Title IV of the Act; and

(2) Would not significantly increase the risk of financial loss to the plan.

Section 4204(c) of ERISA and 2643.3(b) of the regulation require the PBGC to publish a notice of the pendency of a request for a variance or exemption in the **Federal Register**, and to provide interested parties with an opportunity to comment on the proposed variance or exemption.

### The Request

The PBGC has received a request from Beloit Manhattan, Inc. ("Beloit") to waive the bond/escrow requirement of ERISA section 4204(a)(1)(B). In the request, Beloit represents among other things, that:

1. Effective October 1, 1982, Beloit purchased the assets of the Huntington Roll Cover Division of Buckhorn, Inc. ("Buckhorn"), located in Federal Way, Washington.

2. In connection with this sale, Beloit has assumed the responsibilities of Buckhorn under a collective bargaining agreement with the Teamsters Local 763, which requires contributions to the Western Conference of Teamsters Pension Trust Fund ("Fund"). Buckhorn's potential withdrawal liability to the Fund has been estimated to be $35,885.

3. The amount of the bond/escrow that would be required under ERISA section 4204(a)(1)(B) is $29,212 (the annual contributions required to be made by Buckhorn for the plan year preceding the sale).

4. In the sale contract, Buckhorn agreed that, if the purchaser withdraws within the first five plan years after the sale and fails to pay withdrawal liability, Buckhorn will be secondarily liable for any withdrawal liability that it would have had to the Fund but for the operation of ERISA section 4204.

5. Beloit did not provide copies of its financial statements, as required by the PBGC's regulation (29 CFR 2643.2(d)(7)). Beloit did state that its net income for its three most recent fiscal years exceeds $1 million and that its net tangible assets exceed $100 million.

6. Beloit further stated that the request for an exemption should be granted on a *de minimis* basis. According to information provided by Beloit, the average annual contributions made by all employers to the Fund for the three plan years preceding the plan year in which the sale occurred was approximately $460 million. Thus, the amount of the bond/escrow is less than one-tenth of one percent of the amount of employer contributions.

7. A copy of this request has been sent by Beloit to the Fund and the collective bargaining representative of Buckhorn's former employees, by certified mail return receipt requested.

### Comment

All interested persons are invited to submit written comments on the pending exemption to the above address, on or before April 23, 1984. All comments will be made a part of the record. Comments received, as well as the relevant information submitted in support of the application for exemption, will be available for public inspection at the address set forth above.

Issued at Washington, D.C. on this 24th day of February 1984

**C. C. Tharp,**

*Executive Director, Pension Benefit Guaranty Corporation.*

[FR Doc. 84-6315 Filed 3-8-84; 8:45 am]

BILLING CODE 7708-01-M

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## Pendency of Request for Exemption From Bond Escrow Requirement Relating to Sale of Assets by an Employer That Contributes to a Multiemployer Plan: G. Heileman Brewing Company, Inc. (Blitz-Weinhard Company)

**AGENCY:** Pension Benefit Guaranty Corporation.

**ACTION:** Notice of pendency of request.

**SUMMARY:** This notice advises interested persons that the Pension Benefit Guaranty Corporation has received a request from G. Heileman Brewing Company, Inc. for an exemption from the bond/escrow requirement of section 4204(a)(1)(B) of the Employee Retirement Income Security Act of 1974 as amended. Section 4204(a)(1) provides that the sale of assets by an employer that contributes to a multiemployer pension plan will not constitute a complete or partial withdrawal from the plan if certain conditions are met. One of these conditions is that the purchaser post a bond or deposit money in escrow for five plan years beginning after the sale. The PBGC is authorized to grant exemptions from this requirement. Prior to granting an exemption, the PBGC is required to give interested persons an opportunity to comment on the exemption request. The effect of this notice is to advise interested persons of this exemption request and to solicit their views on it.

**DATE:** Comments must be submitted on or before April 23, 1984.

**ADDRESSES:** All written comments (at least three copies) should be addressed to: Director, Corporate Planning and Program Development Department (611), Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, D.C. 20006. The request for exemption and the comments received will be available for public inspection at the PBGC Communications and Public Affairs Department, Suite 7100, at the above address, between the hours of 9:00 a.m. and 4:00 p.m.

**FOR FURTHER INFORMATION CONTACT:** James M. Graham, Attorney, Corporate Planning and Program Development Department (611), Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, D.C. 20006,(202) 254-4860. [This is not a toll-free number.]

**SUPPLEMENTARY INFORMATION:**

### Background

Section 4204(a)(1) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), 29 U.S.C. 1384, provides that a bona fide arm's-length sale of assets of a contributing employer to an unrelated party will not be considered a withdrawal if three conditions are met. These conditions, enumerated in section 4204(a)(1) (A)-(C), are that—

(A) The purchaser has an obligation to contribute to the plan for substantially the same number of contribution base units for which the seller was obligated to contribute;

(B) The purchaser obtains a bond or places an amount in escrow, for a period of five plan years after the sale, in an amount equal to the greater of the

seller's average required annual contribution to the plan for the three plan years preceding the year in which the sale occurred or the seller's required annual contribution for the plan year preceding the year in which the sale occurred; and

(C) The contract of sale provides that if the purchaser withdraws from the plan within the first five plan years beginning after the sale and fails to pay any of its liability to the plan, the seller shall be secondarily liable for the liability it (the seller) would have had but for section 4204.

The bond or escrow described above will be paid to the plan if the purchaser withdraws from the plan or fails to make any required contributions to the plan within the first five plan years beginning after the sale. Under ERISA section 4204(b)(2), the amount of the bond or escrow is doubled if the plan is in reorganization in the plan year in which the sale of assets occurs.

ERISA section 4204(c) authorizes the Pension Benefit Guaranty Corporation ("PBGC") to grant individual or class variances or exemptions from the purchaser's bond/escrow requirement of section 4204(a)(1)(B) and the contract-provision requirement of section 4204(a)(1)(C). The legislative history of section 4204 indicates a Congressional intent that the sales rules be administered in a manner that assures protection of the plan with the least practicable intrusion into normal business transactions. The granting of an exemption or variance from the requirements of section 4204(a)(1)(B) or (C) does not constitute a finding by PBGC that the transaction satisfies the other requirements of section 4204(a)(1).

Under PBGC's regulation on procedures for variances for sales of assets (29 CFR, § 2643.3(a)), the PBGC shall approve a request for a variance or exemption if it determines that approval of the request is warranted, in that it—

(1) Would more effectively or equitably carry out the purposes of Title IV of the Act; and

(2) Would not significantly increase the risk of financial loss to the plan.

Section 4204 (c) of ERISA and § 2643.3(b) of the regulation require the PBGC to publish a notice of the pendency of a request for a variance or exemption in the **Federal Register**, and to provide interested parties with an opportunity to comment on the proposed variance or exemption.

### The Request

The PBGC has received a request from G. Heileman Brewing Company, Inc. ("Heileman") to waive the bond/escrow requirement of ERISA section 4204(a)(1)(B). In the request, Heileman represents among other things, that:

1. Effective March 19, 1983, Heileman purchased the Blitz-Weinhard Company ("Blitz"), a wholly owned subsidiary of Pabst Brewing Comapany.

2. In connection with this sale, Heileman has assumed the responsibilities of Blitz under a collective bargaining agreement with the General Teamsters Local 162, which requires contributions to the Western Conference of Teamsters Pension Trust Fund (the "Fund").

3. The estimated amount of Blitz's withdrawal liability to the Fund is $569,912. Heileman's estimated withdrawal liability to the Fund (excluding the liability attributable to the purchased operations from Blitz) is $1,083,781. The estimated amount of the bond/escrow that would be required under ERISA section 4204(a)(1)(B) is $416,448 (the average annual contributions that Blitz made to the Fund for the three plan years preceding the plan year in which the sale occurred).

4. In the purchase agreement, Blitz agreed that, if the purchaser withdraws within the five year period commencing with the first plan year beginning after the date of the sale and fails to pay withdrawal liability, Blitz would be secondarily liable for any withdrawal liability it would have had to the Fund but for the operation of ERISA section 4204.

5. According to its audited consolidated financial statements, Heileman had total net assets for its fiscal year ended December 31, 1982 of approximately $194 million. Heileman's average net income after taxes for its three fiscal years preceding the sale was $40.2 million.

6. Heileman has sent a copy of this request to the Fund and to the collective bargaining representative of Blitz's former employees by certified mail, return receipt requested.

### Comments

All interested persons are invited to submit written comments on the pending exemption to the above address, by April 23, 1984. All comments will be made a part of the record. Comments received, as well as the application for exemption, will be available for public inspection at the address set forth above.

Issued At Washington, D.C. on this 5th day of March 1984.

C. C. Tharp,

*Executive Director, Pension Benefit Guaranty Corporation.*

[FR Doc. 84-6347 Filed 3-8-84; 8:45 am]

BILLING CODE 7708-01-M

## Pendency of Request for Exemption From Bond-Escrow Requirement Relating to Sale of Assets by an Employer That Contributes to a Multiemployer Plan: National By-Products, Inc.

**AGENCY:** Pension Benefit Guaranty Corporation.

**ACTION:** Notice of pendency of request.

**SUMMARY:** This notice advises interested persons that the Pension Benefit Guaranty Corporation has received a request from National By-Products, Inc., for an exemption from the bond/escrow requirement of section 4204(a)(1)(B) of the Employee Retirement Income Security Act of 1974. Section 4204(a)(1) provides that the sale of assets by an employer that contributes to a multiemployer pension plan will not constitute a complete or partial withdrawal from the plan if certain conditions are met. One of these conditions is that the purchaser post a bond or deposit money in escrow for five plan years beginning after the sale. The PBGC is authorized to grant exemptions from this requirement. Before granting an exemption, the PBGC is required to give interested persons an opportunity to comment on the exemption request. The effect of this notice is to advise interested persons of this exemption request and to solicit their views on it.

**DATES:** Comments must be submitted on or before April 23, 1984.

**ADDRESSES:** All written comments (at least three copies) should be addressed to: Director, Corporate Planning and Program Development Department (611), Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, D.C. 20006. The request for exemption and the comments received will be available for public inspection at the PBGC Communications and Public Affairs Department, Suite 7100, at the above address, between the hours of 9:00 a.m. and 4:00 p.m.

**FOR FURTHER INFORMATION CONTACT:** Deborah Murphy, Attorney, Corporate Planning and Program Development Department (611), Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, D.C. 20006; (202) 254-4860 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:**

**Background**

Section 4204(a)(1) of the Employee Retirement Income Security Act of 1974 ("ERISA") provides that a bona fide arm's-length sale of assets of a contributing employer to an unrelated party will not be considered a withdrawal if three conditions are met. These conditions, enumerated in section 4204(a)(1)(A)–(C), are that—

(A) The purchaser has an obligation to contribute to the plan for substantially the same number of contribution base units for which the seller was obligated to contribute;

(B) The purchaser obtains a bond or places an amount in escrow, for a period of five plan years after the sale, in an amount equal to the greater of the seller's average required annual contribution to the plan for the three plan years preceding the year in which the sale occurred or the seller's required annual contribution for the plan year preceding the year in which the sale occurred; and

(C) The contract of sale provides that if the purchaser withdraws from the plan within the first five plan years beginning after the sale and fails to pay its liability to the plan, the seller shall be secondarily liable for the liability it (the seller) would have had but for section 4204.

The bond or escrow described above would be paid to the plan if the purchaser withdraws from the plan or fails to make a required contribution to the plan within the first five plan years beginning after the sale.

Section 4204(c) of ERISA authorizes the Pension Benefit Guaranty Corporation ("PBGC") to grant variances or exemptions from the purchaser's bond/escrow requirement of section 4204(a)(1)(B) and the contract-provision requirement of section 4204(a)(C). The legislative history of section 4204 indicates a Congressional intent that the sales rules be administered in a manner that assures protection of the plan with the least practicable intrusion into normal business transactions. The granting of an exemption or variance from the requirements of section 4204(a)(1) (B) or (C) does not constitute a finding by PBGC that the transaction satisfies the other requirements of section 4204(a)(1).

Under § 2643.3(a) of the PBGC's regulation on procedures for variances for sales of assets (29 CFR Part 2643), the PBGC shall approve a request for a variance or exemption if it determines that approval of the request is warranted, in that it—

(1) Would more effectively or equitably carry out the purposes of Title IV of ERISA; and

(2) Would not significantly increase the risk of financial loss to the plan.

Section 4204(c) of ERISA and § 2643.3(b) of the regulation require the PBGC to publish a notice of the pendency of a request for a variance or exemption in the **Federal Register**, and to provide interested parties with an opportunity to comment on the proposed variance or exemption.

**The Request**

The PBGC has received a request from National By-Products, Inc. ("National By-Products"), to waive the bond/escrow requirement of section 4204(a)(1)(B) of ERISA. National By-Products represents, among other things, as follows:

1. Effective July 2, 1983, National By-Products purchased from Nick Beucher & Sons Co. ("Beucher & Sons") all its rendering, hide and pet food business and facilities in Illinois and Wisconsin.

2. National By-Products has assumed Beucher & Sons' obligations, pursuant to collective bargaining agreements with three unions, to contribute to three pension plans, viz.:

| Union | Plan |
|---|---|
| Local 710, International Brotherhood of Teamsters. | International Brotherhood of Teamsters Local No. 710 Pension Fund ("Local 710 Fund"). |
| Local 325, International Brotherhood of Teamsters. | Central States, Southeast and Southwest Area Pension Fund ("Central States Fund"). |
| Beef Boners & Sausage Makers Union Local 100, United Food and Commercial Workers International Union. | Beef Boners & Sausage Makers, Locals 100 and 485 Pensions Fund ("Beef Boners Fund"). |

3. The total bond/escrow amount required of National By-Products under section 4204(a)(1)(B) is $81,726, and the estimated total amount of the withdrawal liability that Beucher & Sons would otherwise incur as a result of the sale if section 4204 did not apply to the sale is $153,967, broken down as follows:

| Plan | Bond | Withdrawal liability |
|---|---|---|
| Local 710 Fund | $56,064 | $139,407 |
| Central States Fund | 2,652 | 14,560 |
| Beef Boners Fund | 23,010 | None |

National By-Products contributed to the Central States Fund (but not to the other two plans) before the transaction. Based on an annualization of its contributions for January 1984 and on information from Central States Fund's 1981 Form 5500, National By-Products estimates its potential withdrawal liability to the Central States Fund as $900,337.

4. National By-Products had net tangible assets for its fiscal year ended May 28, 1983, of $35,234,837. National By-Products had an average net income for the period of three fiscal years ended May 28, 1983, of $2,960,136.

5. National By-Products has sent a copy of its request to each plan administrator and to the collective bargaining representatives of Beucher & Sons' former employees.

**Comments**

All interested persons are invited to submit written comments on the pending exemption to the above address by April 23, 1984. All comments will be made a part of the record. Comments received, as well as the application for exemption, will be available for public inspection at the address set forth above.

Issued at Washington, D.C., on this 2d day of March 1984.

**C. C. Tharp,**

*Executive Director, Pension Benefit Guaranty Corporation.*

[FR Doc. 84-6346 Filed 3-8-84; 8:45 am]

**BILLING CODE 7708-01-M**

## DEPARTMENT OF TRANSPORTATION

### Research and Special Programs Administration

### Applications for Exemptions; Tracor MBA, et al.

**AGENCY:** Materials Transportation Bureau, DOT.

**ACTION:** List of applicants for exemptions.

**SUMMARY:** In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Regulation of the Materials Transportation Bureau has received the applications described herein. Each mode of transportation for which a particular exemption is requested is indicated by a number in the "Nature of Application" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo-only aircraft, 5—Passenger-carrying aircraft.

**DATE:** Comment period closes April 12, 1984.

**ADDRESS COMMENTS TO:** Dockets Branch, Office of Regulatory Planning and Analysis, Materials Transportation Bureau, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate.

**FOR FURTHER INFORMATION CONTACT:** Copies of the applications are available for inspection in the Dockets Branch, Room 8426, Nassif Building, 400 7th Street, SW., Washington, DC.

NEW EXEMPTIONS

| Application No. | Applicant | Regulation(s) affected | Nature of exemption thereof |
|---|---|---|---|
| 9224-N | Tracor MBA, East Camden, AR | 49 CFR 173.28(m)(2), 173.28(m)(3) | To authorize reuse of DOT Specification 17C steel drums, for shipment of magnesium, classed as a flammable solid, without subjecting drums to certain retest, and marking requirements. (Mode 1.) |
| 9225-N | Geosource, Inc., Corpus Christi, TX | 49 CFR 17.315, 173.119, 173.304 | To manufacture, mark and sell non-DOT specification devices described as portable meter provers, for shipment of hydrocarbon products, classed as flammable liquids or flammable gases. (Mode 1.) |
| 9226-N | Stauffer Chemical Co., Westport, CT | 49 CFR 173.121 | To authorize shipment of carbon disulfide, class as a flammable liquid, in DOT Specification 51 portable tanks. (Modes 2 and 3.) |
| 9228-N | Southern California Chemical Co., Inc., Santa Fe Springs, CA. | 49 CFR 173.245, 173.263 | To authorize shipment of various corrosive materials in two non-DOT specification cargo tank motor vehicles comparable to DOT Specification MC-312. (Mode 1.) |
| 9229-N | Capilano Plastics, Inc., Bellevue, WA | 49 CFR 173.119, 173.245 | To manufacture, mark and sell non-DOT specification removable head polyethylene pails of 5-gallon capacity for shipment of various flammable or corrosive liquids. (Modes 1, 2, and 3.) |
| 9230-N | Nuclear Metals, Inc., Concord, MA | 49 CFR 173.208(b)(2), 173.208(b)(4), 175.30 | To authorize shipment of titanium metal powder, dry, classed as a flammable solid, in specially designed packagings overpacked in 55-gallon DOT Specification 17H steel drums without incombustible cushioning materials or a 55-gallon DOT Specification 17C open head steel drum. (Modes 1, 2, 3, 4, and 5.) |
| 9231-N | Consolidated Rail Corp., Philadelphia, PA | 49 CFR 172.204 (a), (d), 174.24 | To transport hazardous materials initiated by electronic billing and subsequently verified by the shipper's proper written shipping orders. (Mode 2.) |
| 9232-N | U.S. Department of Defense, Washington, DC | 49 CFR Part 100-199 | To authorize shipment of explosives and other hazardous materials forbidden or in quantities greater than those prescribed by commercial air carriers activated under the Civil Reserve Air Fleet during a contingency airlift or national emergency. (Modes 4 and 5.) |

This notice of receipt of applications for new exemptions is published in accordance with Section 107 of the Hazardous Materials Transportation Act (49 U.S.C. 1906; 49 CFR 1.53(e)).

Issued in Washington, D.C., on March 1, 1984.

J. R. Grothe,

*Chief, Exemption Branch, Office of Hazardous Materials Regulation, Materials Transportation Bureau.*

[FR Doc. 84-6426 Filed 3-8-84; 8:45 am]

BILLING CODE 4910-60-M

## Applications for Renewal or Modification of Exemptions or Applications To Become a Party to an Exemption; Department of Defense, et al.

**AGENCY:** Materials Transportation Bureau, DOT.

**ACTION:** List of applications for renewal or modification of exemptions or application to become a party to an exemption.

**SUMMARY:** In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Regulations of the Materials Transportation Bureau has received the applications described herein. This notice is abbreviated to expedite docketing and public notice. Because the sections affected, modes of transportation, and the nature of application have been shown in earlier **Federal Register** publications, they are not repeated here. Except as otherwise noted, renewal applications are for extension of the exemption terms only. Where changes are requested (e.g., to provide for additional hazardous materials, packaging design changes, additional mode of transportation, etc.) they are described in footnotes to the application number. Application numbers with the suffix "X" denote renewal; application numbers with the suffix "P" denote party to. These applications have been separated from the new applications for exemptions to facilitate processing.

**DATES:** Comment period closes March 28, 1984.

**ADDRESS COMMENTS TO:** Dockets Branch, Office of Regulatory Planning and Analysis, Materials Transportation Bureau, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate.

**FOR FURTHER INFORMATION CONTACT:** Copies of the applications are available for inspection in the Dockets Branch, Room 8426, Nassif Building, 400 7th Street, SW., Washington, DC.

| Application No. | Applicant | Renewal of exemption |
|---|---|---|
| 1479-X | U.S. Department of Defense, Washington, DC. | 1479 |
| 2981-X | Hercules, Inc., Wilmington, DE | 2981 |
| 3648-X | Airco Industrial Gases, Murray Hill, NJ. | 3648 |
| 3667-X | Groendyke Transport, Inc., Enid, OK. | 3667 |
| 3737-X | U.S. Department of Defense, Washington, DC. | 3737 |
| 4850-X | Pengo Industries, Inc., Fort Worth, TX. | 4850 |
| 5701-X | E. I. du Pont de Nemours & Co., Inc., Wilmington, DE. | 5701 |
| 6016-X | Welding & Cutting Supply Co., Cleveland, OH. | 6016 |
| 6299-X | Minnesota Valley Engineering, Inc., New Prague, MN. | 6299 |
| 6309-X | Olin Corp., Stamford, CT | 6309 |
| 6325-X | Mining Services International Corp., Salt Lake City, UT. | 6325 |
| 6418-X | Dow Chemical Co., Midland, MI | 6418 |
| 6453-X | General Motors Corp., Troy, MI | 6453 |
| 6530-X | Liquid Carbonic Corp., Chicago, IL | 6530 |
| 6602-X | Jones Chemicals, Inc., Caledonia, NY. | 6602 |
| 6607-X | Bio-Lab, Inc., Conyers, GA | 6607 |
| 6704-X | Dow Chemical Co., Midland, MI | 6704 |
| 6726-X | Born Free Plastics, Inc., Gardena, CA. | 6726 |
| 6755-X | Lincoln Welding Supply Co., Lincoln, NE. | 6755 |
| 6765-X | L'Air Liquide Corp., Paris, France | 6765 |
| 6805-X | Union Carbide Corp., Danbury, CT | 6805 |
| 6825-X | Richmond Lox Equipment Co., Livermore, CA. | 6825 |
| 6828-X | Boyle-Midway, New York, NY | 6828 |
| 6859-X | Pyronetics Devices, Inc., Denver, CO. | 6859 |
| 6883-X | Hedwin Corp., Baltimore, MD | 6883 |
| 6395-X | GTE Products Corp., Danvers, MA | 6895 |
| 6895-X | North American Philips Lighting Corp., Bloomfield, NY. | 6895 |
| 6908-X | The Garrett Corp., Tempe, AZ (see footnote 1). | 6908 |

| Application No. | Applicant | Renewal of exemption |
|---|---|---|
| 7052-X | Magnavox Government & Industrial Electronics Corp., Fort Wayne, IN. | 7052 |
| 7052-X | Ray-O-Vac Corp., Madison, WI | 7052 |
| 7052-X | Hercules, Corp., Wilmington, DE | 7052 |
| 7052-X | Sonatech, Inc., Goleta, CA | 7052 |
| 7052-X | Gearhart Industries, Inc., Fort Worth, TX. | 7052 |
| 7052-X | Honeywell, Inc., Horsham, PA | 7052 |
| 7052-X | Northrop Corp., Hawthrone, CA | 7052 |
| 7052-X | Industrial Solid State Controls, Inc., York, PA. | 7052 |
| 7052-X | Power Conversion, Inc., Elmwood Park, NJ. | 7052 |
| 7052-X | In-Situ, Inc., Laramie, WY | 7052 |
| 7052-X | Gould, Corp., Andover, MA | 7052 |
| 7052-X | NL Industries, Inc., Houston, TX | 7052 |
| 7052-X | Jet Propulsion Laboratory, Pasadena, CA. | 7052 |
| 7052-X | A/S Hellesens, Soborg, Denmark | 7052 |
| 7060-X | Charles R. Wall, d.b.a. HZm RAM Air, Cornelius, OR. | 7060 |
| 7060-X | Federal Express Corp., Memphis, TN. | 7060 |
| 7060-X | Las Vegas Airlines, Inc., Las Vegas, NV. | 7060 |
| 7060-X | Sajen Air, Inc., Manchester, NH | 7060 |
| 7087-X | Unitek Corp., Monrovia, CA | 7087 |
| 7218-X | Structural Composites Industries, Inc., Pomona, CA. | 7218 |
| 7277-X | Structural Composities Industries, Inc., Pomona, CA. | 7277 |
| 7454-X | E. I. du Pont de Nemours & Co., Inc., Wilmington, DE. | 7454 |
| 7455-X | E. I. du Pont de Nemours & Co., Inc., Wilmington, DE. | 7455 |
| 7476-X | Thompson Tank & Manufacturing Co., Inc., Long Beach, CA. | 7476 |
| 7573-X | U.S. Department of Defense, Washington, DC. | 7573 |
| 7586-X | Rockwell International Corp., Downey, CA. | 7586 |
| 7607-X | Engineering-Science, Fairfax, VA | 7607 |
| 7621-X | Great Lakes Chemical Corp., El Dorado, AR. | 7621 |
| 7708-X | HTL Industries, Inc., Duarte, CA | 7708 |
| 7731-X | Minnesota Valley Engineering, Inc., New Prague, MN. | 7731 |
| 7753-X | Stauffer Chemical Co., Westport, CT. | 7753 |
| 7909-X | Dow Chemical Co., Midland, MI | 7909 |
| 7933-X | Greif Brothers Corp., Springfield, NJ. | 7933 |
| 7943-X | GPS Industries, City of Industry, CA. | 7943 |
| 8077-X | Dow Corning Corp., Midland, MI | 8077 |
| 8156-X | Liquid Carbonic Corp., Chicago, IL | 8156 |
| 8284-X | Allied Chemical, Morristown, NJ | 8284 |
| 8284-X | Pressure Vessel Service, Inc., d.b.a. PVS Chemicals, Detroit, MI. | 8284 |
| 8308-X | MHC Messengers, Inc., Avenel, NJ. | 8308 |
| 8308-X | Associated Couriers, Inc., Maryland Heights, MO. | 8308 |
| 8363-X | E. I. du Pont de Nemours & Co., Inc., Wilmington, DE. | 8363 |
| 8389-X | Container Corp., of America, Wilmington, DE. | 8389 |
| 8390-X | Micro Image, Inc., Orange, CT | 8390 |
| 8408-X | Presvac Systems (Burlington) Ltd., Burlington, Ontario Can. | 8408 |
| 8468-X | Hedwin Corp., Baltimore, MD | 8468 |
| 8499-X | Hedwin Corp., Baltimore, MD | 8499 |
| 8627-X | Petrolite Corp., Saint Louis, MO | 8626 |
| 8627-X | Exxon Chemical Co., Houston, TX | 8626 |
| 8732-X | Chemcentral Inc., Chicago, IL | 8732 |
| 8780-X | Container Corp., of America, Wilmington, DE. | 8780 |
| 8786-X | Gas Spring Corp., Colmar, PA | 8786 |
| 8791-X | Stauffer Chemical Co., Westport, CT. | 8791 |
| 8811-X | American Hoechst Corp., Somerville, NJ. | 8811 |
| 8824-X | Pengo Industries, Inc., Fort Worth, TX. | 8824 |
| 8837-X | Fabricated Metals, Inc., San Leandro, CA. | 8837 |
| 8839-X | Poly Cal Plastics, Inc., French Camp, CA (see footnote 2). | 8839 |
| 8843-X | Pengo Industries, Inc., Fort Worth, TX. | 8843 |
| 8845-X | Pengo Industries, Inc., Fort Worth, TX. | 8845 |
| 8942-X | Poly Cal Plastics, Inc., French Camp, CA (see footnote 3). | 8942 |
| 8958-X | Goex, Inc., Moosic, PA (see footnote 4). | 8958 |
| 8970-X | Williams Strategic Metals, Inc., Wheat Ridge, CO. | 8970 |
| 8987-X | Hedwin Corp., Baltimore, MD | 8987 |
| 9048-X | Emerson Electric Co., Statesboro, GA (see footnote 5). | 9048 |
| 9101-X | RCA Corp., Princeton, NJ | 9101 |

[1] To allow subject spherical pressure vessels, patterned after DOT Specification 39, to be refilled and transported.
[2] To authorize flammable liquid as additional commodity.
[3] To authorize flammable liquids as additional commodity.
[4] To increase weight limitations of black powder from 50 to 100 pounds.
[5] To authorize two additional size mechanical displacement meter provers for shipment of hydrocarbon products.

| Application No. | Applicant | Parties to exemption |
|---|---|---|
| 4850-P | Owen Oil Tools, Inc., Fort Worth, TX. | 4850 |
| 6614-P | Willard Products, Redwood City, CA. | 6614 |
| 6762-P | Aqua Labs, Inc., Piscataway, NJ | 6762 |
| 6765-P | Teisan K.K, Tokyo, Japan | 6765 |
| 7052-P | EIC Laboratories, Inc., Norwood, MA. | 7052 |
| 7052-P | Teledyne Electronics, Newbury Park, CA. | 7052 |
| 7948-P | Erickson, Inc., Richmond, CA (see footnote 1). | 7948 |
| 8009-P | Consolidated Petroleum Explorations, Inc., Greenwood, IN. | 8009 |
| 8129-P | Hopkins Agricultural Chemical Co., Madison, WI. | 8129 |
| 8129-P | Industrial Waste Engineering, Wilmington, CA. | 8129 |
| 8129-P | Lawrence University, Appleton, WI | 8129 |
| 8129-P | University of Colorado at Colorado Springs, Colorado Springs, CO. | 8129 |
| 8129-P | Kerr-McGee Chemical Corp., Trona, CA. | 8129 |
| 8445-P | University of Minnesota, Minneapolis, MN. | 8445 |
| 9185-P | Hercules Inc., Wilmington, DE | 9185 |

[1] Request party status and change exemption to shipper oriented rather than manufacture, mark and sell.

This notice of receipt of applications for renewal of exemptions and for party to an exemption is published in accordance with Section 107 of the Hazardous Materials Transportation Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on March 1, 1984.

**J. R. Grothe,**

*Chief, Exemptions Branch, Office of Hazardous Materials Regulation, Materials Transportation Bureau.*

[FR Doc. 84-6428 Filed 3-8-84; 8:45 am]

**BILLING CODE 4910-60-M**

## DEPARTMENT OF THE TREASURY

### Office of the Secretary

### Public Information Collection Requirements Submitted to OMB for Review

March 2, 1984.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB (listed by submitting bureaus), for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of these submissions may be obtained from the Treasury Department Clearance Officer, by calling (202) 535-6020. Comments regarding these information collections should be addressed to the OMB reviewer listed at the end of each bureau's listing and/or to the Treasury Department Clearance Officer, Room 7227, 1201 Constitution Avenue NW., Washington, D.C. 20220.

### Internal Revenue Service

OMB No. None
Form No. None
Type of Review: New
Title: 1983 General Purpose Taxpayer Opinion Survey (Pilot Test)

OMB No. 1545-0025
Form No. IRS Form 851
Type of Review: Extension
Title: Affiliations Schedule

OMB No. 1545-0130
Form No. IRS Form 1120S
Type of Review: Existing Collection
Title: U.S. Income Tax Return for an S Corporation, Capital Gains and Losses, and Shareholder's Share of Income, Credits, Deductions, etc.—1983

OMB No. 1545-0041
Form No. IRS Form 966
Type of Review: Revision
Title: Corporate Dissolution or Liquidation

OMB No. 1545-0124
Form No. IRS Form 1126-DISC
Type of Review: Existing Collection
Title: Domestic International Sales Corporation Return—1983, and its Related Schedules K, N and P

OMB Reviewer: Norman Frumkin (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

**Gary Kowalczyk,**

*Departmental Reports Management Office.*

[FR Doc. 84-6377 Filed 3-8-84; 8:45 am]

**BILLING CODE 4810-25-M**

## UNITED STATES INFORMATION AGENCY

[Delegation Order No. 84-3]

### Delegation of Authority to the Associate Director for Management

Pursuant to the authority vested in me as Director of this Agency by Reorganization Plan No. 2 of 1977, by Executive Order 12048 of March 27, 1978 and by Executive Order 12388 of October 14, 1982, I hereby delegate to the Associate Director for Management, the following described authority:

1. The authority to administer and manage Federal property under regulations issued by the General Services Administration.

2. The authority to implement the functions established in Federal Property Management Regulation 101-37.311 concerning the listening-in or recording of telephone conversations.

3. The authority to redelegate any authority granted herein together with the power of further redelegation.

4. Notwithstanding any other provision of this Order, the Director may at any time exercise any function or authority delegated herein.

This delegation of authority is effective immediately.

Dated: March 2, 1984.

**Charles Z. Wick,**

*Director, United States Information Agency.*

[FR Doc. 84-6357 Filed 3-8-84; 8:45 am]

BILLING CODE 8230-01-M

[Delegation Order No. 84-4]

### Delegation of Authority to the Executive Director of the Cultural Property Advisory Committee

Pursuant to the authority vested in me as Director of this Agency by the Convention on Cultural Property Implementation Act (Pub. L. 97-446), Reorganization Plan No. 2 of 1977, and by the Federal Advisory Committee Act (Pub. L. 92-463), I hereby delegate to the Executive Director of the Cultural Property Advisory Committee, the following described authority:

1. The authority of the Designated Federal Employee, as established in the Federal Advisory Committee Act and implementing regulations, and to be and serve as the Designated Federal Employee.

2. The authority to call and to attend all Advisory Committee meetings.

3. The authority to adjourn any meeting whenever the Executive Director determines that adjournment is in the public interest.

4. The authority to publish any notices relating to any meetings of the Cultural Property Advisory Committee to the extent that such notices may be mandated by law or desirable in the conduct of Committee activities.

5. The authority to publish rules and regulations and to make designations concerning the disclosure of information pursuant to Section 306 of the Convention on Cultural Property Implementation Act (Pub. L. 97-446).

6. In the absence of the Executive Director or a vacancy in the office, this authority may be exercised by the Acting Executive Director.

7. Notwithstanding any other provision of this order, the Director may at any time exercise any function or any authority delegated herein.

This delegation of authority is effective immediately.

Dated: March 5, 1984.

**Charles Z. Wick,**

*Director, United States Information Agency.*

[FR Doc. 84-6358 Filed 3-8-84; 8:45 am]

BILLING CODE 8230-01-M

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### Telecommunications Management; Listening-in and/or Recording of Telephone Conversations

Notice is hereby given that the United States Information Agency (USIA) has developed an internal regulation prohibiting the monitoring or recording of telephone conversations except under very limited circumstances. A copy of the regulation is maintained by the Management Plans and Analysis Staff, Room 818, 301 4th Street, SW., Washington, D.C. 20547.

Dated: March 2, 1984.

**Charles Z. Wick,**

*Director, United States Information Agency.*

[FR Doc. 84-6359 Filed 3-8-84; 8:45 am]

BILLING CODE 8230-01-M

# Sunshine Act Meetings

Federal Register
Vol. 49, No. 48
Friday, March 9, 1984

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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| Securities and Exchange Commission | 10 |

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**CIVIL AERONAUTICS BOARD**

**[M-401 Amdt. 2, 3/1/84]**

Notice of Addition of Items to the March 1, 1984 Meeting

**TIME AND DATE:** 10 a.m., March 1, 1984.

**PLACE:** Room 1027 (Open), Room 1012 (Closed), 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

**SUBJECT:**

14. Discussion on Italy. (BIA)
15. Discussion on Germany. (BIA)

**STATUS:** Closed.

**PERSON TO CONTACT:** Phyllis T. Kaylor, *The Secretary.*
(202) 673–5068.

[FR Doc. 84-6583 Filed 3-7-84; 3:59 pm]
BILLING CODE 6320-01-M

2

**COMMODITY FUTURES TRADING COMMISSION**

**TIME AND DATE:** 11 a.m., Friday, March 30, 1984.

**PLACE:** 2033 K Street, NW., Washington, D.C., 8th Floor Conference Room.

**STATUS:** Closed.

**MATTERS TO BE CONSIDERED:** Surveillance Briefing.

**CONTACT PERSON FOR MORE INFORMATION:** Jane Stuckey, 254–6314.

Jane K. Stuckey,
*Secretary of the Commission.*

[FR Doc. 84-6567 Filed 3-7-84; 3:34 pm]
BILLING CODE 6351-01-M

3

**COMMODITY FUTURES TRADING COMMISSION**

**TIME AND DATE:** 10 a.m., Tuesday, March 27, 1984.

**PLACE:** 2033 K Street, NW., Washington, D.C., 8th Floor Conference Room.

**STATUS:** Closed.

**MATTERS TO BE CONSIDERED:** Oversight of National Futures Association Sales Practice Program.

**CONTACT PERSON FOR MORE INFORMATION:** Jane Stuckey, 254–6314.

Jane K. Stuckey,
*Secretary of the Commission.*

[FR Doc. 84-6568 Filed 3-7-84; 3:34 pm]
BILLING CODE 6351-01-M

4

**COMMODITY FUTURES TRADING COMMISSION**

**TIME AND DATE:** 11 a.m., Friday, March 23, 1984.

**PLACE:** 2033 K Street, NW., Washington, D.C. 8th Floor Conference Room.

**STATUS:** Closed.

**MATTERS TO BE CONSIDERED:** Surveillance Briefing.

**CONTACT PERSON FOR MORE INFORMATION:** Jane Stuckey, 254–6314.

Jane K. Stuckey,
*Secretary of the Commission.*

[FR Doc. 84-6569 Filed 3-7-84; 3:34 pm]
BILLING CODE 6351-01-M

5

**COMMODITY FUTURES TRADING COMMISSION**

**TIME AND DATE:** 10 a.m., Friday, March 16, 1984.

**PLACE:** 2033 K Street, NW., Washington, D.C., 8th Floor Conference Room.

**STATUS:** Closed.

**MATTERS TO BE CONSIDERED:** Preliminary Report of Dealer Options Sales Practice Auditing.

**CONTACT PERSON FOR MORE INFORMATION:** Jane Stuckey, 254–6314.

Jane K. Stuckey,
*Secretary of the Commission.*

[FR Doc. 84-6570 Filed 3-7-84; 3:34 pm]
BILLING CODE 6351-01-M

6

**COMMODITY FUTURES TRADING COMMISSION**

**TIME AND DATE:** 11 a.m., Friday, March 16, 1984.

**PLACE:** 2033 K Street, NW., Washington, D.C., 8th Floor Conference Room.

**STATUS:** Closed.

**MATTERS TO BE CONSIDERED:** Surveillance Briefing.

**CONTACT PERSON FOR MORE INFORMATION:** Jane Stuckey, 254–6314.

Jane K. Stuckey,
*Secretary of the Commission.*

[FR Doc. 84-6571 Filed 3-7-84; 3:34 pm]
BILLING CODE 6351-01-M

7

**COMMODITY FUTURES TRADING COMMISSION**

**TIME AND DATE:** 11 a.m., March 9, 1984.

**PLACE:** 2033 K Street, NW., Washington, D.C., 8th Floor Conference Room.

**STATUS:** Closed.

**MATTERS TO BE CONSIDERED:** Surveillance Briefing.

**CONTACT PERSON FOR MORE INFORMATION:** Jane Stuckey, 254–6314.

Jane K. Stuckey,
*Secretary of the Commission.*

[FR Doc. 84-6572 Filed 3-7-84; 3:34 pm]
BILLING CODE 6351-01-M

8

**FEDERAL ENERGY REGULATORY COMMISSION**
March 7, 1983.

The following notice of meeting is published pursuant to Section 3(a) of the Government in the Sunshine Act (Pub. L. No. 94–409), 5 U.S.C. 552b:

**AGENCY HOLDING MEETING:** Federal Energy Regulatory Commission
**TIMES AND DATES:** March 14, 1984 1:30 p.m.
**PLACE:** 825 North CAPitol Street, NE., Room 9306, Washington, D.C. 20426
**STATUS:** Open
**MATTERS TO BE CONSIDERED:** Agenda

Note.—Items listed on the agenda may be deleted without further notice.

**CONTACT PERSON FOR MORE INFORMATION:** Kenneth F. Plumb, Secretary, Telephone: (202) 375–8400.

This is a list of matters to be considered by the Commission, it does

not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the Division of Public Information.

**Consent Power Agenda**

*787th Meeting—March 14, 1984*

Regular Meeting (10 a.m.)

CAP–1: Project No. 7478–000, Coleridge Hydro Project
CAP–2: Project No. 7754–000, Barney Creek Micro-Hydroelectric Project
CAP–3: Project No. 6408–001, Hydro-Cor
CAP–4: Project No. 7217–000, Valsetz Power Company
CAP–5: Project No. 7294–000, Delmer Wagner
CAP–6: Project No. 2893–003, BSR Company, Inc.
CAP–7: Project No. 5315–003, Phoenix Hydro Corporation
CAP–8: Project No. 199–024, South Carolina Public Service Authority
CAP–9: Project No. 7258–001, China Flat Company
CAP–10:
Project No. 4543–001, the City of Kalispell, Montana
Project No. 5426–001, the State of Montana Department of Natural Resources and Conservation
CAP–11:
Project No. 4487–001, the City of Kalispell, Montana
Project No. 5420–001, the State of Montana Department of Natural Resources and Conservation
CAP–12: Project No. 2821–000, City of Portland, Oregon
CAP–13: Project No. 6595–001, and 002, Mountain Energy, Inc. and Lake Creek #1 Hydroelectric Project
CAP–14: Omitted
CAP–15: Project No. 2909–001, town of Vidalia, Louisiana
CAP–16: Project No. 6034–000, James B. Randel
CAP–17: Project No. 1984–011, Wisconsin River Power Company
CAP–18: Docket No. QF84–121–000, Ultrapower 3
CAP–19: Docket No. ER79–126–010, Arizona Public Service Company
CAP–20: Docket No. ER79–616–005, Northern States Power Company (Minnesota) and Northern States Power Company (Wisconsin)
CAP–21: Docket Nos. ER80–454–000, ER81–306–000, ER2–79–000 (Phase I & II), ER83–21–000 and ER83–425–000, Ohio Edison Company
Docket No. EL83–7–000, Wholesale Customers of Ohio Edison Company v. Ohio Edison Company
CAP–22: Docket No. ER82–579–000, Southern Company Services, Inc.
CAP–23: Docket No. ER83–283–000, Iowa Electric Light and Power Company
CAP–24: Docket No. ER–688–000, Idaho Power Company

**Miscellaneous Agenda**

CAM–1: Docket No. FA84–6–000, Ohio Edison Company
CAM–2: Docket No. RM82–22–001, Miles Laboratories, Inc.
Docket No. RM83–48–001, Church and Dwight Company, Inc.
CAM–3: Docket No. RM79–76–172, (Texas-21 Addition), High-Cost Gas Produced From Tight Formations
CAM–4: Docket No. RM79–76–211, (Virginia–2), High-Cost Gas Produced From Tight Formations
CAM–5: Docket No. RM79–76–220, (Texas 10-Addition III), High-Cost Gas Produced From Tight Formations
CAM–6: Docket No. GP84–9–000, United States Department of Interior, Bureau of Land Management, NGPA section 108 Determination, Getty Oil Company, Mexico Federal "M" No. 1 Well, JD No. 83–47420, Jicarilla "C" No. 10 Well, JD No. 83–47421
CAM–7: Docket No. GP80–15–003, ANR Pipeline Company (Fomerly Michigan Wisconsin Pipe Line Company)
CAM–8: Docket No. RA81–63–001, San Joaquin Refining Company, Inc.
CAM–9: Docket No. RO82–72–000, Billy Bridewell, William J. Cobb, Burt E. Cobb, Eugene Jeffers and G. Vernon Whyte
CAM–10: Docket No. RO81–64–000, Crescent Refining and Oil Company and Petroleum Fuel Company
CAM–11: Docket No. SA82–18–001, Houston Oil & Minerals Corporation
CAG–1: Docket Nos. RP77–98–018 and RP78–78–012, Natural Gas Pipeline Company of America
CAG–2: Docket No. RP83–22–001, El Paso Natural Gas Company
CAG–3: Docket No. TA84–1–18–003, Texas Gas Transmission Company
CAG–4:
Docket No. RP79–23–018, Distrigas of Massachusetts Corporation
Docket No. RP79–24–011, Distrigas Corporation
CAG–5: Docket No. RP84–35–002, Consolidated Gas Supply Corporation
CAG–6: Docket No. TA84–1–13–001 (PGA84–2), Gas Gathering Corporation
CAG–7: Docket No. RP84–47–000, Equitable Gas Company
CAG–8: Docket No. TA84–1–49–003 (PGA84–1b), Montana-Dakota Utilities Company
CAG–9: Docket No. RP77–108–022, Transcontinental Gas Pipe Line Corporation
CAG–10: Docket No. TA84–1–1–000, Alabama-Tennessee Natural Gas Company
CAG–11: Docket No. CP81–388–017, Northwest Alaskan Pipeline Company
CAG–12: Omitted
CAG–13: Docket No. RP77–53–000, City of Blountstown, Florida and Abitibi Corporation
CAG–14: Docket Nos. ST82–478–000 and ST83–544–000, et al., Oklahoma Natural Gas Company
CAG–15: Docket No. ST84–54–000, Delhi Gas Pipeline Corporation
CAG–16: Docket No. ST82–256–001, Rael Gas Company
CAG–17: Docket No. ST82–157–001, Odessa Natural Company, a Division of El Paso Hydrocarbons Company
CAG–18: Docket No. CI81–253–002, Getty Oil Company
CAG–19:
Docket No. CI84–131–001, the Superior Oil Company
Docket No. CI84–46–001, Benedum Trees Oil Company
CAG–20: Docket No. CI83–188–003, et al., ANR Production Company
CAG–21: Docket No. RI74–188–025 and R175–21–020, Independent Oil & Gas Association of West Virginia
CAG–22:
Docket Nos. RI74–188–024 and RI75–21–019, Independent Oil & Gas Association of West Virginia
CAG–23:
Docket Nos. CI83–269–011 and 012, Tenneco Oil Company Houston Oil & Mineral Corporation, Tenneco Exploration, Ltd., Tenneco Exploration II, Ltd. and Tinco, Ltd.
CAG–24:
Docket No. CP83–520–001, Transcontinental Gas Pipe Line Corporation
CAG–25:
Docket No. CP84–85–001, National Fuel Gas Supply Corporation
CAG–26:
Docket Nos. CP79–80–030 and 031, et al., Trailblazer Pipeline Company, et al.
Docket No. CP82–450–001, Colorado Interstate Gas Company
CAG–27: Docket Nos. CP75–23–021 and CP75–120–014, Tennessee Gas Pipeline Company, a Division of Tenneco Inc.
CAG–28:
Docket No. CI61–1109, et al., American Petrofina Company of Texas, et al.
Docket No. CP83–450–000, Northwest Central Pipeline Corporation
Docket NoCP83–463–000, Zenith Natural Gas Company
CAG–29:
Docket No. CP66–269–003, et al., Tennessee Gas Pipeline Company, a division of Tenneco, Inc.
Docket Nos. CI67–1810–002 and Docket No. CI77–347–002, the Louisiana Land and Exploration Company
CAG–30:
Docket No. CP66–269–002, et al., Tennessee Gas Pipeline Company, a Division of Tenneco Inc.
Docket No. CI66–910–001, Amoco Production Company
CAG–31: Docket No. CP81–107–008 (Phase I), Boundary Gas, Inc., et al.
CAG–32: Docket No. CP79–370–000, Citizens' Alliance, Complainant V. National Fuel Gas Company, et al., Respondents
CAG–33: Omitted
CAG–34: Docket No. CP84–84–000, Trunkline Gas Company
CAG–35: Docket No. CP81–328–003, Colorado Interstate Gas Company
CAG–36:
Docket No. CP81–107–000, et al., Boundary Gas, Inc.
Docket Nos. CP84–7–000 and 001, National Fuel Gas Supply Corporation
Docket Nos. CP84–146–000 and 001, Transcontinental Gas Pipe Line Corporation
CAG–37: Docket No.RP78–62–013, Panhandle Eastern Pipe Line Company

**Power Agenda**

*I. Licensed Project Matters*

P-1:
(A) Project No. 4792-003, Mac Hydro-Power Inc.
(B) Project No. 5766-000, Frank B. Nichols
P-2: Project No. 7118-000, Cumberland Power Corporation

*II. Electric Rate Matters*

ER-1: Docket No. EC84-10-000, Interstate Power Company
ER-2: Docket No. ER81-779-005 (Phase I), Pennsylvania Power Company
ER-3: Docket Nos. EL83-11-001, EL83-11-002 and EL83-11-003, Virginia Electric & Power Company

**Miscellaneous Agenda**

M-1:
(A) Docket No. RM84-9-000, Calculation of Cash Working Capital Allowance for Electric Utilities
(B) Docket No. Rm79-49-000, Calculation of Cash Working Capital Allowance for Public Utilities
M-2: Reserved
M-3: Reserved
M-4: Docket No. RM80-1.-002, Rule Required Under Section 202 of the Natural Gas Policy Act
M-5: Docket No. GP83-35-000, Southern Natural Gas Company

**Gas Agenda**

*I. Pipeline Rate Matters*

RP-1:
Docket Nos. TA81-1-21-004 through TA81-21-017, and TA81-2-21-007 Through TA81-2-21-018 (Consolidated), Columbia Gas Transmission Corporation
Docket Nos. RP82-120-010 Through RP82-120-020, Columbia Gas Transmission Corporation
Docket Nos. RP82-119-006 Through RP82-119-016 (Consolidated), Columbia Gulf Transmission Company
Docket Nos. TA82-1-21-005 Through TA82-1-21-008, TA82-2-21-003 Through TA82-2-21-006 and 008, TA83-1-21-002, TA83-1-21-005 Through TA83-1-21-007, TA83-2-21-009 Through TA83-2-21-001, Columbia Gas Transmission Corporation
Docket Nos. RP82-120-000 and RP82-120-004 and 021, Columbia Gas Transmission Corporation
Docket Nos. RP82-119-000 and 017, Columbia Gulf Transmission Company
Docket Nos. TA81-1-21-003 and 018 and TA81-2-006 and 019 (Severed Cutback Issues) (Consolidated) Columbia Gas Transmission Corporation
Docket No. IN84-3-000, Columbia Gas Transmission Corporation and Exxon Corporation
Docket No. RP84-1-21-002 (PGA84-1, IPR84-1 and AP84-1) Columbia Gas Transmission Corporation
RP-2: Docket No. RP83-102-001, Robert Abrams, as Attorney General of the State of New York v. Texas Eastern Transmission Corporation
RP-3: Docket No. TA84-1-32-000, TA84-1-32-001, TA84-1-32-002 and TA83-1-32-002, Colorado Interstate Gas Company
RP-4: Docket No. TA83-2-22-002 (PGA83-2) (IPR83-2), RP83-126-001 (AP83-2), Consolidated Gas Supply Corporation
RP-5:
(A) Docket No. TA82-33-000, et al., and RP82-33-004, El Paso Natural Gas Company
Docket No. RP82-2-33-001, El Paso Natural Gas Company
Docket Nos. RP83-1-33-001, TA83-1-33-002 and TA83-1-33-007, El Paso Natural Gas Company
Docket Nos. RP83-2-33-001 and TA83-2-33-004, El Paso Natural Gas Company
Docket Nos. RP84-1-33-000 and TA84-1-33-004, El Paso Natural Gas Company
(B) Docket No. TA83-1-33-002, El Paso Natural Gas Company
RP-6: Docket No. TA84-84-1-15-000 (PGA84-1) (IPR84-1), Mid Louisiana Gas Company
RP-7:
Docket No. RP84-15-000, MIGC, Inc.
Docket No. RP84-7-000, Colorado Interstate Gas Company
Docket No. TA83-2-47-000, MIGC, Inc.
Docket No. TA84-1-47-000, MIGC, Inc.
RP-8: Docket Nos. TA83-1-59-002, TA84-1-59-003 and RP82-71-009, Northern Natural Gas Company, Division of Internorth, Inc.
RP-9: Docket No. TA84-1-28-002, Panhandle Eastern Pipe Line Company
RP-10: Docket Nos. TA84-1-7-000 (PGA84-1) (IPR84-1) and (DCA84-1) and RP83-58-001, Southern Natural Gas Company
RP-11: Docket Nos. TA83-2-29-001 (PGA83-2a, IPR83-2a), TA84-1-29-001 (PGA84-1, IPR84-1, DCA84-1) and TA84-1-29-002 PGA84-1a), Transcontinental Gas Pipe Line Corporation
RP-12: Docket No. TA84-1-42-001, Transwestern Pipeline Company
RP-13: Docket Nos. TA83-1-30-002, RP83-51-000 and RP83-93-000, Trunkline Gas Company
RP-14: Docket No. RP83-12-001, Columbia Gas Transmission Corporation v. Kentucky West Virginia Gas Company
RP-15: Docket Nos. RP80-2-000, RP80-2-008, RP80-2-009 and RP80-2-10, Alabama-Tennessee Natural Gas Company
RP-16: Docket Nos. RP82-58-003, RP78-62-000, RP80-78-000, TA82-2-28-000, TA83-1-28-000, TA83-2-000 and TA83-2-28-005, Panhandle Eastern Pipe Line Company
RP-17:
Docket Nos. RP83-11-015 Through 018 and RP83-30-011 Through 014, Transcontinental Gas Pipe Line Corporation
Docket Nos. CP83-279-009 Through 011, Producer-Suppliers of Transcontinental Gas Pipe Line Corporation
Docket Nos. CP83-340-010 Through 012, Producer-Suppliers of Transco Gas Supply Company
Docket Nos. CP83-428-009 Through 011, Producer-Suppliers of Transco Gas Supply Company and Transcontinental Gas Pipe Line Corporation
RP-18: Docket No. RP81-47-000, Northwest Pipeline Corporation
RP-19: Docket No. RP82-14-000, Mountain Fuel Resources, Inc.

*II. Producer Matters*

CI-1: Docket No. CI83-12-000, Gas Producing Enterprises, Inc. (Coastal Oil & Gas Corporation)

*III. Pipeline Certificate Matters*

CP-1: Docket Nos. CP83-502-001, CP83-502-002, CP83-502-003 and CP83-502-004, Tennessee Gas Pipeline Company, A Division of Tenneco Inc.
CP-2:
Docket No. CP83-333-000, Panmark Gas Company
Docket No. CP83-342-000, Trunkline Gas Company
Docket No. CP83-343-000, Panhandle Eastern Pipe Line Company
Docket No. CP83-354-000, Trunkline Gas Company and Panmark Gas Company
Docket No. CP83-355-000, Panhandle Eastern Pipe Line Company and Panmark Gas Company
CP-3: Docket No. CP83-410-000, Consolidated Gas Supply Corporation
CP-4: Docket No. CP76-500-002, Northwest Central Pipeline Corporation (Formerly Cities Service Gas Company)

**Kenneth F. Plumb,**
*Secretary.*

[FR Doc. 84-6581 Filed 3-7-84; 3:44 pm]
BILLING CODE 6717-01-M

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**9**

**FEDERAL RESERVE SYSTEM**

**"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT:** 49 FR 7906, Friday, March 2, 1984.

**PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING:** 10:00 a.m., Wednesday, March 7, 1984.

**CHANGES IN THE MEETING:** Addition of the following closed item(s) to the meeting:

Consideration of projected Federal Reserve System income statements.

**CONTACT PERSON FOR MORE INFORMATION:** Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204.

Dated: March 6, 1984.

**James McAfee,**
*Associate Secretary of the Board.*

[FR Doc. 84-6447 Filed 3-6-84; 5:50 pm]
BILLING CODE 6210-01-M

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**10**

**INTER-AMERICAN FOUNDATION**

Board Meeting

**TIME AND DATE:**

6:00-9:00 p.m., March 19, 1984
9:00-12:00 p.m., March 20, 1984

**PLACE:** 1515 Wilson Boulevard, Fifth Floor, Rosslyn, Virginia 22209.

**STATUS:** Open.

**MATTERS TO BE CONSIDERED:**

*March 19, 1983*

1. Preliminary Report of the Study Group
2. Report of the Presidential Selection Committee
3. Approval of Minutes of Executive Session of December 5, 1983, (approval taking place in executive session)

*March 20, 1983*

3. Board Travel
   A. Review of Draft Policy
   B. Reports of Travel, Past and Future
4. Report of the Audit Committee
5. Chairman's Report
6. President's Report
7. Minutes of the December 5–6, 1983 Meeting
8. Other Business

**CONTACT PERSON FOR MORE INFORMATION:** Steve Abrams (703) 841–3812.

Dated: March 5, 1984.

Alejandro J. Palacios,

*Sunshine Act Officer.*

[FR Doc. 84-6527 filed 3-7-84; 2:27 pm]

BILLING CODE 7025-01-M

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11

**SECURITIES AND EXCHANGE COMMISSION**

**"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENTS:** (49 FR 7186, February 27, 1984)

**STATUS:** Open Meeting.

**PLACE:** 450 Fifth Street, NW., Washington, D.C.

**DATE PREVIOUSLY ANNOUNCED:** Wednesday, February 22, 1984.

**CHANGE IN THE MEETING:** Deletion.

The following item was not considered at an open meeting scheduled for Thursday, March 1, 1984, at 2:30 p.m., in Room 1C30.

Consideration of whether to authorize the publication of a staff report entitled, *The Financing and Regulatory Capital Needs of the Securities Industry*. For further information, please contact Bill Atkinson at (202) 272–2850.

Chairman Shad and Commissioners Treadway and Cox determined that Commission business required the above change and that no earlier notice thereof was possible.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: JoAnn Zuercher at (202) 272–2014.

George A. Fitzsimmons,

*Secretary.*

March 6, 1984.

[FR Doc. 84-6514 Filed 3-7-84 1:39 pm]

BILLING CODE 8010-01-M

federal register

Friday
March 9, 1984

Part II

# Department of Labor

**Employment Standards Administration, Wage and Hour Division**

**Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions: Notice**

## DEPARTMENT OF LABOR

### Employment Standards Administration, Wage and Hour Division

### Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

#### Modifications and Supersedeas Decisions to General Wage Determination Decisions

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Office of Government Contract Wage Standards, Division of Government Contract Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

#### Modifications to General Wage Determination Decisions

The numbers of the decisions being modified and their dates of publication in the **Federal Register** are listed with each State.

| | |
|---|---|
| Arkansas: | |
| AR84–4090 | Jan. 13, 1984. |
| AR84–4091 | Do. |
| AR84–4093 | Do. |
| Connecticut: CT83–3021 | June 3, 1983. |
| Iowa: | |
| IA84–4006 | Feb. 17, 1984. |
| IA84–4011 | Feb. 24, 1984. |
| Kansas: KS83–4063 | Sept. 2, 1983. |
| Maryland: | |
| MD83–3010 | June 3, 1983. |
| MD80–3047 | Aug. 29, 1980. |
| MD81–3031 | May 15, 1981. |
| New Mexico: NM83–4071 | Oct. 7, 1983. |
| New York: NY81–3035 | June 5, 1981. |
| Oklahoma: | |
| OK83–4068 | Sept. 16, 1983. |
| OK83–4067 | Do. |
| Pennsylvania: PA82–3012 | Mar. 5, 1982. |
| Texas: | |
| TX83–4081 | Oct. 21, 1983. |
| TX84–4001 | Jan. 20, 1984. |
| Wisconsin: WI83–2078 | Oct. 7, 1983. |

#### Supersedeas Decisions to General Wage Determination Decisions

The numbers of the decisions being superseded and their dates of publication in the **Federal Register** are listed with each State. Supersedeas decision numbers are parentheses following the numbers of the decisions being superseded.

| | |
|---|---|
| Kentucky: KY82–1064 (KY84–1003) | Oct. 15, 1982. |
| Louisiana: LA83–4059 (LA84–4010) | Aug. 5, 1983. |
| Michigan: MI83–2022 (MI84–5004) | Mar. 18, 1983. |
| Missouri: | |
| MO82–4068 (MO84–4012) | Dec. 27, 1982. |
| MO82–4066 (MO84–4013) | Do. |
| MO83–4051 (MO84–4014) | July 15, 1983. |
| North Carolina: NC81–1148 (NC84–1004) | Dec. 30, 1980. |
| Tennessee: TN82–2059 (TN84–1005) | Nov. 19, 1982. |
| Arizona: AZ83–5107 (AZ84–5005) | Mar. 18, 1983. |

Signed at Washington, D.C. this 3rd day of March 1984.

**James L. Valin,**

*Assistant Administrator.*

BILLING CODE 4510–27–M

MODIFICATIONS

DECISION #AR84-4090 - MOD. #1
(49 FR 1844 January 13, 1984)

GARLAND, CLARK, HOT SPRING COS., ARKANSAS

CHANGE:

| | Basic Hourly Rates | Fringe Benefits |
|---|---|---|
| PLASTERERS | 13.25 | .64 |

DECISION #AR84-4091 - MOD. #1
(49 FR 1845 - January 13, 1984)

UNION AND OUACHITA COS., ARKANSAS

CHANGE:

| | Basic Hourly Rates | Fringe Benefits |
|---|---|---|
| PLASTERERS | 13.25 | .64 |
| LINE CONSTRUCTION: | | |
| Electrical contracts $20,000 or less: | | |
| Lineman, Operators | 14.91 | 3-3/4% + .80 |
| Cable Splicers | 15.21 | 3-3/4% + .80 |
| Electrical contracts over $20,000: | | |
| Lineman, Operators | 15.70 | 3-3/4% + .80 |
| Cable Splicers | 16.00 | 3-3/4% + .80 |
| Electrical contracts $20,000 or less and over: | | |
| Groundman | 65% JR | 3-3/4% + .80 |
| Truck Drivers | 70% JR | 3-3/4% + .80 |
| Winch Operators | 80% JR | 3-3/4% + .80 |
| PLUMBERS - PIPEFITTERS | 12.20 | 1.65 |

DECISION #AR84-4093 - MOD. #1
(49 FR 1847 January 13, 1984)
PULASKI AND JEFFERSON COS., ARKANSAS

CHANGE:

| | Basic Hourly Rates | Fringe Benefits |
|---|---|---|
| PLASTERERS | 13.25 | .64 |

DECISION #IA84-4006-MOD#3
(49 FR 6206-February 17, 1984)
Black Hawk, Cerro Gordo, Clinton, Des Moines, Dubuque, Johnson, Linn & Polk Counties, Iowa

CHANGE:

| | Basic Hourly Rates | Fringe Benefits |
|---|---|---|
| Cement Masons | | |
| Zone 4 | 15.30 | |
| Plasterers: | | |
| Zone 4 | 15.30 | |

DECISION #IA84-4011-MOD#1
(49 FR 7068-February 24, 1984)
Scott County, Iowa

CHANGE:

| | Basic Hourly Rates | Fringe Benefits |
|---|---|---|
| Glaziers | 13.50 | 2.27 |

DECISION NO. KS83-4063 - MOD. #3
(48 FR 40085 - Sept. 2, 1983)
SHAWNEE COUNTY, KANSAS

CHANGE:

| | Basic Hourly Rates | Fringe Benefits |
|---|---|---|
| CARPENTERS: | | |
| Piledrivermen | 12.825 | 1.80 |

MODIFICATIONS

DECISION NO. CT83-3021 - MOD. #12
(48 FR 25090 - June 3, 1983)
STATEWIDE

CHANGE:

Heading in Federal Register publised on January 20, 1984 to read "MOD. #11"

OMIT:

LINE CONSTRUCTION:
AREA 2:
All rates and classifications
PAINTERS:
AREAS 1, 2 & 3:
All rates and classifications
AREA DESCRIPTIONS:
LINE CONSTRUCTION:
AREA 2

CHANGE:

| | Basic Hourly Rates | Fringe Benefits |
|---|---|---|
| PLUMBERS & STEAMFITTERS: | | |
| AREA 7: | 18.17 | 2.50+o |
| AREA 8: | 19.68 | 3.07 |
| STEAMFITTERS | | |
| AREA 1 | 18.68 | 4.51 |

ADD:

| | Basic Hourly Rates | Fringe Benefits |
|---|---|---|
| PAINTERS: | | |
| AREAS 1, 2 & 3 | 18.68 | 4.51 |
| LINE CONSTRUCTION: | | |
| AREA 2: | | |
| Lineman, cable splicer, dynamite man | 17.59 | 2.30+ 4.75% |
| Heavy equipment operator | 15.83 | 2.30+ 4.75% |
| Equipment operator, tractor trailer driver, field mechanic | 14.95 | 2.30+ 4.75% |
| Driver Groundman | 13.19 | 2.30+ 4.75% |
| Groundman | 9.67 | 2.30+ 4.75% |
| AREA 3: | | |
| Lineman, cable splicer, dynamite man | 18.79 | 2.30+ 4.75% |
| Heavy equipment operator | 16.91 | 2.30+ 4.75% |
| Equipment operator, tractor trailer driver, field mechanic | 15.97 | 2.30+ 4.75% |
| Driver groundman | 14.09 | 2.30+ 4.75% |
| Groundman | 10.33 | 2.30+ 4.75% |
| AREA 4: | | |
| Lineman, cable splicer dynamite man | 18.31 | 2.30+ 4.75% |
| Heavy equipment operator | 16.48 | 2.30+ 4.75% |
| Equipment operator, tractor trailer driver, field mechanic | 15.56 | 2.30+ 4.75% |
| Driver groundman | 13.73 | 2.30+ 4.75% |
| Groundman | 10.07 | 2.30+ 4.75% |
| AREA 5: | | |
| Lineman, cable splicer dynamite man | 17.00 | 2.30+ 4.75% |
| Heavy equipment operator | 15.30 | 2.30+ 4.75% |
| Equipment operator, tractor trailer driver, field mechanic | 14.45 | 2.30+ 4.75% |
| Driver groundman | 12.75 | 2.30+ 4.75% |
| Groundman | 9.35 | 2.30+ 4.75% |

MODIFICATIONS

DECISION NO. CT83-3021 - MOD. #12 (Cont'd)

| | Basic Hourly Rates | Fringe Benefits |
|---|---|---|
| ADD: (Cont'd) | | |
| AREA 6: | | |
| Lineman, cable splicer, dynamite man | 18.87 | 2.30+ 4.75% |
| Heavy equipment operator | 16.98 | 2.30+ 4.75% |
| Equipment operator, tractor trailer driver, field mechanic | 16.04 | 2.30+ 4.75% |
| Driver groundman | 14.15 | 2.30+ 4.75% |
| Groundman | 10.39 | 2.30+ 4.75% |
| AREAS 2, 3, 4, 5, & 6: Traffic Control, Illumination & Maintenance: | | |
| Linemen, technicians & cable splicers | 16.56 | 2.30+ 4.75% |
| Equipment operator | 14.08 | 2.30+ 4.75% |
| Driver groundman | 12.42 | 2.30+ 4.75% |
| Groundman | 11.59 | 2.30+ 4.75% |
| Railroad Construction (including electrical distribution, transmission lines, substations and signal construction: | | |
| Linemen, cable splicers & dynamite man | 17.34 | 2.30+ 4.75% |
| Heavy equipment operator | 15.61 | 2.30+ 4.75% |
| Equipment operator, tractor trailer driver, & field mechanic | 14.74 | 2.30+ 4.75% |
| Driver groundman | 13.01 | 2.30+ 4.75% |
| Groundman | 9.54 | 2.30+ 4.75% |

AREA DESCRIPTIONS:
LINE CONSTRUCTION:
AREA 2: FAIRFIELD (Wilton, Weston, Westport, Norwalk-east of Five Mile River)
AREAS 3, 4, 5 & 6: See ELECTRICIANS - AREAS 3, 4, 5 & 6, respectively.

DECISION NO. MD83-3010-MOD. #4
(48 FR 25100-June 3,1983)
ANNE ARUNDREL (EXCLUDING THE D.C. TRAINING SCHOOL) BALTIMORE & BALTIMORE CITY, MARYLAND, & FOR HEAVY CONSTRUCTION IN HARFORD & HOWARD COUNTIES, MARYLAND

CHANGE:
CARPENTERS:
ZONE 2-ANNE ARUNDREL (Remainder of county),Baltimore, Baltimore City, Harford & Howard Counties:

| | Basic Hourly Rates | Fringe Benefits |
|---|---|---|
| Carpenters, soft floor layers, resilient floor layers, & diver's tenders | $13.45 | 2.56 |
| Piledrivers | 13.30 | 2.71 |
| Divers | 27.50 | 2.11 |
| Millwrights | 13.70 | 2.91 |

DECISION NO. MD80-3047-MOD. #15
( 45 FR 57922-August 29, 1980)
ALLEGANY & GARRETT CTYS,MD

CHANGE:
IRONWORKERS:

| | Basic Hourly Rates | Fringe Benefits |
|---|---|---|
| STRUCTURAL & REINFORCING | 15.60 | 3.15 |

DECISION NO. MD81-3031-MOD. # 12
(45 FR 27051-May 15,1981)
ALLEGANY & GARRETT CTYS,MD

CHANGE:
IRONWORKERS:

| | Basic Hourly Rates | Fringe Benefits |
|---|---|---|
| STRUCTURAL,ORNAMENTAL, & REINFORCING | 15.60 | 3.15 |

MODIFICATIONS

DECISION NO. NM83-4071 - MOD. #6
(48 FR 45910 - 10/7/83)
Statewide New Mexico

CHANGE:

| | Basic Hourly Rates | Fringe Benefits |
|---|---|---|
| Electricians: | | |
| Zone IV - 4-A | $17.10 | 3%+.82 |
| 4-B | 17.55 | 3%+.82 |
| 4-C | 17.70 | 3%+.82 |
| 4-D | 17.95 | 3%+.82 |
| Cable splicers: | | |
| Zone IV - 4-A | 17.45 | 3%+.82 |
| 4-B | 17.90 | 3%+.82 |
| 4-C | 18.05 | 3%+.82 |
| 4-D | 18.30 | 3%+.82 |
| Commercial Line Work: | | |
| Area C | | |
| Linemen-technicians: | | |
| Zone I | 17.10 | 3½%+.80 |
| Zone II | 17.55 | 3½%+.80 |
| Zone III | 17.70 | 3½%+.80 |
| Zone IV | 17.95 | 3½%+.80 |
| Cable splicers: | | |
| Zone I | 17.45 | 3½%+.80 |
| Zone II | 17.90 | 3½%+.80 |
| Zone III | 18.05 | 3½%+.80 |
| Zone IV | 18.30 | 3½%+.80 |
| Equipment op. & mechanics(includes helicopter op. & mechanic): | | |
| Zone I | 14.88 | 3½%+.80 |
| Zone II | 15.33 | 3½%+.80 |
| Zone III | 15.48 | 3½%+.80 |
| Zone IV | 15.73 | 3½%+.80 |
| Powderman: | | |
| Zone I | 14.36 | 3½%+.80 |
| Zone II | 14.81 | 3½%+.80 |
| Zone III | 14.96 | 3½%+.80 |
| Zone IV | 15.21 | 3½%+.80 |
| Groundman-Jackhammer: | | |
| Zone I | 12.14 | 3½%+.80 |
| Zone II | 12.59 | 3½%+.80 |
| Zone III | 12.74 | 3½%+.80 |
| Zone IV | 12.99 | 3½%+.80 |

DECISION NM83-4071 - MOD. #6 (CONT'D)

| | Basic Hourly Rates | Fringe Benefits |
|---|---|---|
| Sound Installers: | | |
| Soundman: | | |
| Zone I | $13.55 | M |
| Zone II | 15.24 | M |
| Zone III | 18.63 | M |
| Technicians: | | |
| Zone I | 10.84 | M |
| Zone II | 12.53 | M |
| Zone III | 15.92 | M |
| Sound installers: | | |
| Zone I | 8.81 | M |
| Zone II | 10.50 | M |
| Zone III | 13.89 | M |
| M-3½%+1.55 | | |

DECISION NO. NY81-3035 - MOD. #4
(46 FR 30271 - June 5, 1981)
ONEIDA, NEW YORK

CHANGE:

| | Basic Hourly Rates | Fringe Benefits |
|---|---|---|
| ASBESTOS WORKERS | 18.28 | 3.09 |
| BOILERMAKERS | 18.16 | 3.391 |
| BRICKLAYERS, CEMENT MASONS POINTERS, CAULKERS, CLEANERS, PLASTERS, and STONE MASONS | | |
| Building Construction: | 13.35 | 3.55 |
| CEMENT MASONS | | |
| Heavy & Highway Construction | 13.27 | 2.30 |
| CARPENTERS | | |
| Building Construction | | |
| Carpenters, Soft Floor Layers | 12.72 | 2.05+a |
| Millwrights & Piledrivermen | 12.97 | 2.05+a |
| Heavy & Highway Construction | 13.945 | 2.05+a |
| ELECTRICIANS | | |
| Verona and Viena Twps. West of State Highway 13 | | |
| Electricians | 17.10 | 3.25+3% |
| Cable Splicer | 18.20 | 3.25+3% |
| Remainder of County | | |
| Electricians | 15.45 | 2.85+3% |
| Cable Splicer | 16.95 | 2.85+3% |
| ELEVATOR CONSTRUCTOR | 16.17 | 3.00 |
| ELEVATOR CONSTRUCTOR HELPER | 11.32 | 3.00 |
| PROBATIONARY HELPER | 8.085 | |
| GLAZIERS | | |
| Florence, Camden, Fienna, Annsville, Verona, Vernon, Augusta, Lee, Rome City, Ava, Western, Floyd, Boonsville, Steuben | 12.65 | 2.15 |
| IRONWORKERS | | |
| Structural, Ornamental, Reinforcing, Machinery, Mover, Rigger, Rodman, Fence Erector and Stone | | |
| Derrickman | 13.78 | 3.17 |
| Sheeter | 14.03 | 3.17 |
| Sheeter Bucker-up | 13.905 | 3.17 |

| | Basic Hourly Rates | Fringe Benefits |
|---|---|---|
| LABORERS | | |
| Building Construction; Forestport, Remsen, Trention, Deerfield, Whitestown, New Hartford, Kirkland, Marshall, Paris, Sangerfield, Bridgewater, and the City of Utica | | |
| Laborers | 10.09 | 2.40+d |
| Pipelayer, Mortor Mixer (hand or Machine), motor buggy (walk behind & power high lift) | 10.24 | 2.40+d |
| Blasters, Form Setters, motor buggy (rider type) | 10.59 | 2.40+d |
| Wagon Drill Operator | 10.49 | 2.40+d |
| Remainder of Count | | |
| Laborers | 11.535 | 2.05+e |
| Rock Drilling Equipment | 11.935 | 2.05+e |
| Blasters | 12.135 | 2.05+e |
| Vibrator Operator, Chain Saw Operator, Gas Buggy Operator, Acetylene Torch Operator or Demolition work, Pipelayers, Scaffold Builders, Mortar Mixer, Pavement Breaker | 11.735 | 2.05+e |
| Heavy & Highway Construction: | | |
| Florence, Camden, Annsville, Lee, Ava, Boonville, Western, Steuben, Vienna, Rome, Floyd Westmoreland, Vernon, Augusta, Verona | | |
| Class A | 12.09 | 2.00+a |
| Class B | 12.29 | 2.00+a |
| Class C | 12.49 | 2.00+a |
| Class D | 12.69 | 2.00+a |
| Remainder of County | | |
| Class A | 10.89 | 3.20+a |
| Class B | 11.09 | 3.20+a |
| Class C | 11.29 | 3.20+a |
| Class D | 11.49 | 3.20+a |
| MARBLE SETTERS | | |
| TERRAZZO WORKERS | | |
| TILE SETTERS | 11.75 | 3.30 |
| PAINTERS | | |
| Brush, Roller | 12.10 | 3.05 |
| Taping | 12.35 | 3.05 |
| Spray; epoxy brush and roller application | 12.60 | 3.05 |
| Epoxy and special coatings spray application | 12.80 | 3.05 |



DECISION NO. NY81-3035 - MOD. #4

| LINE CONSTRUCTION: | Basic Hourly Rates | Fringe Benefits |
|---|---|---|
| Electrical Overhead & Underground Distribution Work & Signal Work for RR and for R.E.A. where no other trade is or has been involved: | | |
| Journeyman Lineman & Technician | 14.20 | 3.95+5%+a |
| Cable Splicer | 18.92 | 3.95+5%+a |
| Groundman Digging Machine Operator, Groundman Dynamite Man | 12.78 | 3.95+5%+a |
| Groundman Mobile Equipment Operator, Mechanic First Class, Ground Truck Driver | 11.36 | 3.95+5%+a |
| Groundman Truck Driver (Tractor Trailer) | 12.07 | 3.95+5%+a |
| Driver Mechanic, Groundman - Experienced | 10.65 | 3.95+5%+a |
| All Overhead Transmission Line Work and Lighting for Athletic Fields | | |
| Journeyman Lineman & Technician | 16.32 | 3.95+5%+a |
| Groundman Digging Machine Operator, Groundman Dynamite Man | 14.688 | 3.95+5%+a |
| Groundman Mobile Equipment Operator, Mechanic First Class Groundman Truck Driver | 13.056 | 3.95+5%+a |
| Groundman Truck Driver (Tractor Trailer Unit) | 13.872 | 3.95+5%+a |
| Driver Mechanic Groundman | 12.24 | 3.95+5%+a |

| | Basic Hourly Rates | Fringe Benefits |
|---|---|---|
| Sub-Station Switching Substructures (when not part of the line), Electrical, Telephone or CATV Commercial Work, Street Lighting & Signal Systems where other trades are or have been involved | | |
| Journeyman Lineman & Technician | 17.20 | 3.95-5%+a |
| Cable Splicer | 18.92 | 3.95-5%+a |
| Groundman Digging Machine Operator, Groundman Dynamite Man | 15.48 | 3.95+5%+a |
| Groundman Mobile Equipment Operator, Mechanic First Class, Groundman Truck Driver | 13.76 | 3.95+5%+a |
| Groundman Truck Driver (Tractor Trailer Unit) | 14.62 | 3.95+5%+a |
| Driver Mechanic, Groundman | 12.90 | 3.95-5%+a |
| All Pipe-type Cable Installations Maintenance Jobs or Projects | | |
| Journeyman Lineman | 17.20 | 3.95-5%+a |
| Certified Lineman Welder | 18.06 | 3.95-5%-a |
| Cable Splicer | 18.92 | 3.95-5%+a |
| Groundman Equipment Operator | 17.20 | 3.95-5%+a |
| Groundman Truck Driver (Tractor Trailer Unit) | 14.62 | 3.95-5%+a |
| Groundman Truck Drivers | 13.76 | 3.95-5%+a |
| Groundman | 12.90 | 3.95-5%+a |

FOOTNOTE:

a. Paid Holidays: New Year's Day, Washington's Birthday, Good Friday, Decoration Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day and Election Day for the President of the United States and Election Day for the Governor of New York State, provided the employee works the day before or the day after the holiday.

MODIFICATIONS

| DECISION NO. NY81-3035 - MOD. #4 | Basic Hourly Rates | Fringe Benefits |
|---|---|---|
| PAINTERS (CONT'D) | | |
| Sandblasting | 12.95 | 3.05 |
| Boatswain Chair | 12.85 | 3.05 |
| Swing | 12.75 | 3.05 |
| Structural Steel | 12.70 | 3.05 |
| Bridge | 13.30 | 3.05 |
| PLUMBERS | 15.11 | 4.65 |
| POWER EQUIPMENT OPERATOR | | |
| Building Construction | | |
| Class 1 | 16.24 | 3.60+a |
| Class 2 | 15.41 | 3.60+a |
| Class 3 | 13.73 | 3.60+a |
| Class 4 | 17.21 | 3.60+a |
| Class 5 | 16.74 | 3.60+a |
| Class 6 | 18.24 | 3.60+a |
| Class 7 | 17.24 | 3.60+a |
| Heavy & Highway Construction | | |
| Class 1 | 15.19 | 3.60+a |
| Class 2 | 14.69 | 3.60+a |
| Class 3 | 13.26 | 3.60+a |
| Class 4 | 12.00 | 3.60+a |
| SPRINKLER FITTERS | 16.92 | 3.23 |
| TRUCK DRIVERS | | |
| Heavy & Highway Construction | | |
| Class 1 | 12.39 | 2.40+a |
| Class 2 | 12.44 | 2.40+a |
| Class 3 | 12.49 | 2.40+a |
| Class 4 | 12.64 | 2.40+a |
| Class 5 | 12.79 | 2.40+a |

| | Basic Hourly Rates | Fringe Benefits |
|---|---|---|

MODIFICATIONS

| DECISION #OK83-4068-MOD#6 (48 FR 41714-September 16, 1983) | Basic Hourly Rates | Fringe Benefits |
|---|---|---|
| Alfalfa,Beckham,Blaine, Caddo,Canadian,Carter, Cleveland,Comanche,Cotton,Custer,Dewey,Ellis, Garfield,Garvin,Grady, Grant,Greer,Harmon,Harper,Jackson,Jefferson, Johnston,Kay,Kingfisher, Kiowa,Lincoln,Logan, Love,McClain,Major, Marshall,Murray,Noble, Oklahoma,Payne,Pontotoc, Roger Mills,Pottawatomie, Seminole,Stephens,Tillman,Washita,Woods & Woodward Cos., Oklahoma | | |
| OMIT: | | |
| Carpenters - Area 2 Dewey County | | |
| ADD: | | |
| Carpenters - Area 9 Dewey County | | |
| CHANGE: | | |
| Carpenters - Area 9 | | |
| Carpenters | 11.60 | 1.10 |
| Millwrights, Piledrivermen | 12.425 | 1.10 |
| Power Saw Operator | 11.85 | 1.10 |
| Carpenters - Area 7 | | |
| Carpenters | 12.35 | 1.59 |
| Piledrivermen | 12.85 | 1.59 |
| Power Saw Operator | 12.475 | 1.59 |

| DECISION #OK83-4067-MOD#7 (48 FR 41710-September 16, 1983) | Basic Hourly Rates | Fringe Benefits |
|---|---|---|
| Adair,Atoka,Bryan,Coal, Cherokee,Craig,Creek, Delaware,Haskell,Hughes, Leflore,Latimer,McIntosh,Mayes,Muskogee, Nowata,Okfuskee,Okmulgee,Osage,Ottawa,Pawnee, Pittsburg,Pushmataha, Rogers,Tulsa,Sequoyah, Wagoner & Washington Counties, Oklahoma | | |
| CHANGE: | | |
| Carpenters - Area 5 | | |
| Piledrivermen | 16.10 | |

| DECISION NO. PA82-3012 - MOD. NO. 9 (47 FR 9681 - March 5, 1982) | Basic Hourly Rates | Fringe Benefits |
|---|---|---|
| COLUMBIA, MONTOUR & SYNDER COUNTIES, PENNSYLVANIA | | |
| CHANGE: | | |
| LABORERS: | | |
| Montour County: | | |
| Operators of Jackhammer paving breakers, vibrators & other pneumatic & mechanical tools coming under the jurisdiction of laborers, wagon drill operators, excavating for caisson, under pinning & pier holes (below 12 12') nonmetallic pipe layers, plasterers tenders, mortar men (mixed by handling & using cutting or burning torches in the wrecking of buildings, mason tenders | 9.35 | 1.40 |

## MODIFICATIONS

| DECISION #TX83-4081-MOD#4 (48 FR 48912-October 21, 1983) Travis County, Texas | Basic Hourly Rates | Fringe Benefits |
|---|---|---|
| CHANGE: | | |
| Laborers: | | |
| Group 1 | 9.03 | 1.05 |
| Group 2 | 9.18 | 1.05 |
| Group 3 | 9.355 | 1.05 |
| Group 4 | 9.43 | 1.05 |
| **DECISION #TX84-4001-MOD#2 (49 FR 2604-January 20, 1984) Bexar County, Texas** | | |
| CHANGE: | | |
| Laborers: | | |
| Group 1 | 8.24 | 1.65 |
| Group 2 | 8.49 | 1.65 |
| Group 3 | 8.74 | 1.65 |
| Plumbers & Pipefitters | 16.95 | 1.88 |

| DECISION NO. WI83-2078-MOD. (48 FR 45919 - October 7, 1983) Columbia, Dane, Iowa and Sauk Counties, Wisconsin | Basic Hourly Rates | Fringe Benefits |
|---|---|---|
| Add: | | |
| Dane County, Residential Construction: | | |
| Carpenters, Residential | $ 7.67 | 1.15 |
| Electricians Wireman, Residential | 9.08 | 1.33-12 3/4 |
| Soft Floor Layers, Residential | 7.67 | 1.15 |

## SUPERSEDEAS DECISION

STATE: KENTUCKY COUNTY: McCRACKEN
DECISION NUMBER: KY84-1003 DATE: DATE OF PUBLICATION
Supersedes Decision Number KY82-1064, dated October 15, 1982, in 47 FR 46230.
DESCRIPTION OF WORK: BUILDING CONSTRUCTION PROJECTS (does not include single family homes and apartments up to and including four (4) stories).

| | Basic Hourly Rates | Fringe Benefits |
|---|---|---|
| ASBESTOS WORKERS | $17.45 | 2.42 |
| BOILERMAKERS | 18.05 | 3.115 |
| BRICKLAYERS, STONEMASONS, MARBLE MASONS, TILE SETTERS, & TERRAZZO WORKERS | 14.29 | 1.75 |
| CARPENTERS & LATHERS | 15.20 | .72 |
| CEMENT MASONS | 13.65 | 2.05 |
| ELECTRICIANS: | | |
| Industrial: | | |
| Wireman | 15.84 | .85+ 13⅛% |
| Cable Splicer | 16.09 | .85+ 13⅛% |
| Commercial: | | |
| *(See Scope of Work) | | |
| Wireman | 12.50 | .85+ 13⅛% |
| Cable Splicer | 12.75 | .85+ 13⅛% |
| GLAZIERS | 14.735 | 2.41 |
| IRONWORKERS | 15.05 | 2.45 |
| LABORERS: | | |
| Group 1 | 10.75 | 2.00 |
| Group 2 | 10.95 | 2.00 |
| Group 3 | 11.25 | 2.00 |
| LINE CONSTRUCTION: | | |
| Linemen & Equipment operators | 15.89 | .70+ 13⅛% |
| Cable Splicers | 16.14 | .70+ 13⅛% |
| Groundmen - Truck Drivers | 11.91 | .70+ 13⅛% |
| Groundmen | 11.59 | .70+ 13⅛% |
| MILLWRIGHTS & PILEDRIVERMEN | 15.70 | .72 |
| PAINTERS: | | |
| Brush & Roller | 11.60 | .80 |
| Drywall finishers & Paperhangers | 12.10 | .80 |
| Power Tools & Sandblast | 12.50 | .80 |
| PLUMBERS & PIPEFITTERS | 17.51 | 2.13 |
| POWER EQUIPMENT OPERATORS: | | |
| CLASS A | $14.97 | 2.18 |
| CLASS B | 12.23 | 2.18 |
| CLASS C | 11.46 | 2.18 |
| ROOFERS | 8.40 | 1.45 |
| SHEET METAL WORKERS: | | |
| Light Commercial (* See Scope of Work) | 9.00 | 2.706 |
| All Other Building Construction | 17.71 | 3.76 |

WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

* SCOPE OF WORK

ELECTRICIANS:
Commercial - consists of alterations, renovations and new construction on the following structures:

1) Elementary, middle and high schools, 2) churches, 3) restaurants, 4) warehouses, limited to 50,000 sq. ft. or less, 5) free standing, small commercial buildings A) service station, B) convenience stores, C) launderettes, D) one and two story motels

Industrial - All other building construction

SHEET METAL WORKERS:
Light Commercial - defined as single buildings not inside or adjoining an industrial complex and that type work falling into the following categories: Bowling alleys, chapels, churches, funeral homes, service stations, night clubs, pool rooms, nursing homes, restaurants, skating rinks, storage facilities (45,000 sq. ft. or less), community/all purpose buildings, recreational buildings (gyms,spas), branch banks, barber and beauty shops, stores (45,000 sq. ft. or less), garages (body, tire, muffler and service shop),dance halls, nurseries, kindergarten and preschool centers, open faced shopping centers (10 stores or less), office facilities (less than 45,000 sq. ft. & less than 4 floors above grade), any other building with twenty tons or less HVAC not exceeding 45,000 sq. ft.

DECISION NO.: KY84-1003

CLASSIFICATION DEFINITIONS - LABORERS:
Group 1 - General Laborers, Wrecking Labor on buildings, Clearing right-of-way & building site, Carpenter Tender, Truck Spotter & Dumper, Axe & Cross Cut Saw Filer, Concrete Pudler & Form Stripper.
Group 2 - All power driven tools, Hod Carrier, Mason Tender, Finisher Tender, Mortar Mixer, Jackhammer, Vibrator, Wagon Drill, Core Drill, Test Drill, Well Drill Concrete Pump Machine, Tunnel Boring Machine, Men in tunnel and crib ditch work, Signal Men, Riprap Rock Setter & Handler, Asphalt Raker, Tamper & Smoother, Pipe Layer, Grout Pump Men, Chain Saw, Pipe Clearing, Doping & Wrapping, Swamper & Straight Cable Hooking, Cement Gun, Grade Checker Machine Excavating, Batch Plant Scale Man, Sand Hog Free Air, Sand Hog Compressed Air, Cutting Torch Man on salvage work, Road Form Setter, Brick Slinger, Hand Spiker, Power Buggy, Handling of creosote material, Sandblaster, Curing of concrete & apply hardener, Air & Gas Tamper, Concrete Saw, Power Post Hole Digger & Green Cut Man on concrete work.
Group 3 - Powderman, Blaster.

CLASSIFICATION DEFINITIONS - POWER EQUIPMENT OPERATORS:
Class A - Auto Patrol, Batcher Plant, Bituminous Paver, Cable Way, Central Compressor Plant, Clamshell, Concrete Mixer (21 cu. ft. or over), Concrete Pump, Crane, Crusher Plant, Derrick, Derrick Boat, Ditching & Trenching Machine, Dragline, Dredge Operator, Dredge Engineer, Elevating Grader & all types of Loaders, Hoe type Machine, Hoist (1-drum when used for stack or chimney construction or repair), Hoisting Engine (2-drums or more), Locomotive, Motor Scraper, Carry-all Scoop, Bulldozer, Heavy Duty Welder, Mechanic, Orangepeel Bucket, Pile Driver, Power Blade, Motor Grader, Roller (bituminous), Scarifier, Shovel, Tractor Shovel, Truck Crane, Winch Truck, Push Dozer, High Lift, Fork Lift (regardless of lift height & except when used for masonry construction), All types of Boom Cats,Core Drill,Hopto, Tow or Push Boat, A-Frame Winch Truck, Concrete Paver, Gradeall, Hoist, Hyster, Pumpcrete, Ross Carrier, Boom, Tail Boom, Rotary Drill, Hydro Hammer, Mucking Machine, Rock Spreader attached to equipment, Scoopmobile, KeCal Loader, Tower Cranes (French, German & other types), Hydro Crane, Backfiller, Gurries, Sub-Grader.
Class B - All Air Compressors (over 900 CFM), Bituminous Mixer, Joint Sealing Machine, Concrete Mixer (under 21 cu. ft.) Form Grader, Roller (rock), Tractor (50 HP & over), Bull Float, Finish Machine, Outboard Motor Boat, Flexplane, Fireman, Boom type Tamping Machine, Truck Crane Oiler, Greaser on grease facilities servicing heavy equipment, Switchman or Brakeman, Mechanic Helper, Whirley Oiler, Self-Propelled Compactor, Tractair & Road Widening Trencher, Farm Tractor with attachments (except Backhoe, High Lift & End Loader), Elevator (when used to hoist building materials), Hoisting Engine (1-drum or buck hoist), Fork Lift (when used for for masonry construction), Well Points Grout Pump, Throttle-Valve Man, Tugger, Electric Vibrator Compactor.
Class C - Bituminous Distributor, Cement Gun, Conveyor, Mud Jack, Paving Joint Machine, Roller (earth), Tamping Machine, Tractors (under 50 HP), Vibrator, Oiler, Concrete Saw, Burlap & Curing Machine, Hydro-Seeder, Power Form Handling Equipment, Deckhand Steersman, Hydraulic Post Driver, Drill Helper.

SUPERSEDEAS DECISION

STATE: Arizona
DECISION NUMBER A284-5005
SUPERSEDEAS DECISION NO. AZ83-5107 dated March 18, 1983 in 48 FR 11605
DESCRIPTION OF WORK: Heavy and Highway Construction Projects

COUNTIES: Statewide
DATE: Date of Publication

| | Basic Hourly Rates | Fringe Benefits |
|---|---|---|
| BRICKLAYERS; Stonemasons: | | |
| Northern Area: | | |
| Zone A | $18.43 | 3.04 |
| Zone B | 19.90 | 3.04 |
| Zone C | 20.83 | 3.04 |
| Zone D | 21.75 | 3.04 |
| Zone E | 22.48 | 3.04 |
| Zone F | 23.96 | 3.04 |
| Southern Area: | | |
| Zone A: | | |
| Bricklayers; Stonemasons | 13.13 | 2.62 |
| Manhole Builders | 13.43 | 2.62 |
| Zone B: | | |
| Bricklayers; Stonemasons | 13.50 | 2.62 |
| Manhole Builders | 13.80 | 2.62 |
| Zone C: | | |
| Bricklayers; Stonemasons | 13.88 | 2.62 |
| Manhole Builders | 14.18 | 2.62 |
| Zone D: | | |
| Bricklayers; Stonemasons | 14.63 | 2.62 |
| Manhole Builders | 14.93 | 2.62 |
| CARPENTERS: | | |
| Northern Area: | | |
| Carpenters: Saw Filer | 15.79 | 2.55 |
| Piledrivermen | 16.135 | 2.55 |
| Millwrights | 17.94 | 2.55 |
| Central & Southern Areas: | | |
| Carpenters; Saw Filer | 13.66 | 2.55 |
| Piledriver | 14.01 | 2.55 |
| Millwrights | 15.44 | 2.55 |
| CEMENT MASONS: | | |
| Zone 1: | | |
| Northern Area: | | |
| Cement Masons | 15.785 | 2.47 |
| Concrete Troweling Machine; Sawing and Scoring Machine; Curb and Gutter Machine | 15.985 | 2.47 |
| Central & Southern Areas: | | |
| Cement Masons | 13.66 | 2.47 |
| Concrete Troweling Machine; Sawing and Scoring Machine; Curb and Gutter Machine | 13.86 | 2.47 |
| CEMENT MASONS; (Cont'd) | | |
| Zone 2: | | |
| Cement Masons | 13.59 | 2.47 |
| Concrete Troweling Machine; Sawing and Scoring Machine; Curb and Gutter Machine; Clary and similar type of power Screed Operator | 13.79 | 2.47 |
| ELECTRICIANS: | | |
| Area 1: | | |
| Electricians | 16.81 | 1.30+ 3-3/4% |
| Cable Splicers | 18.16 | 1.30+ 3-3/4% |
| Area 2: | | |
| Electricians' Technicians; and Cable Splicers: | | |
| Zone A | 17.00 | 1.89+ 3-1/2% |
| Zone B | 20.12 | 1.89+ 3-1/2% |
| Area 3: | 18.24 | .80+ 12% |
| Area 4: | | |
| Electricians on projects having an electrical contract value of less than $20 million | 16.00 | 2.14+ 3% |
| Electricians on projects having an electrical contract value of $20 million or more | 17.95 | 2.14+ 3% |
| Area 5: | | |
| Electricians | 17.00 | .80+ 11½% |
| Cable Splicers | 17.25 | .80+ 11½% |
| IRONWORKERS: | | |
| Northern Area | 19.25 | 5.44 |
| Southern Area | 16.25 | 5.44 |

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| | Basic Hourly Rates | Fringe Benefits |
|---|---|---|
| LINE CONSTRUCTION: | | |
| Zone 1: | | |
| Groundmen | 12.81 | 4.20+ 3½% |
| Equipment Operator; Powdermen & Mechanics | 15.13 | 4.20+ 3½% |
| Linemen, Crane Operator, Sagger, and Pilot | 17.05 | 4.20+ 3½% |
| Cable splicers | 17.56 | 4.20+ 3½% |
| Zone 1-A: | | |
| Groundmen | 13.81 | 4.20+ 3½% |
| Equipment Operators; Powdermen & Mechancis | 16.04 | 4.20+ 3½% |
| Linemen, Crane Operator, Sagger, and Pilot | 18.03 | 4.20+ 3½% |
| Cable Splicers | 18.63 | 4.20+ 3½% |
| Zone 2: | | |
| Groundmen | 14.75 | 4.20+ 3½% |
| Equipment Operator; Powdermen & Mechanics | 16.99 | 4.20+ 3½% |
| Linemen, crane Operator, Sagger, and Pilot | 18.97 | 4.20+ 3½% |
| Cable Splicers | 19.52 | 4.20+ 3½% |
| PAINTERS: | | |
| Area 1: | | |
| Zone A: | | |
| Brush | 11.60 | 1.90 |
| Brush, Steel & Bridge | 12.10 | 1.90 |
| Spray | 12.05 | 1.90 |
| Spray, Steel & Bridge | 12.60 | 1.90 |
| Zone B: ($0.75 per hour above Zone A BHR) | | |
| Zone C: ($1.75 per hour above Zone A BHR) | | |
| Zone D: ($2.00 per hour above Zone A BHR) | | |
| Area 2: | | |
| Zone A: | | |
| Brush and Roller; Sandblaster (Nozzleman); Sheetrock Taper; Floor Coverer; Sandblaster (pot Tender) | 13.54 | 1.30 |
| Spray; Paperhanger | 13.79 | 1.30 |
| Creosote Applier | 13.87 | 1.30 |
| PAINTERS: (Cont'd) | | |
| Area 2:-Zone A: (Cont'd) | | |
| Swing Stage: | | |
| Brush; Sandblaster | $13.94 | $1.30 |
| Spray | 14.19 | 1.30 |
| Steeplejack | 14.40 | 1.30 |
| Steel and Bridge, Brush; Nozzleman and Pot Tender; Steel (steam cleaner); Electric and Air Tool Operator; | | |
| Steel Sandblaster | 14.67 | 1.30 |
| Steel Sandblaster | 14.47 | 1.30 |
| Zone B: ($1.00 per hour above Zone A BHR) | | |
| Zone C: ($2.50 per hour above Zone A BHR) | | |
| Area 3: | | |
| Zone A: | | |
| Brush | 12.47 | 1.77 |
| Spray; Sandblaster | 13.07 | 1.77 |
| Paperhanger | 12.60 | 1.77 |
| Swing Stage, under 40 feet: | | |
| Brush | 12.77 | 1.77 |
| Spray | 13.37 | 1.77 |
| Swing Stage, over 40 feet: | | |
| Brush | 13.22 | 1.77 |
| Spray | 13.82 | 1.77 |
| Structural Steel & Tanks: | | |
| Brush | 13.47 | 1.77 |
| Spray & Sandblasters | 14.07 | 1.77 |
| Creosote Base and Bituminous material | 12.87 | 1.77 |
| Zone B: ($0.75 per hour above Zone A BHR) | | |
| Zone C: ($1.50 per hour above Zone A BHR) | | |
| Zone D: ($2.75 per hour above Zone A BHR) | | |
| LABORERS: | | |
| Area 1: | | |
| Group 1 | 10.745 | 2.52 |
| Group 2 | 12.845 | 2.52 |
| Group 3 | 13.325 | 2.52 |
| Group 4 | 13.545 | 2.52 |
| Group 5 | 14.845 | 2.52 |
| Area 2: | | |
| Group 1 | 8.62 | 2.52 |
| Group 2 | 10.72 | 2.52 |
| Group 3 | 11.20 | 2.52 |
| Group 4 | 11.42 | 2.52 |
| Group 5 | 12.72 | 2.52 |
| (Tunnel and Shaft Work): | | |
| Area 1: | | |
| Group 1 | 13.155 | 2.52 |
| Group 2 | 13.365 | 2.52 |

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| | Basic Hourly Rates | Fringe Benefits |
|---|---|---|
| LABORERS: (Tunnel and Shaft Work Area 1 Cont'd) | | |
| Group 3 | $13.535 | $2.52 |
| Group 4 | 13.925 | 2.52 |
| Group 5 | 14.235 | 2.52 |
| Area 2: | | |
| Group 1 | 11.03 | 2.52 |
| Group 2 | 11.24 | 2.52 |
| Group 3 | 11.41 | 2.52 |
| Group 4 | 11.86 | 2.52 |
| Group 5 | 12.11 | 2.52 |
| POWER EQUIPMENT OPERATORS: | | |
| Area 1: | | |
| Group 1 | 11.285 | 2.93 |
| Group 2 | 13.385 | 2.93 |
| Group 3 | 13.875 | 2.93 |
| Group 4 | 14.445 | 2.93 |
| Group 5 | 15.135 | 2.93 |
| Group 6 | 15.815 | 2.93 |
| Group 7 | 16.205 | 2.93 |
| Group 8 | 16.635 | 2.93 |
| Group 9 | 17.415 | 2.93 |
| Area 2: | | |
| Group 1 | 9.16 | 2.93 |
| Group 2 | 11.26 | 2.93 |
| Group 3 | 11.75 | 2.93 |
| Group 4 | 12.32 | 2.93 |
| Group 5 | 13.01 | 2.92 |
| Group 6 | 13.69 | 2.93 |
| Group 7 | 14.08 | 2.93 |
| Group 8 | 14.51 | 2.92 |
| Group 9 | 15.29 | 2.93 |
| TRUCK DRIVERS: | | |
| Area 1: | | |
| Group 1 | 13.075 | 2.52 |
| Group 2 | 13.245 | 2.52 |
| Group 3 | 13.525 | 2.52 |
| Group 4 | 13.975 | 2.52 |
| Group 5 | 14.175 | 2.52 |
| Group 5A | 14.425 | 2.52 |
| Group 6 | 14.595 | 2.52 |
| Group 7 | 15.115 | 2.52 |
| Group 8 | 15.79 | 2.52 |
| Group 8A | 16.775 | 2.52 |
| Group 8B | 16.225 | 2.52 |
| Area 2: | | |
| Group 1 | 10.95 | 2.52 |
| Group 2 | 12.12 | 2.52 |
| Group 3 | 11.40 | 2.52 |
| Group 4 | 11.85 | 2.52 |
| Group 5 | 12.05 | 2.52 |
| Grpup 5A | 12.30 | 2.52 |
| Group 6 | 12.47 | 2.52 |
| Group 7 | 12.99 | 2.52 |
| Group 8 | 13.665 | 2.52 |
| TRUCK DRIVERS: (Area 2 Cont'd) | | |
| Group 8A | $14.65 | 2.52 |
| Group 8B | 14.10 | 2.52 |

Welders: Receive the rate prescribed for craft performing operation to which welding is incidental.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR 5.5(a)(1)(ii)).

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AREA DESCRIPTIONS

BRICKLAYERS; STONEMASONS:

Northern Area: Apache, Coconino and Gila Counties; Graham County (west and north of the San Francisco River to the Gila River); Greenlee County (west and north of the San Francisco River to the Gila River); Maricopa, Mohave, and Navajo Counties; Pinal County (north of a boundary line drawn west along the Gila River to the western City limits of Florence, a straight line from the extreme southwestern City limits of Florence to the extreme southern City limits of Coolidge, then a straight line to the extreme southern City limits of Casa Grande, with the line extending to the Maricopa/Pinal County Line); Yavapai, and Yuma Counties:

- Zone A: 0-40 road miles from the City Hall in Phoenix
- Zone B: 40-50 road miles from the City Hall in Phoenix
- Zone C: 50-75 road miles from the City Hall in Phoenix
- Zone D: 75-100 road miles from the City Hall in Phoenix
- Zone F: 200 road miles and over from the City Hall in Phoenix

Southern Area: Cochise County; Graham County (east and south of the San Francisco River to the Gila River); Greenlee County (east and south of the San Francisco River to the Gila River); Pima County; Pinal County (south of a boundary line drawn west along the Gila River to the western City limits of Florence, a straight line from the extreme southwestern City limits of Florence to the extreme southern City limits of Coolidge, then a straight line to the extreme southern City limits of Casa Grande, with the line extending to the Maricopa/Pinal County Line); Santa Cruz Counties:

- Zone A: 0-15 road miles from Tucson City limits
- Zone B: 15-30 road miles from Tucson City limits
- Zone C: 30-40 road miles from Tucson City limits
- Zone D: Over 40 road miles from Tucson City limits

CARPENTERS:

Northern Area: Area north of a straight line drawn between a point 35 miles due north of the City Hall in Flagstaff and a point 35 miles due north of the City Hall in Kingman, extending to the Arizona/Nevada State Line on the west; and connecting to a point 35 miles due north of the City Hall in Holbrook, thence due east to the intersection of the Arizona/New Mexico State Line

Central and Southern Areas: All areas not included in the Northern Area

CEMENT MASONS:

Zone 1: Apache, Coconino, and Gila Counties; Graham County (north of Sentinel-Casa Grande-Safford Line); Greenlee County (north of Sentinel-Casa Grande-Safford Line); Maricopa County (north of Sentinel-Casa Grande-Safford Line); Mohave, and Navajo Counties; Pinal County (north of Sentinel-Casa Grande-Safford Line); Yavapai and Yuma Counties:

NORTHERN AREA: Area North of a straight line drawn between a point 35 miles due north of the City Hall in Flagstaff and a point 35 miles due north of the City Hall in Kingman, extending to the Arizona/Nevada State Line on the west and connecting to a point 35 miles due north of the City Hall in Holbrook, thence due east to the intersection of the Arizona/New Mexico State Line.

AREA DESCRIPTIONS (Cont'd)

CEMENT MASONS: (Cont'd)
Zone 1: (Cont'd)
CENTRAL and SOUTHERN AREAS: All Areas not included in the NORTHERN AREA
Zone 2: Southern parts of Cochise, Graham, Greenlee, Maricopa, and Pinal Counties; Pima and Santa Cruz Counties

ELECTRICIANS:
Area 1: Apache County (north of Highway #66)
Area 2: Coconino County; Navajo County (north and west of a boundary line beginning at a point where Clear Creek crosses the Coconino/Navajo County Line and then extending in a northeasterly direction along Clear Creek and northeasterly to Cottonwood Wash, along Cottonwood Wash extending northeasterly to where it intersects the Navajo Indian Reservation, then easterly along the Navajo Indian Reservation boundary line to a point where it intersects the Navajo/Apache County Line):
Zone A: 5 miles north-south, east and west of the Post Offices of Williams, Sedona, and Winslow
Zone B: Remainder of Area 2 not covered by Zone A
Area 3: Apache County (south of Highway #66); Gila County; Navajo County (south and east of a boundary beginning at a point where Clear Creek crosses the Coconino/Navajo County Line, then extending in a northeasterly direction along Clear Creek and northeasterly to Cottonwood Wash, along Cottonwood Wash extending northeasterly to where it intersects the Navajo Indian Reservation, then easterly along the Navajo Indian Reservation boundary line to a point where it intersects the Navajo/Apache County Line); Pinal County (north of the line, "First Standard Parallel South" and east of the line "Second Guide Meridian East")
Area 4: Maricopa and Mohave Counties; Pinal County (north and west of the boundary line beginning at a point where the Papago Indian Reservation Road #15 crosses the Pima/Pinal County Line, then extending in a northeasterly direction on the Papago Indian Reservation Road #15 to the intersection with the Florence Canal, north and east on the Florence Canal to the intersection with the line, "Second Guide Meridian East", then north to the Pinal/Maricopa County Line); Yavapai County
Area 5: Cochise, Graham, Greenlee, and Pima Counties; Pinal County (south and east of the boundary line beginning at a point where the Papago Indian Reservation Road #15 crosses the Pima/Pinal County Line, then extending in a northeasterly direction on the Florence Canal, north and east on the Florence Canal to the intersection with the line, "Second Guide Meridian East", then north to the line, "First Standard Parallel South", and along that line to the Graham/Pinal County Line); Santa Cruz and Yuma Counties

IRONWORKERS:
Northern Area: Area from a line 10 miles north and parallel to Highway #66, north to the Arizona-Utah border and from the Arizona-California border east to the Arizona-New Mexico border
Southern Area: All Areas not included in the Northern Area

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AREA DESCRIPTIONS (Cont'd)

LINE CONSTRUCTION:
Zone 1: Phoenix and Tucson 30 miles radius from the center of Town; Area within 10 mile radius from the City Hall in Yuma
Zone 1-A: Flagstaff, Globe, and Kingman; and 10 mile radius from the center of Town
Zone 2: Other areas not covered by Zone 1 and Zone 1-A

PAINTERS:
Area 1: Apache, Coconino, Navajo, and Yavapai Counties (north of Woodruff/Camp Wood Line); Mohave County (north of a line following the Geodetic Hualapai Boundary Line to the Colorado River, a distance of 23 miles east of Pierce Ferry and then intersecting the Arizona/Nevada State Line):
Zone A: 0-20 road miles from Courthouse in Flagstaff
Zone B: 20-35 road miles from Courthouse in Flagstaff
Zone C: 35-80 road miles from Courthouse in Flagstaff
Zone D: 80 road miles and over from Courthouse in Flagstaff
Area 2: Apache, Coconino, Navajo, and Yavapai Counties (south of the Woodruff/Camp Wood Line); Gila, Graham, Greenlee, Maricopa, and Pinal Counties (north of 33rd Parallel); Mohave County (south of a line following the Geodetic Hualapai Boundary Line to the Colorado River, a distance of 23 miles east of Pierce Ferry and then intersecting the Arizona/Nevada State Line):
Zone A: 0-40 paved road miles from Courthouse in Phoenix; also, Luke and Williams Air Force Bases
Zone B: 41-60 paved road miles from Courthouse in Phoenix
Zone C: 61 paved road miles and over from Courthouse in Phoenix
Area 3: Cochise County; Graham, Greenlee, Maricopa and Pinal Counties (south of 33rd Parallel); Pima, Santa Cruz, and Yuma Counties:
Zone A: 0-30 paved road miles from Stone and Congress in Tucson or from the County Courthouse in Yuma
Zone B: 31-40 paved road miles from Stone and Congress in Tucson or from the County Courthouse in Yuma
Zone C: 41-50 paved road miles from Stone and Congress in Tucson or from the County Courthouse in Yuma
Zone D: 51 paved road miles and over from Stone and Congress in Tucson or from the County Courthouse in Yuma

LABORERS; POWER EQUIPMENT OPERATORS; and TRUCK DRIVERS:
Area 1: Area north of a straight line drawn between a point 35 miles due north of the City Hall in Flagstaff and a point 35 miles due north of the City Hall in Kingman, extending to the Arizona/Nevada State Line on the west; and connecting to a point 35 miles due north of the City Hall in Holbrook, thence due east to the intersection of Arizona/New Mexico State Line
Area 2: All Areas not included in Area 1

GROUP DESCRIPTIONS

LABORERS

Group 1: Laborer, General or Construction; Tool Dispatcher or Checker; Manually Controlled Signal Operator; Fence Builder; Guard Rail Builder - highway; Chat Box Man; Dumpman and/or Spotter; Rip Rap Stone Man; Rock Slinger; Head Rock Slinger (25¢); Form Stripper; Packing Rod Steel and Form Stripper; Packing Rod Steel and Pans; Cesspool Diggers and Installers; Astro Truf Layer; Clean Up - Bull Gang Trackman; Railroad Chipper (clearing and grubbing); Kettleman - Tarman; Spikers; Wrenchers - Creosote Tieman; Floor Sanders - Concrete; Sandblaster (Pot Tender); Powderman Tender; Fire Grader; All Tenders not herein Separately classified; Window Cleaner

Group 2: Chuck Tender (except tunnel); Concrete Laborer (belt, pipe and/or Hoseman); Cement Mason Tender; Cutting Torch Operator; Power-type Concrete Buggy; Bander

Group 3: Guinea Chaser; Operator and Tender of Penuematic and Electric Tools; Concrete Vibrating Machines, Chain Saw Machines (on clearing and grubbing); Hydraulic Jacks and similar mechanical tools not separately herein classified; Pipe Caulker and/or Backup Man - Pipeline; Rigger and Signal Man - Peipline; Pipe Wrapper; Cribber; Shorer (except tunnel); Pneumatic Gopher; Pre-cast Manhole Erector

Group 4: Asphalt Raker and Ironer; Air and Water Washout Nozzleman (low and high pressure); Scaler (using Bos'n's Chair or Safety Belt); Tamper (mechanical - all types); Sandblaster (Nozzleman); Concrete Saw (hand-guided); Concrete Cutting Torch; Gunite (Gunman, Mixerman, Rodman); Bio-filer; Pressman; Installer; Operator; Hand-guided Trencher and similarly operated equipment; Driller (Jackhammer and/or Pavement Breaker); Grade Setter (pipeline); Pipe Layer (included but not limited to non-metallic transite and plastic pipe, sewer pipe, drain pipe, underground tile pipe and conduit)

Group 5: Drill Doctor and/or Air Tool Repairman; Scaler (Driller); Form Setter and/or Builder; Welder and/or Pipe Layer installing process piping; Driller - Core Diamond, Wagon, Air Track, Joy, Mustang, PR-143, 220 Gardner, Denver, Hydrasonic; Power Man; Water Blaster Operator

(TUNNEL and SHAFT WORK)

Group 1: Bull Gang, Muckers, Trackman; Dumpmen; Concrete Crew (includes Rodders and Spreaders); Grout Crew; Swamper (Brakeman and Switchmen on tunnel work)

Group 2: Nipper; Chucktender, Cabletender; Vibratorman, Jackhammer, Pneumatic Tools (except Driller)



LABORERS (Cont'd)
TUNNEL and SHAFT WORK) (Cont'd)

Group 3: Grout Gunman

Group 4: Timberman, Retimberman - wood or steel blaster, Driller, Powderman; Cherry Pickerman; Powderman - Primer House; Steel Form Raiser and Setter; Kemper and other Pneumatic Concrete Placer Operator; Miner - Finisher; Miners - Tunnel (hand or machine)

Group 5: Diamond Drill

Group 5A: Shaft and Raise Miner Welder

POWER EQUIPMENT OPERATORS

Group 1: Air Compressor Operator; Pump Operator; Conveyor Operator; Generator Operator (all); Power Grizzly Operator; Fireman (all); Welding Machine Operator; Tripper Operator; Concrete Mixer Operator, skip type; Highline Cableway Signalman

Group 2: Oiler; Forklift and Ross Carrier Operator; Skiploader, 1½ cu. yd. and less; Pavement Breaker; Roller Operator (except as otherwise classified); Wheel-type Tractor Operator (Ford-Ferguson type); Slurry Seal Machine Operator (driver Moto-paver); Power Sweeper

Group 3: Self-propelled Chip Spreading Machine Conveyor Operator; Dinky Operator, under 20 ton; Elevator Hoist Operator, Husky and similar

Group 4: Motor Crane Driver; Beltcrete Operator; Curing Machine Operator, Boring Bridge and Texture; Cross Tineing and Pipe Float; Straw Blower; Hydrographic Seeder; Hydrographic Mulcher; Jumbo Finishing Machine; Joint Inserter

Group 5: A-frame Boom Truck or Winch Truck Operator; Grade Checker (excluding Civil Engineer); Multiple Power Concrete Saw Operator; Screed Operator; Stationary Pipe Wrapping and Cleaning Machine Operator; Tugger Operator

POWER EQUIPMENT OPERATORS (Cont'd)

Group 6: Aggregate Plant Operator (including crushing, screening, and sand plants, etc.); Asphalt Laydown Machine Operator; Asphalt Plant Mixer Operator; Boring Machine Operator; Concrete Mechanical Tamping, Spreading or Finishing Machine Operator (including Clary, Johnson or similar types); Concrete Pump Operator; Concrete Batch Plant Operator, all types and sizes; Conductor, Brakeman, or Handler; Drilling Machine Operator, all types and sizes except as otherwise classified; Field Equipment Serviceman; Kolman Belt Loader Operator or similar type, with belt width 48" or over; Locomotive Engineer (including Dinky 20 tons weight and over); Moto-paver and similar type equipment Operator; Operating Engineer Rigger; Pnuematic-tired Scraper Operator, up to and including 12 cu. yds. (Turnapull, Euclid, Cat, D.W. Hancock, and similar equipment); Power Jumbo Form Setter Operator; Pressure Grout Machine Operator (as used in heavy engineering construction); Road Oil Mixing Machine Operator; Roller Operator, on all type asphalt pavement; Self-propelled Compactor, with blade; Skip Loader Operator, all types with a rated capacity over 1½ but less than 4 cu. yds.; Slip Form Operator (power driven lifting device for concrete forms); Soil Cement Road Mixing Machine Operator, single pass type; Stationary Central Generating Plant Operator, rated 300 K.W. or more; Surface Heater and Planer Operator; Traveling Pipewrapping Machine Operator

Group 7: Pneumatic-tired Scraper Operator, all sizes and types over 12 cu. yds. MRC (Turnapull, Euclid, Cat, D.W. Hancock and similar equipment); Tractor Operator (Pusher, Bulldozer, Scraper); Trenching Machine Operator

Group 8: Asphalt or Concrete Planing, Rotomill, and Milling Machine Operator; Auto Grade Machine Operator (CMI and similar equipment); Boring Machine Operator (including Mole, Badger and similar type); Concrete Mixer Operator, paving type and Mobile Mixers; Concrete Pump Operator, with boom attached (truck mounted); Crane Operator, Crawler and Pneumatic type under 100 ton capacity MRC; Crawler-type Tractor Operator, with boom attachment or Slope Bar; Derrick Operator; Forklift Operator for hoisting personnel; Gradall Operator; H.D. Mechanic and/or Welder; Helicopter Hoist Operator; Highline Cableway Operator (less than 20 tons rated capacity); Mass Excavator Operator (150 Bucyrus Erie and similar types); Mechanical Hoist Operator (two or more drums); Motor Grader Operator, any type power blade; Motor Grader Operator, with Elevating Grader attachment; Mucking Machine Operator; Overhead Crane Operator; Piledriver Engineer (portable, stationary or skid rig); Pneumatic-tired Scraper Operator, all sizes and types (Turnapull, Euclid, Cat, D.W. Hancock and similar equipment over 45 cu. yds. MRC); Power driven Ditch Lining or Ditch Trimming Machine Operator; Skip Loader Operator, all types rated capacity 4 cu. yds. but less than 8 cu. yds.; Slip Form Paving Machine Operator (including Gunnert, Zimmerman and similar types); Specialized Power Digger Operator, attached to wheel-type tractor; Tower Crane (or similar type) Operator; Tugger Operator (two or more); Universal Equipment Operator, Shovel, Backhoe, Dragline, Clamshell, etc., up to 8 cu. yds.

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POWER EQUIPMENT OPERATORS (Cont'd)

Group 9: Crane Operator, Pneumatic or Crawler, 100 ton hoisting capacity and over MRC rating; Helicopter Pilot, FAA qualified, when used in construction work other than executive travel and single casual rental; Highline Cableway Operator, over 20 ton rated capacity and using Traveling Head and Tail Tower; Remote-control Earth Moving Equipment Operator; Skip Loader Operator, all types with rated capacity of 8 cu. yds. or more; Universal Equipment Operator, Shovel, Backhoe, Dragline, Clamshell, etc., 8 cu. yds. and over

TRUCK DRIVERS

Group 1: Teamsters; Pick-ups; Station Wagon; Man Haul Driver

Group 2: Dump or Flatrack (2 or 3 axle); Water Truck (under 2500 gallons); Buggymobile (1 cu. yd. or less); Bus Driver; Self-propelled Street Sweeper; Shop Greaser

Group 3: Dump or Flatrack (4 axle); Dumptor or Dumpster (less than 7 cu. yds.); Water Truck (2500 gallons but less than 400 gallons); Tireman

Group 4: Dumptor or Dumpster (7 cu. yds. but less than 16 cu. yds); Dump or Flatrack (5 axle); Water Truck (4000 gallons and over); Slurry type equipment Driver or Leverman; Vacuum Pump Truck Drivers; Flaherty Spreader or similar type equipment or Leverman; Transit Mix (8 cu. yds. or less mixer capacity); Ambulance Driver

Group 5: Dump or Flatrack (6 axle); Transit Mix (over 8 cu. yds. but less than 10.5 cu. yds.); Rock Truck (i. e. Dart, Euclid and other similar type end dumps, single unit) less than 16 cu. yds.

Group 5A: Oil Tanker or Spreader and/or Bootman, Retortman or Leverman

Group 6: Transit Mix (over 10.5 cu. yds. but less than 14 cu. yds. mixer capacity); Ross Carrier, Fork Lift or Lift Truck; Hydro Lift, Swedish Crane, Iowa 300 and similar types; Concrete Pump (when integral part of Transit Mix Truck); Dump or Flatrack (7 axle); Transport Driver (unless axle rating results in higher classification)

Group 7: Dump or Flatrack ( 8 axle)

Group 8: Off-highway equipment Driver including but not limited to: 2 or 4 wheel power unit, i.e. Cat, DW Series, Euclid, International and similar type equipment transporting material when top loaded or by external means including pulling Water Tanks, Fuel Tanks or other applications under Teamster Classifications; Rock Truck (Dart, euclid, or other similar end dump types) 16 cu. yds. and over; Eject-alls; Dumptor or Dumpster (16 cu. yds. and over); Dump or Flatrack (9 axle

Group 8A: Heavy-duty Mechanic/Welder;Body and Fender Man

Group 8B: Field Equipment Servicemen or Fuel Truck Driver

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: Louisiana
PARISH: Statewide
DECISION NO.: LA84-4010
DATE: Date of Publication
Supersedes Decision No. LA83-4059, dated August 5, 1983, in 48 FR 35836.
DESCRIPTION OF WORK: Building projects (does not include single family homes & apartments up to and including 4 stories.

| | Basic Hourly Rates | Fringe Benefits |
|---|---|---|
| ASBESTOS WORKERS: | | |
| ZONE 1 | 19.145 | 2.335 |
| ZONE 2 | 16.71 | 2.94 |
| ZONE 3 | 15.50 | 2.82 |
| ZONE 4 | 14.34 | 1.95 |
| BOILERMAKERS | 16.40 | 2.645 |
| BRICKLAYERS & STONEMASONS: | | |
| ZONE 1 | 16.75 | 2.26 |
| ZONE 2 | 13.22 | 1.90 |
| ZONE 3 | 16.10 | 2.32 |
| ZONE 4 | 14.50 | 2.04 |
| ZONE 5 | 13.75 | |
| ZONE 6 | 12.30 | 1.70 |
| ZONE 7 | 14.10 | .30 |
| ZONE 8 | 14.15 | .75 |
| ZONE 9 | 14.50 | |
| CARPENTERS: | | |
| ZONE 1: | | |
| Carpenters | 13.25 | .60 |
| Millwrights | 13.97 | .60 |
| Piledrivermen | 14.15 | .60 |
| ZONE 2: | | |
| Carpenters, Piledrivermen & Soft Floor Layers | 13.19 | 1.60 |
| Millwrights | 18.47 | .07 |
| ZONE 3: | | |
| Carpenters & Drywall | 13.25 | 2.50 |
| Millwrights | 13.95 | 2.50 |
| Piledrivermen | 13.65 | 2.50 |
| ZONE 4: | | |
| Carpenters & Piledrivermen | 15.70 | 1.86 |
| Millwrights | 19.775 | 1% |
| ZONE 5: | | |
| Carpenters & Soft Floor Layers | 14.76 | 2.60 |
| Millwrights | 15.15 | 2.60 |
| Piledrivermen | 14.86 | 2.60 |
| ZONE 6: | | |
| Carpenters & Soft Floor Layers | 14.60 | 2.60 |
| Millwrights | 15.15 | 2.60 |
| Piledrivermen | 14.86 | 2.60 |
| zone 7: | | |
| Carpenters & Soft Floor Layers | 13.35 | |
| CARPENTERS (Cont'd): | | |
| ZONE 7 (Cont'd): | | |
| Millwrights | 14.10 | |
| Piledrivermen | 13.85 | |
| ZONE 8: | | |
| Carpenters & Soft Floor Layers | 12.90 | 1.78 |
| Millwrights | 13.65 | 1.78 |
| Piledrivermen | 13.15 | 1.78 |
| ZONE 9: | | |
| Carpenters & Soft Floor Layers | 12.30 | 1.85 |
| Millwrights | 13.20 | 1.85 |
| Piledrivermen | 12.80 | 1.85 |
| ZONE 10: | | |
| Carpenters, Piledrivermen, Soft Floor Layers | 9.90 | 1.60 |
| Millwrights | 18.47 | .07 |
| CEMENT MASONS: | | |
| ZONE 1 | 15.07 | .05 |
| ZONE 2 | 16.17 | |
| ZONE 3 | 12.65 | 1.70 |
| ZONE 4 | 14.21 | 1.68 |
| ZONE 5 | 13.75 | |
| ZONE 6 | 10.50 | |
| ZONE 7 | 12.10 | .85 |
| ZONE 8 | 12.65 | .75 |
| ZONE 9 | 11.90 | .30 |
| ELECTRICIANS: | | |
| ZONE 1: Electricians | 17.64 | 13-5/10% |
| Cable Splicers | 17.89 | " |
| ZONE 2: Electricians | 16.10 | .82+3% |
| Cable Splicers | 16.60 | " |
| ZONE 3: Electricians | 17.70 | 2.00+3-5/10% |
| Cable Splicers | 18.20 | " |
| ZONE 4: Electricians | 18.10 | .70+3-2/10% |
| Cable Splicers | 18.35 | " |
| ZONE 5: Electricians | 15.90 | 1.68+9% |
| Cable Splicers | 15.90 | " |

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| | Basic Hourly Rates | Fringe Benefits |
|---|---|---|
| ELECTRICIANS (Cont'd): | | |
| ZONE 6: Electricians | 15.90 | 1.15+3⅓% |
| Cable Splicers | 16.40 | 1.15+3⅓% |
| ZONE 7: Electricians | 15.25 | 2.40+4% |
| Cable Splicers | 15.75 | 2.40+4% |
| ZONE 8: Electricians | 15.28 | .80+3⅓% |
| Cable Splicers | 15.53 | " |
| ELEVATOR CONSTRUCTORS: | | |
| ZONE 1: Mechanics | 14.82 | 3.00+a |
| Helpers | 70%JR | 3.00+a |
| Helpers (Prob) | 50%JR | |
| ZONE 2: Mechanics | 14.21 | 2.69+a |
| Helpers | 70%JR | 2.69+a |
| Helpers (Prob) | 50%JR | |
| GLAZIERS: | | |
| ZONE 1 | 15.25 | .02+b |
| ZONE 2 | 13.23 | .01 |
| ZONE 3 | 15.87 | 1.21 |
| ZONE 4 | 9.88 | .34 |
| ZONE 5 | 10.99 | |
| IRONWORKERS: | | |
| ZONE 1 | 15.00 | 2.43 |
| ZONE 2 | 16.19 | 2.29 |
| ZONE 3 | 13.60 | 2.56 |
| ZONE 4 | 14.55 | 2.31 |
| ZONE 5 | 12.80 | 2.29 |
| ZONE 6 | 16.10 | 2.42 |
| LABORERS: | | |
| ZONE 1: | | |
| Group 1 | 7.20 | .30 |
| Group 2 | 7.40 | .30 |
| Group 3 | 7.45 | .30 |
| ZONE 2: | | |
| Group 1 | 8.92 | .80 |
| Group 2 | 9.12 | .80 |
| ZONE 3 | 9.95 | .94 |
| ZONE 4 | 7.50 | .94 |
| ZONE 5: | | |
| GROUP 1 | 11.67 | .85 |
| GROUP 2 | 11.77 | .85 |
| GROUP 3 | 11.82 | .85 |
| ZONE 6: | | |
| GROUP 1 | 11.27 | .85 |
| GROUP 2 | 11.37 | .85 |
| GROUP 3 | 11.42 | .85 |
| ZONE 7: | | |
| GROUP 1 | 10.89 | 1.08 |
| GROUP 2 | 10.99 | 1.08 |
| GROUP 3 | 11.09 | 1.08 |
| GROUP 4 | 11.05 | 1.08 |
| GROUP 5 | 11.15 | 1.08 |
| GROUP 6 | 5.45 | 1.08 |
| LABORERS (Cont'd): | | |
| ZONE 8: | | |
| GROUP 1 | 10.57 | 1.08 |
| GROUP 2 | 10.72 | 1.08 |
| GROUP 3 | 10.77 | 1.08 |
| GROUP 4 | 5.30 | 1.08 |
| ZONE 9: | | |
| GROUP 1 | 8.11 | .80 |
| GROUP 2 | 8.31 | .80 |
| GROUP 3 | 8.36 | .80 |
| GROUP 4 | 8.41 | .80 |
| GROUP 5 | 8.76 | .80 |
| ZONE 10: | | |
| GROUP 1 | 8.90 | .80 |
| GROUP 2 | 9.00 | .80 |
| GROUP 3 | 9.05 | .80 |
| GROUP 4 | 9.10 | .80 |
| ZONE 11: | | |
| GROUP 1 | 8.45 | .80 |
| GROUP 2 | 8.60 | .80 |
| GROUP 3 | 8.75 | .80 |
| LATHERS: | | |
| ZONE 1 | 14.78 | 2.50 |
| ZONE 2 | 15.70 | 1.86 |
| ZONE 3 | 13.25 | .60 |
| ZONE 4 | 13.19 | 1.60 |
| ZONE 5 | 9.90 | 1.60 |
| ZONE 6 | 13.40 | 1.78 |
| ZONE 7 | 13.35 | |
| ZONE 8 | 12.30 | 1.85 |
| LINE CONSTRUCTION: | | |
| ZONE 1: | | |
| Linemen | 15.90 | 1.68+9% |
| Hole digging equip.; tractor w/winch & derrick; line truck w/winch & derrick working hot lines | 75%JR | 1.68+9% |
| Pole truck & trailer or pole hauling & setting truck (not energized lines) | 65%JR | 1.68+9% |
| Truck w/o winch | 45%JR | 1.68+9% |
| Groundmen | 50%JR | 1.68+9% |
| ZONE 2: | | |
| Linemen | 17.64 | 13-3/10% |
| Cable Splicers | 17.89 | 13-3/10% |
| Equipment Operators | 75%JR | 13-3/10% |
| Truck Drivers & groundmen | 45%JR | 13-3/10% |

| | Basic Hourly Rates | Fringe Benefits |
|---|---|---|
| LINE CONSTRUCTION (Cont'd): | | |
| ZONE 3: | | |
| Linemen, equipment opr. | 17.70 | 2.00+ 3-1/10% |
| Cable Splicers | 18.20 | 2.00+ 3-1/10% |
| Groundmen | 15.70 | 2.00+ 3-1/10% |
| ZONE 4: | | |
| Linemen, equipment opr. | 14.60 | .70+3% |
| Cable Splicers | 14.85 | .70+3% |
| Groundmen | 50%JR | .70+3% |
| ZONE 5: | | |
| Linemen, equipment opr. | 15.36 | 3½% |
| Cable Splicers | 15.61 | 3½% |
| Groundmen | 40%JR | 3½% |
| ZONE 6: | | |
| Linemen, equipment oprs. | 15.90 | 1.15+ 3½% |
| Cable Splicers | 16.40 | 1.15+ 3½% |
| Groundmen | 4.19 | 1.15+ 3½% |
| ZONE 7: | | |
| Linemen, Operators | 15.25 | 2.40+ 3-3/4% |
| Cable Splicers | 15.75 | 2.40+ 3-3/4% |
| Groundmen | 12.65 | 2.40+ 3-3/4% |
| MARBLE, TILE & TERRAZZO WORKERS & FINISHERS: | | |
| ZONE 1: | | |
| Marble Setters | 14.50 | 2.04 |
| Tile & Terrazzo Workers | 14.65 | .70 |
| Marble, Tile & Terrazzo Finishers | 10.60 | 1.15 |
| ZONE 2: | | |
| Marble & Terrazzo Wkrs. | 16.10 | 2.32 |
| Tile Setters | 14.07 | 1.70 |
| ZONE 3: | | |
| Marble Setters | 14.50 | |
| Terrazzo Workers | 11.65 | |
| ZONE 4: | | |
| Marble, Tile & Terrazzo Workers | 12.85 | .75 |
| ZONE 5: | | |
| Marble, Tile & Terrazzo Workers | 10.95 | .85 |
| ZONE 6: | | |
| Marble, Tile & Terrazzo Workers | 17.25 | |
| Marble, Tile & Terrazzo Finishers | 10.60 | 1.15 |
| MARBLE, TILE & TERRAZZO WORKERS & FINISHERS (Cont'd): | | |
| ZONE 7: | | |
| Tile Setters | 13.75 | |
| Tile Finishers | 10.60 | 1.15 |
| PAINTERS: | | |
| ZONE 1: | | |
| New Work | 16.01 | .60 |
| Repaint | 14.50 | .60 |
| ZONE 2: | | |
| Group 1 | 12.50 | 1.38 |
| Group 2 | 14.37 | 1.38 |
| ZONE 3: | | |
| Group 1 | 13.235 | 2.115 |
| Group 2 | 13.61 | 2.115 |
| Group 3 | 15.535 | 2.115 |
| ZONE 4: | | |
| Group 1 | 10.99 | |
| Group 2 | 11.43 | |
| Group 3 | 11.12 | |
| Group 4 | 12.25 | |
| Group 5 | 12.59 | |
| Group 6 | 11.09 | |
| Group 7 | 11.33 | |
| ZONE 5: | | |
| Painters, tape & pointing, drywall & paperhanger | 10.50 | 1.10 |
| ZONE 6: | | |
| Group 1 | 10.05 | |
| Group 2 | 10.55 | |
| Group 3 | 11.05 | |
| ZONE 7: | | |
| Painters | 10.85 | .83 |
| Industrial | 13.42 | 1.33 |
| PLASTERS: | | |
| ZONE 1 | 13.20 | |
| ZONE 2 | 14.25 | .01 |
| ZONE 3 | 17.11 | |
| ZONE 4 | 16.40 | .01 |
| ZONE 5 | 12.08 | 1.58 |
| ZONE 6 | 11.00 | .01 |
| ZONE 7 | 12.10 | .85 |
| ZONE 8 | 14.15 | .75 |
| ZONE 9 | 14.10 | .30 |
| PLUMBERS & PIPEFITTERS: | | |
| ZONE 1 | 16.80 | 2.43 |
| ZONE 2 | 17.615 | 2.585 |

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| | Basic Hourly Rates | Fringe Benefits |
|---|---|---|
| PLUMBERS & PIPEFITTERS (Cont'd): | | |
| ZONE 3: | | |
| Journeymen: | | |
| Contracts containing $75,000.00 or less of plumbing work & 50 tons of air conditioning/refrigeration or less (excluding chilled water systems & all work on industrial jobsites | 10.00 | 2.70 |
| All other work | 15.25 | 2.70 |
| Helpers (exterior sewer & all related work including bell holding & cramming, cutting holes, unloading & loading of materials, equipment & tools to & from jobsite & distribution & stock piling of same, dismantling, erecting & dismembering scaffolding, general clean up of site: | | |
| Contracts containing $75,000.00 or less plumbing work & 50 tons of air conditioning/refrigeration or less (excluding chilled water systems & all work on industrial jobsites | 4.50 | |
| All other work | 4.575 | .03 |
| ZONE 4 | 15.19 | 3.09 |
| ZONE 5 | 17.98 | 3.00 |
| ZONE 6: | | |
| Journeymen | 15.05 | 1.90 |
| Helpers (exterior sewer & all related work including bell holding & cramming, cutting holes unloading & loading of materials, equipment & tools to & from jobsite & distribution & stock piling of same, dismantling, erecting & dismembering scaffold, general clean up of site | 4.515 | .03 |
| POWER EQUIPMENT OPERATORS: | | |
| ZONE 1 - GROUP 1 | 13.25 | 2.20 |
| GROUP 2 | 11.42 | 2.20 |
| GROUP 3 | 10.07 | 2.20 |
| GROUP 4 | 9.57 | 2.20 |
| GROUP 5 | 10.81 | 2.20 |
| GROUP 6 | 12.00 | 2.20 |
| ZONES 2,3 & 4 - GROUP 1 | 9.55 | 2.20 |
| GROUP 2 | 10.58 | 2.20 |
| GROUP 3 | 10.68 | 2.20 |
| GROUP 4 | 11.15 | 2.20 |
| GROUP 5 | 13.32 | 2.20 |
| GROUP 6 | 12.32 | 2.20 |
| ZONE 5 - GROUP 1 | 16.40 | 2.50 |
| GROUP 2 | 11.56 | 2.50 |
| GROUP 3 | 16.65 | 2.50 |
| GROUP 4 | 16.90 | 2.50 |
| GROUP 5 | 17.15 | 2.50 |
| GROUP 6 | 17.40 | 2.50 |
| GROUP 7 | 17.90 | 2.50 |
| ZONE 6 - GROUP 1 | 16.11 | 2.50 |
| GROUP 2 | 16.36 | 2.50 |
| GROUP 3 | 16.61 | 2.50 |
| GROUP 4 | 16.86 | 2.50 |
| GROUP 5 | 17.36 | 2.50 |
| GROUP 6 | 17.11 | 2.50 |
| GROUP 7 | 15.86 | 2.50 |
| GROUP 8 | 13.18 | 2.50 |
| GROUP 9 | 11.61 | 2.50 |
| GROUP 10 | 9.45 | 2.50 |
| GROUP 11 | 10.78 | 2.50 |
| ZONE 7 - GROUP 1 | 15.23 | 2.50 |
| GROUP 2 | 12.49 | 2.50 |
| GROUP 3 | 12.68 | 2.50 |
| GROUP 4 | 15.73 | 2.50 |
| GROUP 5 | 10.79 | 2.50 |
| GROUP 6 | 9.08 | 2.50 |
| GROUP 7 | 15.48 | 2.50 |
| GROUP 8 | 15.73 | 2.50 |
| GROUP 9 | 15.98 | 2.50 |
| GROUP 10 | 16.23 | 2.50 |
| GROUP 11 | 16.73 | 2.50 |
| GROUP 12 | 17.23 | 2.50 |
| ROOFERS: | | |
| ZONE 1: | | |
| Roofers | 15.70 | .20 |
| Roofer helpers remove old roofing, hustle material & cleanup under supervision of a journeymen | 12.30 | .20 |

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| | Basic Hourly Rates | Fringe Benefits |
|---|---|---|
| ROOFERS (Cont'd): | | |
| ZONE 2: | | |
| Roofers | 10.11 | 3.20 |
| Preparers remove old roofing,place,stock or move materials,tools or equipment for journeymen | 4.90 | 1.50 |
| ZONE 3: | | |
| Roofers | 12.78 | 1.94 |
| Preparers remove old roofing,place,stock or move materials,tools or equipment for journeymen | 5.00 | |
| ZONE 4: | | |
| Roofers | 11.50 | .30 |
| Kettlemen | 9.20 | .30 |
| ZONE 5 - Roofers | 12.86 | .24 |
| SHEET METAL WORKERS: | | |
| ZONE 1 | 17.28 | 3.12+3% |
| ZONE 2 | 15.47 | 3.03+3% |
| ZONE 3 | 16.26 | 1.86+3% +c |
| ZONE 4 | 13.92 | 1.83+3% |
| SPRINKLER FITTERS | 15.07 | 3.23 |
| SOUND INSTALLERS: The installation (except the installation of conduit,the wiring of light circuits & the wiring of power circuits up to the final distrubtion panel),operation,maintenance & repair of video sound or audio & associated signal equip. & apparatus by means of which electricity is applied in the transmission or transference, production or reproduction of voice or sound with or without ethereal aid,including all types of signal systems that may be required: JEFFERSON, ORLEANS, PLAQUEMINES,ST. BERNARD & ST. CHARLES PARS. | 11.82 | 1.86+3% +d |

| | Basic Hourly Rates | Fringe Benefits |
|---|---|---|
| TRUCK DRIVERS: | | |
| ZONE 1: | | |
| Pick-ups | 13.27 | .70 |
| Stake bodies;dumps; trailer trucks;winch trucks; Mississippi wagons | 14.16 | .70 |
| ZONE 2: | | |
| GROUP 1 | 9.05 | .60 |
| GROUP 2 | 9.30 | .60 |
| GROUP 3 | 9.85 | .60 |
| GROUP 4 | 9.70 | .60 |
| GROUP 5 | 10.15 | .60 |
| GROUP 6 | 10.25 | .60 |
| GROUP 7 | 10.55 | .60 |
| GROUP 8 | 10.70 | .60 |
| ZONE 3: | | |
| GROUP 1 | 9.87 | |
| GROUP 2 | 9.95 | |
| GROUP 3 | 10.20 | |
| GROUP 4 | 10.35 | |
| GROUP 5 | 10.50 | |
| GROUP 6 | 10.70 | |
| GROUP 7 | 11.05 | |
| ZONE 4: | | |
| GROUP 1 | 13.18 | |
| GROUP 2 | 13.48 | |
| GROUP 3 | 13.63 | |
| GROUP 4 | 13.83 | |
| GROUP 5 | 13.98 | |
| GROUP 6 | 13.78 | |
| ZONE 5: | | |
| GROUP 1 | 11.39 | .70 |
| GROUP 2 | 12.00 | .70 |
| GROUP 3 | 12.05 | .70 |
| GROUP 4 | 12.31 | .70 |

FOOTNOTES:

a - 1st 6 mos.-none; 6 mos. to 5 yrs.-6%;over 5 yers.-8% of basic hourly rate & 7 paid holidays A thru G

b - 5 days paid vacation and 6 paid holidays A thru F

c - Labor Day shall be a paid holiday at the straight time rate only for employees who have been on the payroll at least 2 weeks & who have worked the 5 full working days prior to Labor Day unless no work was available,employee was excused from attendance by employer or can provide a statement from his physician that he was ill & unable to work

d - Paid Holidays A,C,D,E,G,Mardi Gras Day & Christmas Eve

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PAID HOLIDAYS: A-New Years' Day;B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-the Friday after Thanksgiving Day; G-Christmas Day

ZONE DEFINITIONS FOR ASBESTOS WORKERS:

ZONE 1 - Acadia, Allen, Beauregard, Calcasieu, Cameron, Evangeline, Jefferson Davis, Rapides, Vermilion & Vernon Parishes
ZONE 2 - Bienville, Bossier, Caddo, Caldwell, Claiborne, DeSoto, Grant, Jackson, Lincoln, Natchitoches, Ouachita, Red River, Sabine, Union, Webster & Winn Parishes
ZONE 3 - Ascension, Assumption, Avoyelles, Catahoula, Concordia, East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Lafayette, Lafourche, LaSalle, Livingston, Orleans, Plaquemines, Pointe Coupee, St. Bernard, St. Charles, St. Helena, St. James, St. John the Baptist, St. Landry, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge & West Feliciana Parishes
ZONE 4 - East Carroll, Franklin, Madison, Morehouse, Richland, Tensas & West Carroll Parishes

ZONE DEFINITIONS FOR BRICKLAYERS AND STONEMASONS

ZONE 1 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, Livingston, St. Helena, Tangipahoa, West Baton Rouge & West Feliciana Parishes
ZONE 2 - Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle, Pointe Coupee, Rapides & St. Landry Parishes
ZONE 3 - Acadia, Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 4 - Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Tammany (extending northward to that part of St. Tammany Par. from Tangipahoa Par. on the west along U.S. Hwy. 190 through the lower limits of Covington, along State Hwy. 58, through the lower limits of Abita Springs & Talisheek & on a line due east from Talisheek to the Mississippi State Line) & Terrebonne Parishes
ZONE 5 - St. Tammany (north half including Covington north of Hwy. 90) & Washington Parishes
ZONE 6 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Parishes
ZONE 7 - Natchitoches & Sabine Parishes
ZONE 8 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn
ZONE 9 - Iberia, Lafayette, St. Martin, St. Mary & Vermilion Pars.

ZONE DEFINITIONS FOR CARPENTERS:

ZONE 1 - All of Acadia, Evangeline, Lafayette, St. Landry & Vermilion Pars.; Parts of Iberia, St. Martin & St. Mary Pars. (west of the Atchafalaya River)
ZONE 2 - Calcasieu Parish & Fort Polk in Vernon Parish

ZONE 3 - Parts of St. Tammany & Tangipahoa (north of I-12 from the Mississippi State Line to the western boundary of Tangipahoa Par.) & Washington Parishes
ZONE 4 - Ascension, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, St. James (north of the Mississippi River),West Baton Rouge & West Feliciana Pars.
ZONE 5 - All of Jefferson, Orleans, Plaquemines, St. Bernard, St. Charles & St. John the Baptist Pars.; Parts of St. Tammany & Tangipahoa (south of I-12 from the Mississippi State Line to the western boundary of Tangipahoa Par.) Parishes
ZONE 6 - Assumption, Iberia (east of the Atchafalaya River), Lafourche, St. James (south of the Miss. River), St. Martin (eastern segment of the Atchafalaya River), St. Mary (east of the Atchafalaya River) & Terrebonne Parishes

ZONE DEFINITIONS FOR CARPENTERS (Cont'd)

ZONE 7 - Avoyelles, Grant, LaSalle, Natchitoches, Rapides & Sabine
ZONE 8 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River, Webster Parishes
ZONE 9 - Caldwell, Catahoula, Concordia, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn Parishes
ZONE 10 - Allen, Beauregard, Cameron, Jefferson Davis & Vernon (excluding Fort Polk)

ZONE DEFINITIONS FOR CEMENT MASONS

ZONE 1 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, St. James, Tangipahoa, West Baton Rouge & West Feliciana Parishes
ZONE 2 - Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 3 - Acadia, Iberia, Lafayette, St. Landry, St. Martin, St. Mary & Vermilion Parishes
ZONE 4 - Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist, St. Tammany (north to Interstate Hwy. 12) & Terrebonne Parishes
ZONE 5 - St. Tammany (northern half including Covington north of Hwy 190) & Washington Parishes
ZONE 6 - Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle & Rapides Parishes
ZONE 7 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Parishes
ZONE 8 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn
ZONE 9 - Natchitoches & Sabine Parishes

ZONE DEFINITIONS FOR ELECTRICIANS

ZONE 1 - Ascension, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, St. Landry, West Baton Rouge & West Feliciana Parishes
ZONE 2 - St. Tammany, Tangipahoa & Washington Parishes
ZONE 3 - Allen, Beauregard, Calcasieu, Cameron & Jefferson Davis Pars.
ZONE 4 - Acadia, Iberia, Lafayette, St. Martin (northern segment), St. Mary (that portion southwest of the Atchafalaya River) & Vermilion Parishes
ZONE 5 - Assumption, Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Martin (southern segment), St. Mary (that portion northest of the Atchafalaya River) & Terrebonne Parishes
ZONE 6 - Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle, Natchitoches (that portion southwest of the Red River), Rapides, Sabine, Vernon & Winn Parishes
ZONE 7 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches (that portion northeast of the Red River), Red River & Webster Pars.
ZONE 8 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union & West Carroll Pars.

ZONE DEFINITIONS FOR ELEVATOR CONSTRUCTORS:

ZONE 1 - Acadia, Allen, Ascension, Assumption, Beauregard, Calcasieu, Cameron, East Baton Rouge, East Feliciana, Evangeline, Iberia, Iberville, Jefferson, Jefferson Davis, Lafayette, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, St. Bernard, St. Charles, St. Helena, St. James, St. John the Baptist, St. Landry, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne, Vermilion, Washington, West Baton Rouge & West Feliciana Parishes



ZONE DEFINITIONS FOR ELEVATOR CONSTRUCTORS (Cont'd):

ZONE 2 - Avoyelles, Bienville, Bossier, Caddo, Caldwell, Catahoula, Claiborne, Concordia, DeSoto, East Carroll, Franklin, Grant, Jackson, LaSalle, Lincoln, Madison, Morehouse, Natchitoches, Ouachita, Rapides, Red River, Richland, Sabine, Tensas, Union, Vernon, Webster, West Carroll & Winn Parishes

ZONE DEFINITIONS FOR GLAZIERS:

ZONE 1 - Allen (except northeast corner), Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 2 - Acadia, Ascension (north of Hwy. 22), Assumption (north of Hwy. 22), East Baton Rouge, East Feliciana, Iberia, Iberville, Lafayette, Livingston (north of Hwy. 22), Pointe Coupee, St. Helena, St. Landry (south half), St. Martin, St. Mary (except Morgan City Area), Tangipahoa (west of Hwy. 51), Vermilion, West Baton Rouge & West Feliciana Parishes
ZONE 3 - Ascension (south of Hwy. 22), Assumption (south of Hwy. 22), Jefferson, Lafourche, Livingston (south of Hwy. 22), Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Mary (Morgan City Area), St. Tammany (southern portion) & Terrebonne Parishes
ZONE 4 - Bienville (western half), Bossier, Caddo, Claiborne, DeSoto, Natchitoches (to city of Natchitoches), Red River, Sabine & Webster
ZONE 5 - St. Tammany (northern 2/3 everything north of a straight line running east & west from Pearl River to Mandeville), Tangipahoa (everything east of Rt. 51 & everything north of a straight line running east & west from Madisonville through Ponchatoula) & Washington Parishes

ZONE DEFINITIONS FOR IRONWORKERS:

ZONE 1 - All of Jefferson, Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist & St. Tammany Pars.; Parts of Lafourche, Livingston, St. James, Tangipahoa, Terrebonne & Washington Pars. (west of a straight line drawn from the La.-Miss. border, east of the city limits of Warrenton, southwest through Hammond to the Gulf of Mexico)
ZONE 2 - All of Ascension, Assumption, Avoyelles, East Baton Rouge, East Feliciana, Iberia, Iberville, Pointe Coupee, St. Helena, St. Martin, St. Mary, West Baton Rouge & West Feliciana Pars.; Parts of Acadia, Evangeline, Lafayette, St. Landry & Vermilion Pars. (east of a line drawn from the meeting point of the boundaries of the Pars. of Rapides, Avoyelles & Evangeline, southeast along the western city limits of Abbeville to the Gulf of Mexico); Parts of Lafourche, Livingston, St. James, Tangipahoa, Terrebonne & Washington Pars. (west of a straight line drawn from the La.-Miss. border, west of the city limits of Warrenton, southwest through Hammond to the Gulf of Mexico); Parts of Catahoula, Concordia & LaSalle Pars. (south of a line drawn from Natchez through the city of Cottonport to the Rapides Par. line, then west along the southern border of Rapides Par.)

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ZONE DEFINITIONS FOR IRONWORKERS (Cont'd):

ZONE 3 - All of Bossier, Caddo, DeSoto, Red River & Webster Pars.; Parts of Bienville, Claiborne, Natchitoches & Winn Pars. (west of a line drawn directly south from the Ark.-La. border through the cities of Arcadia & Cloutierville); Part of Sabine Par. (north of a line drawn from the Natchitoches Par. boundary west through the city of Peason to the Tex.-La. border)
ZONE 4 - All of Caldwell, East Carroll, Franklin, Grant, Jackson, Lincoln, Morehouse, Ouachita, Rapides, Richland, Tensas, Union & West Carroll Pars.; Parts of Bienville, Claiborne, Natchitoches & Winn Pars. (east of a line drawn directly south from the Ark.-La. border through the cities of Arcadia & Cloutierville); Part of Madison Par. (except the cities of Mound, Delta & adjacent areas); Parts of Catahoula, Concordia & LaSalle Pars. (north of a line drawn from Natchez through the city of Cottonport to the Rapides Par. line)
ZONE 5 - That part of Madison Par. (including the cities of Mound, Delta & adjacent areas)
ZONE 6 - All of Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Pars.; Parts of Acadia, Evangeline, Lafayette, St. Landry & Vermilion Pars. (southwest of Rapides Par. & west of a line south of the western most border between Rapides & Evangeline)

LABORERS - ZONE 1 (CLASSIFICATION DEFINITIONS)

GROUP 1 - Building and labor construction
GROUP 2 - Stone mason tenders, mechanical tool operators, sewermen (bottom men, caulkers, tenders, joint wipers, hot pot, grade carriers, layers & ditchers 4 ft. or over); tender of all crafts; sandblaster (nozzlemen); sandblaster (pot tender); laying non-metallic pipe over 4 ft. deep, including sewer, drain & underground tile; septic tank diggers & installers, over 4 ft. deep; gas & oil pipeline laborers & wrappers
GROUP 3 - Gunite tool operators
LABORERS - ZONE 2
GROUP 1 - Building laborer; rotary drill laborers; foundation drill crewman
GROUP 2 - Mason mixer; plaster mixer; mechanical tool op. (jackhammer, vibrator, tamper, chipping gun, soil tillers); sandblaster; laying concrete, clay, plastic, asbestos cement, casing & corrugated metal pipe, as sewer, drain & underground tile (caulkers, joint wrappers hot pot & pipe layers); gas & oil pipeline laborers wrappers & dopers

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LABORERS (CLASSIFICATION DEFINITIONS)(Cont'd):

LABORERS - ZONES 5 & 6
GROUP 1 - Building and general laborers, carpenter tenders
GROUP 2 - Power tool ops. (hammer men, tamper, vibrator, power buggies, concrete chippers & cutters, chain saw ops.,etc.); pipelayers (non-metallic)
GROUP 3 - Mason tenders, plaster tenders, cement mix (wet or dry) tenders, hod carrier tender; mortar mixers & cement maxers (wet or dry)
LABORERS - ZONE 7
GROUP 1 - Laborers
GROUP 2 - Laborers handling pans, stone mason tenders, mechanical tool ops., sewermen, sandblaster; laying non-metallic pipe over 4' deep, including sewer pipe, drain pipe, & underground tile; septic tank diggers & installers over 4' deep; gas & oil pipeline laborers & wrappers; scalers using boatswain's chair, safety belt or power tool; scaler & cleaners
GROUP 3 - Gunnite tool operators
GROUP 4 - Bricklayer & mason tender
GROUP 5 - Hod carrier using a prime mover to serve a bricklayer; mortar mixer, either hand or machine
GROUP 6 - General job cleanup
LABORERS - ZONE 8
GROUP 1 - Common laborers
GROUP 2 - Jackhammermen, sewermen, mason tenders, plaster tenders, stone mason tenders, vibratormen
GROUP 3 - Mortar mixers
GROUP 4 - General job cleanup
LABORERS - ZONE 9
GROUP 1 - Common laborers; carpenter tenders; mason tenders (other than cement); plasterers tenders; stone mason tenders; concrete workers; scaffold builders
GROUP 2 - Air tool ops. (jackhammer, vibrator & tamper); sewer pipe joiners & setters; concrete cutters; hod carriers; creosote materials handler; acid worker; mason tenders (cement); Mortar mixer (wet or dry); motorized buggy op.; water proofers (mastic); form setters (steel paving forms)
GROUP 3 - Chain saw operator
GROUP 4 - Asphalt raker, tamper, smoother & shovelers; sewer pipelayers; blaster tenders
GROUP 5 - Powderman
LABORERS - ZONE 10
GROUP 1 - Laborers, Plasterer tenders, asphalt rakers & smoothers
GROUP 2 - Mason tenders
GROUP 3 - Mortar mixers
GROUP 4 - Sewer pipe layers & wipers, burners on demolition, mechanical tool ops. (including but not limited to jackhammer, tamper, vibrator chipping hammer)
LABORERS - ZONE 11
GROUP 1 - Laborers, tenders (brickmasons, stonemasons, cement masons, carpenters, plasterers), stripping & dismantling; concrete form work; loading, unloading, carrying & handling steel & steel mesh; assisting to the setting of cut stone, granite or artificial stone; building scaffolds; shoring
GROUP 2 - Mechanical tool op. (air, electric, motor, engine, etc.); sewer pipelayers; mortar mixers (hand or machine); gunnite op., tile, terrazzo & marble setter finishers
GROUP 3 - Pipe dopers & burners

ZONE DEFINITIONS FOR LABORERS:

ZONE 1 - St. Tammany (as far south as Bayou Lacombe & east to the Miss. State Line at Pearlington), Tangipahoa (all but southwestern corner) & Washington Parishes
ZONE 2 - Acadia, Iberia, Lafayette, St. Landry, St. Martin, St. Mary (excluding that part of Par. to the Calumet Locks west) & Vermilion
ZONE 3 - Calcasieu Parish
ZONE 4 - Allen, Beauregard, Cameron, Jefferson Davis & Vernon Parishes
ZONE 5 - All of Ascension, East Baton Rouge, East Feliciana, Iberville, Pointe Coupee, West Baton Rouge & West Feliciana Pars.; Parts of Assumption, St. James, St. John the Baptist Pars. (north of a line drawn from the southern limits of the town of St. James in St. James Par. to the northern limits of the town of Napoleonville in Assumption Par. & then directly west to the Par. Line, all of St. James Par. except that part which is east of a line drawn from Lutcher to U.S. Hwy. 61 (Airline Hwy.) then west on U.S. 61 to Blind River & on a direct line to Manchac)
ZONE 6 - Livingston, St. Helena & Tangipahoa (south & west of a line running from the western Par. line to a point directly east which touches the northern limits of the town of Independence, then directly south to Lake Pontchartrain) Parishes
ZONE 7 - Jefferson (except Grand Isle), Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist (on the west bank of the Miss. River & the portion of St. John the Baptist on the east bank of the Miss. River as far as the Sycamore Inn at Lutcher & north to Blind River & Manchac) & St. Tammany (north as far as Bayou Lacombe, east to the Miss. State Line at Pearlington) Pars.
ZONE 8 - Assumption (north of Napoleonville), Jefferson (Grand Isle), Lafourche, St. James (on the west bank & including the town of Vacherie), St. Mary (that part of Parish to the Calumet Locks west) & Terrebonne Parishes
ZONE 9 - Avoyelles, Evangeline, Grant, LaSalle, Natchitoches, Rapides & Winn Parishes
ZONE 10 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River, Sabine & Webster Parishes
ZONE 11 - Caldwell, Catahoula, Concordia, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union & West Carroll Parishes

ZONE DEFINITIONS FOR LATHERS:

ZONE 1 - Assumption, Iberia (east of the Atchafalaya River), Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James (south of the Miss. River), St. John the Baptist, St. Martin (eastern segment of the Atchafalaya River), St. Mary (east of the Atchafalaya River), St. Tammany, Tangipahoa, Terrebonne and Washington Parishes
ZONE 2 - Ascension, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, St. James (north of the Mississippi River), West Baton Rouge & West Feliciana Parishes
ZONE 3 - All of Acadia, Evangeline, Lafayette, St. Landry, & Vermilion Pars.; Parts of Iberia, St. Martin & St. Mary Pars. (west of the Atchafayala River)



ZONE DEFINITIONS FOR LATHERS (Cont'd):

ZONE 4 - Calcasieu Parish
ZONE 5 - Allen, Beauregard, Cameron, Jefferson Davis & Vernon Parishes
ZONE 6 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Parishes
ZONE 7 - Avoyelles, Grant, LaSalle, Natchitoches, Rapides & Sabine Parishes
ZONE 8 - Caldwell, Catahoula, Concordia, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn Parishes

ZONE DEFINITIONS FOR LINE CONSTRUCTION

ZONE 1 - Assumption, Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Martin (southern segment), St. Mary (that portion northeast of the Atchafalaya River) & Terrebonne Parishes
ZONE 2 - Ascension, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, St. Landry, West Baton Rouge & West Feliciana Parishes
ZONE 3 - Allen, Beauregard, Calcasieu, Cameron & Jefferson Davis Pars.
ZONE 4 - Acadia, Iberia, Lafayette, St. Martin (northern segment), St. Mary (that portion southwest of the Atchafalaya River) & Vermilion Parishes
ZONE 5 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union & West Carroll Pars.
ZONE 6 - Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle, Natchitoches (that portion southwest of the Red River), Rapides, Sabine, Vernon & Winn Parishes
ZONE 7 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches (that portion northeast of the Red River), Red River & Webster Pars.

ZONE DEFINITIONS FOR MARBLE, TILE & TERRAZZO WORKERS AND FINISHERS

ZONE 1 - Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Tammany (extending northward to that part of St. Tammany Par. from the Tangipahoa Par. Line on the west along U.S. Hwy. 190 through the lower limits of Covington, along State Hwy. 58 through the lower limits of Covington, along State Hwy. 58 through the lower limits of Abita Springs & Talisheek & on a line due east from Talisheek to the Miss. State Line) & Terrebonne Parishes
ZONE 2 - Acadia, Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 3 - Iberia, Lafayette, St. Martin, St. Mary & Vermilion Pars.
ZONE 4 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn
ZONE 5 - Bienville, Bossier, Caddo, Claiborne, De Soto, Red River & Webster Parishes
ZONE 6 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, Livingston, St. Helena, Tangipahoa, West Baton Rouge & West Feliciana Parishes
ZONE 7 - St. Tammany (northern half including Covington north of Hwy. 190) & Washington Parishes

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PAINTERS CLASSIFICATION DEFINITIONS

ZONE 1
GROUP 1 - Painters brush, roller & buffer
GROUP 2 - Paperhanging, taping & floating
GROUP 3 - Spray, sandblasting, hydroblasting, spider op., rubberizing & pyroflexing, steam jennies, taping & floating machine
GROUP 4 - Water towers, radio & TV towers

ZONE 2
GROUP 1 - Brush; taping; floating & texture
GROUP 2 - Sandblasting, industrial & steel

ZONE 3
GROUP 1 - Painters, paperhangers & sheetrock tapers & floaters
GROUP 2 - Structural steel painters of new building under construction; the following overall of 30 ft.; tanks, air conditioning, towers, smoke stacks, sprinkler systems, wharves & structural steel in old buildings; spray painters, swing stage painter
GROUP 3 - Industrial

ZONE 4
GROUP 1 - Brush
GROUP 2 - Brush swing stage
GROUP 3 - Brush industrial
GROUP 4 - Spray; spray steel, sandblasting
GROUP 5 - Spray swing stage
GROUP 6 - Paperhanger
GROUP 7 - Sheetrock finishers

ZONE 6
GROUP 1 - Painters, paperhangers, tapers & floaters
GROUP 2 - Stage,window jacks,bosun chairs,structural steel,rollers,equipment painting;sandblasting, spray. stack sign,tank painting,steeple jack
GROUP 3 - Structural steel brush

PAINTERS ZONE DEFINITIONS

ZONE 1 - Allen, Beauregard, Calcasieu, Cameron, & Jefferson Davis Parishes
ZONE 2 - Ascension (north of Hwy. 22), Assumption (north of Hwy.22), Concordia, East Baton Rouge, East Feliciana, Iberville, Livingston (north of Hwy. 22), Pointe Coupee, St. Helena, Tangipahoa (west of Hwy. 51), West Baton Rouge & West Feliciana Parishes
ZONE 3 - Ascension (south of Hwy. 22), Assumption (south of Hwy. 22), Lafourche, Livingston (south of Hwy. 22), Jefferson, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Mary (Morgan City Area), St. Tammany (southern portion) & Terrebonne
ZONE 4 - St. Tammany (northern 2/3, everything north of a straight line running east & west from Pearl River to Mandeville), Tangipahoa (everything east of Rt. 51 & everything north of a straight line running east & west from Madisonvillethrough Ponchatoula) & Washington Pars.
ZONE 5 - Avoyelles, Bienville (western half), Bossier, Caddo, Catahoula, Claiborne, DeSoto, Evangeline, Grant, LaSalle, Natchitoches (except northeast corner) Rapides, Red River, Sabine, St. Landry (northern portion), Vernon, Webster & Winn (southern half from a line running east & west through the intersection of Rts. 84 & 71 including the town of Winnfield at that intersection) Pars.

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PAINTERS ZONE DEFINITIONS (Cont'd):

ZONE 6 - Bienville (eastern portion, everything east of Rt. 9 inclusive), Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Natchitoches (northeast corner), Ouachita, Richland, Tensas, Union, West Carroll & Winn (northern half, everything north of a line running east & west through Winnfield, excluding Winnfield) Parishes
ZONE 7 - Acadia, Iberia, Lafayette, St. Landry (south half), St. Martin, St. Mary (except Morgan City Area) & Vermilion Parishes

PLASTERERS ZONE DEFINITIONS

ZONE 1 - St. Tammany (northern half including Covington north of Hwy. 190) & Washington Parishes
ZONE 2 - Acadia, Iberia, Lafayette, St. Landry, St. Martin, St. Mary & Vermilion Parishes
ZONE 3 - Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 4 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. James, St. Helena, Tangipahoa, West Baton Rouge & West Feliciana Parishes
ZONE 5 - Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist, St. Tammany (Par. line on the west along U.S. Hwy. 190 through the lower limits of Covington & Abita Springs along State Hwy. 435 to Talisheek & on a line due east from Talisheek to the Miss. State Line) & Terrebonne Parishes
ZONE 6 - Avoyelles, Catahoula, Concordia, Evangline, Grant, LaSalle & Rapides Parishes
ZONE 7 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Parishes
ZONE 8 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn
ZONE 9 - Natchitoches & Sabine Parishes

PLUMBERS & PIPEFITTERS ZONE DEFINITIONS

ZONE 1 - Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James (northern 2/3 of Par.), St. John the Baptist, St. Tammany, Tangipahoa, Terrebonne & Washington Parishes
ZONE 2 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberia (eastern 1/2 of Par.), Iberville, Livingston, Pointe Coupee, St. Helena, St. James (western 1/3 of Par.), St. Martin (southern part of eastern 1/2 of Par.),St. Mary, West Baton Rouge & West Feliciana Parishes
ZONE 3 - Avoyelles, Catahoula, Concordia,Evangeline, Grant, LaSalle, Natchitoches (south of Hwy. 84 & 86 from Winnfield to Natchitoches & southeast from Natchitoches to Anacoco through Bellwood), Rapides, Vernon (northeast of Hwy. 10 & Winn (south of Hwy. 84) Parishes
ZONE 4 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River, Sabine & Webster Pars.; Parts of Natchitoches & Vernon Pars. (northwest from a line drawn from Natchitoches to Anacoco through Bellwood & north of Hwy. 111 between Anacoco & Haddens) Parishes
ZONE 5 - Acadia, Allen, Beauregard, Calcasieu, Cameron, Iberia (western 1/2 of Par.), Jefferson Davis, Lafayette, St. Landry, St. Martin (west of Hwy. 31) & Vermilion Parishes
ZONE 6 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn north of Hwy. 84) Parishes

POWER EQUIPMENT OPERATORS - ZONE 1 - CLASSIFICATION DEFINITIONS

GROUP 1 - Asphalt spreader;backhoes,track mounted,over 1 CY;backhoe,rubber tired;crawler tractors,bulldozers & front end loaders (over D-4 & equivalent);cableways;concrete mixers,over 16-S;Cranes w/lattice boom;cranes w/hydraulic boom;clamshells;derricks;draglines;forklifts,over 10,000 lbs. capacity;grease serviceman;hoist,material,2 drums & over;hoist, 1 drum 4 stories or more or 40 ft.;heavy duty mechanic and/or welder;hydraulifts & boom trucks;motor patrols;piledrivers;pump,concrete (6" & over);road pavers;rollers on asphalt or brick;scoopmobiles;scrapers;sideboom cats; shovels;trenching & ditching machines,over 66" digging depth;tractorvators; winch cats (hoisting)

GROUP 2 - Air compressors,over 500 CFM;asphalt plant op.;bull floats;crane, hydraulic,7½ tons & less;crawlertractors,bulldozers & front end loaders (D-4 & equivalent & under);concrete spreader;finish machines;forklifts to 10,000 lbs.;distributor (bitum surface);dowel bar machine;elevator op. riding inside cab;rubber tire tractor with all attachments (excluding backhoe); fireman;hoist,1 drum,less than 4 stories or 40 ft.;kolum buff machine;pull cats;pump,concrete (under 6");rollers,except on asphalt or brick; straddle buggies;motorized sweepers on streets & roads;winch trucks,A-frame;water pumps,gasoline or diesel (over 6")

GROUP 3 - Unit operator

GROUP 4 - Oiler

GROUP 5 - Oiler/driver

GROUP 6 - Well point operator

POWER EQUIPMENT OPERATORS - ZONE 2 - CLASSIFICATION DEFINITIONS

GROUP 1 - Oiler

GROUP 2 - Oiler-Driver

GROUP 3 - Scaleman

GROUP 4 - Air compressor; Asphalt plant op.; Bulldozer, D-4 equivalent & under; Bullfloats; Concrete spreader; Finishing machines; Concrete mixer (16-s or less); Concrete saw; Distributors (bitum surface); Dowell bar machine; Farm-type tractor (with all attachments except backhoe); Fireman; Fork lifts (other than setting steel, machinery or pipe); Hoist, 1 drum less than 4 stories; Kolum buff machine; Pull cats; Pump (3" & over); Pump, concrete (under 6"); Rollers, except on asphalt or brick; Straddle buggies; Sweepers on streets & roads (motorized); Winch truck, A-frame (other than handling steel or pipe)

GROUP 5 - Asphalt spreader, Backhoe, Bulldozer, over D-4 & equivalent; Cableways; Concrete mixer, over 16-s; Cranes, Derricks; Ditching or trenching machines; Draglines; Fork lifts (setting steel, machinery or pipe); Front end loaders (except farm-type tractors); Grease serviceman; Hoist, 1 drum, 4 stories or more or 40 ft. (on structures other than buildings); Hoist, 2 drums & over; Hydrolifts; Heavy duty mechanic; Motor patrols; Piledrivers; Pump, concrete (6" & over); Road pavers; Rollers on asphalt or brick; Scoopmobiles; Scrapers; Sideboom cats; Shovels; Tractorvators; Welder, journeyman; Winch cats (hoisting); Winch truck, A-frame (handling steel or pipe)

GROUP 6 - Well point system & unit operator

POWER EQUIPMENT OPERATORS - ZONE 3 - CLASSIFICATION DEFINITIONS

GROUP 1 - Oiler

GROUP 2 - Oiler-Driver

GROUP 3 - Scaleman



POWER EQUIPMENT OPERATORS - ZONE 3 - CLASSIFICATION DEFINITIONS (Cont'd)

GROUP 4 - Air compressor; Asphalt plant; Bulldozer, D-4 equivalent & under; Bullfloats; Concrete spreader; Finishing machines; Concrete mixer (16-s or less); Concrete saw; Distributors (bitum surface); Dowell bar machine; Farm-type tractor (with all attachments except backhoe); Fireman; Fork lifts (other than setting steel, machinery or pipe); Hoist, 1 drum less than 4 stories; Kolum buff machine; Pull cats; Pump (3" & over); Pump, concrete (under 6"); Rollers, except on asphalt or brick; Straddle buggies; Sweepers on streets & roads (motorized); Winch truck, A-frame (other than handling steel or pipe)

GROUP 5 - Asphalt spreader; Backhoe; Bulldozer, over D-4 & equivalent; Cableways; Concrete mixer, over 16-s; Cranes; Derricks; Ditching or trenching machines; Draglines; Fork lifts (setting steel, machinery or pipe); Front end loaders (except farm-type tractors); Grease serviceman; Hoist, 1 drum, 4 stories or more or 40 ft. (on structures other than buildings); Hoist, 2 drums & over; Hydrolifts; Heavy duty mechanic; Motor patrols; Piledrivers; Pump, concrete (6" & over); Road pavers; Rollers on asphalt or brick; Scoopmobiles; Scrapers; Sideboom cats; Shovels; Tractorvators; Welder, journeyman

GROUP 6 - Well point & unit operator

POWER EQUIPMENT OPERATORS - ZONE 4 - CLASSIFICATION DEFINITIONS

GROUP 1 - Oiler

GROUP 2 - Oiler-Driver

GROUP 3 - Scaleman

GROUP 4 - Air compressor; Asphalt plant; Bulldozer, D-4 & equivalent & under; Bullfloats; Concrete spreader; Finishing machines; Concrete mixer (16-s or less); Concrete saw; Distributors (bitum surface); Dowell bar machine; Farm-type tractor (with all attachments except backhoe); Fireman; Fork lifts (other than setting steel, machinery or pipe); Hoist, 1 drum less than 4 stories; Kolum buff machine; Pull cats; Pump (3" & over); Pump, concrete (under 6"); Rollers, except on asphalt or brick; Straddle buggies; Sweepers on streets & roads (motorized); Winch truck, A-frame (other than handling steel or pipe)

GROUP 5 - Asphalt spreader; Backhoe; Bulldozer, over D-4 & equivalent; Cableways; Concrete mixer, over 16-s; Cranes; Derricks; Ditching or trenching machines; Draglines; Fork lifts (setting steel, machinery or pipe); Front end loaders (except farm-type tractors); Grease serviceman; Hoist, 1 drum, 4 stories or more or 40 ft. (on structures other than buildings); Hoist, 2 drums & over; Hydrolifts; Heavy duty mechanic; Motor patrols; Piledrivers; Pump concrete (6" & over); Road pavers; Rollers on asphalt or brick; Scoopmobiles; Scrapers; Sideboom cats; Shovels; Tractorvators; Welder, journeyman; Winch cats (hoisting); Winch truck, A-frame (handling steel or pipe)

GROUP 6 - Unit operator

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS - ZONE 5

GROUP 1 - Asphalt plant operator; Asphalt spreader; backhoes (all types); Boom trucks; Bulldozers; Bull Floats; Bush Hog; Cableways; Cherry Pickers (all types); Concrete Mixers (over one sack); Concrete Pump; Concrete Saw, Concrete Spreader; Cranes; Deck Winches; Derricks; Distributors; Ditching or Trenching Machines (riding type); Dowel Bar Machine; Draglines; Dredges; Elevator Operator; Finishing Machines (roadway, riding type); Fork Lifts (other than farm-type outside warehouse); Foundation Drill; Front End Loaders; Grease Service Man; Hoists; Locomotives (all types); Mechanic; Mixer Plant Op. (central Mix); Motor Patrols; Motorized Street Sweepers,

POWER EQUIPMENT OPERATORS - ZONE 5 - CLASSIFICATION DEFINITIONS (Cont'd):

GROUP 1 (Cont'd)
(self-propelled); Piledrivers; Pull Cat; Pump (3" & over); Push Cat; Road Pavers; Rollers; Scrapers; Shovels; Sideboom; Test Pump-Internal Combustion Engine Powered; Tower Cranes; Welder Journeyman; Well Point System; Whirleys; Winch Cats; Winch Truck with A-Frame; Work Boats

GROUP 2 - Batch Plant; Compressor; Ditching or Trenching Machine (non-riding type); Fireman; Generator or Light Plant over 5 h.p.; Mixers (one sack & under); Oiler, Oiler-Compressor op.; Oiler-Driver on Motor Crane; Oiler-Fireman; Pump (under 3" suction ); Scale op.; Water Blast Pump; Welding Machine

GROUP 3 - Crane 60 tons & over; Crane Boom 100' over but less than 150'

GROUP 4 - Crane 100 tons & up to 125 tons; Crane Boom 150' & over but less than 225'

GROUP 5 - Crane over 125 tons up to 200 tons

GROUP 6 - Crane over 200 tons up to 300 tons; Crane Boom 225' & over but less than 300'

GROUP 7 - Crane over 300 tons; Crane Boom 300' & over

POWER EQUIPMENT OPERATORS - ZONE 6 - CLASSIFICATION DEFINITIONS

GROUP 1 - Crane op. 60 tons & over; Crane op boom 100 ft. & over but less than 150 ft.; Piledriver op. leads 100 ft. & over but less than 150 ft.

GROUP 2 - Crane op. 100 tons up to 125 tons; Crane op. boom 150 ft. & over but less than 225 ft.; Piledriver op. leads 150 ft. & over but less than 225 ft.

GROUP 3 - Crane op. 125 tons up to 200 tons; Crane op. boom 225 ft. & over but less than 300 ft.; Piledriver op. leads 225 ft. & over but less than 300 ft.

GROUP 4 - Crane op. 200 tons up to 300 tons

GROUP 5 - Crane op. 300 tons

GROUP 6 - Crane op. boom 300 ft. & over;Piledriver Op. 300 ft. & Over

GROUP 7 - Crane; Backhoe; Cableway; Concrete mixer, 16S & up; Derrick; Dragline; Dredge; Hoist-2 drums; Locomotvie crane; Paving mixer; Piledriver; Road paver; Roller on asphalt or brick (5 tons or over); Shovel; Sideboom cat; Bulldozer; Motor patrol; Scraper; Hydrolift crane; Hydrolift truck, yard crane, cherry picker, etc.; Foundation, boring & reaming machine; Cement stabilizer; Trenching machine; Asphalt spreader; Traxcavator & similar front end loading equipment with scoop or bucket of 1 cu. yd. or more capacity; Tug boat op.; Turnapull, euclid, DW-10 & other similar self-loading earth moving equipment; Concrete pump (not pumpcrete);Computer Batch Plant

GROUP 8 - A-frame truck; Crew boat op.; Fireman; Fork lift; Straddle buggy; Traxcavator, scoopmobile & similar front end loading equipment with scoop or bucket under 1 cu. yd. capacity; Locomotive; Well point system; Unit operator; Hoist-1 drum, 4 stories & over

GROUP 9 - Air compressor; Asphalt plant engineer; Blade grader; Distributor (bitum surface); Finishing machine (concrete, paving); Hoist-1 drum, less than 4 stories; Concrete mixer under 16-S; Oiler driver; Pump crete; Street & road sweeper; Roller (except on asphalt or brick); Roller, asphalt or brick (under 5 tons); Post-hole digger; Tractor operator bush hog & similar grass or bush cutting equipment; Batch Plant Op.

GROUP 10 - Oiler

GROUP 11 - Pumps, over 3 inch suction; Snatch cat



POWER EQUIPMENT OPERATORS - ZONE 7 - CLASSIFICATION DEFINITIONS

GROUP 1 - A-Frame truck when working with ironworkers, pipefitters, boilermakers & electricians; Bulldozers & tractors; Cableways; Concrete mixer (over 16S) paving machines, crane, derricks, draglines & clamshells; Concrete pump/boom combinations; Deck winches (2); Economobile model #620B or equivalent or heavier equipment; Gradealls; Hi-Ho & similar type equipment; Hoist, 1 drum, 4 stories & over; Hoist, 2 drums or more; Hydro cranes; Mechanics; Motor patrols; Piledrivers; Rollers on brick & asphalt; Rubber-tired front end loader, with or without blade attachment, 1 cu. yd. capacity or more; Scraper; Shovels, Backhoes (all types); Side boom cats; Stabilizers, 3 drums or more; Traxcavators; Trenching machines; Welder, journeyman; Firemen, when firing more than one boiler mounted on one machine

GROUP 2 - A-frame truck except when working with ironworkers or pipefitters; Air compressor; Asphalt plant engineer; Asphalt finisher, screed men; Blade graders; Small boat op.; Bullfloats; Concrete joining machines; Concrete mixer, 16S & under; Concrete spreader; Crusher op.; Deck winch (1); Distributors, asphalt; "Ditch witch" & similar equipment; Electric elevator (inside); Finishing machine; Firemen; Form graders; Fork lifts; Hoist, 1 drum, under 4 stories; Power subgraders; Pug mill; Pull tractors; Pump; Pump crete; Rollers except on brick & asphalt; Rubber-tired front end loader (with or without attachments) less than 1 cu. yd. capacity; Scale op.; Scoopmobile; Snatch cats; Spray machines; Stabilizers, less than 3 drums; Straddle buggy; Track machines & equivalent machine; Outside Electric Elevator Operator

GROUP 3 - Unit and well point operator

GROUP 4 - Work Boat requiring license

GROUP 5 - Batch plant operator, oilers(driver)

GROUP 6 - Oiler

GROUP 7 - Crane op. 60 tons & above; Crane op. boom 100 ft. & over but less than 150 ft.; Tower crane op. boom height 100 ft. & over but less than 150 ft.

GROUP 8 - Crane op. 100 tons & up to 125 tons; Crane op. boom 150 ft. & over but less than 225 ft.; Tower crane op. boom height 150 ft. & over but less than 225 ft.

GROUP 9 - Crane op. 125 tons & up to 200 tons

GROUP 10 - Crane op. 200 tons & up to 300 tons; Crane op. boom 225 ft. & over but less than 300 ft.; Tower crane op. boom height 225 ft. & over up to 30 fl ors

GROUP 11 - Crane op. 300 tons & up to 400 tons; Crane op. boom 300 ft. & over but less than 400 ft.; Tower crane over 30 floors

GROUP 12 - Crane op. over 400 tons; Crane op boom 400 ft & over

POWER EQUIPMENT OPERATORS ZONE DEFINITIONS

ZONE 1 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Parishes

ZONE 2 - Avoyelles, Evangeline, Grant, LaSalle, Natchitoches, Rapides, Sabine, St. Landry & Winn Parishes

ZONE 3 - All of Acadia, Lafayette & Vermilion Parishes; Parts of Iberia, St. Martin & St. Mary Parishes (west of a line drawn from the City of Berwick to the junction of Iberville-St. Landry Pars. border)

ZONE 4 - Caldwell, Catahoula, Concordia, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union & West Carroll Parishes

ZONE 5 - Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes

POWER EQUIPMENT OPERATORS ZONE DEFINITIONS (Cont'd):

ZONE 6 - All of Ascension, East Baton Rouge, East Feliciana, Iberville, Pointe Coupee, St. Helena, West Baton Rouge & West Feliciana Pars.; Parts of Assumption & St. James Pars. (northwest of a straight line drawn from the City of Berwick to the City of Lutcher); Parts of Iberia & southern & northern St. Martin Pars. (east & west of a line from the City of Berwick north to the eastern boundary of the City of Krotz Springs); Parts of Livingston, Tangipahoa & Washington Pars. (west of a line drawn north from the City of Lutcher to the east side of the City of Hammond to the Louisiana-Mississippi border)

ZONE 7 - All of Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist, St. Tammany & Terrebonne Pars.; Parts of Assumption, Livingston, St. James, St. Martin, St. Mary, Tangipahoa & Washington Pars. (that portion of southeastern Louisiana bounded on the north by the State of Mississippi, on the east by the State of Mississippi & the Mississippi Sound, on the south by the Gulf of Mexico & on the west by a line drawn as follows: beginning at a point on the Louisiana-Mississippi boundary in Washington Par., due north of the town of Hackley, then southwesterly in a straight line to a point on the east bank of the Mississippi River at the southernmost point of Lutcher (including Gramercy in the area), thence in a more southwesterly direction in a straight line to midstream of the Atchafalaya River at Morgan City-Berwick (including Morgan City in this area), thence southerly on a line following midstream of the Atchafalaya River to the Atchafalaya Bay & in a line due south to the Gulf of Mexico

ZONE DEFINITIONS FOR ROOFERS:

ZONE 1 - Allen, Beauregard, Calcasieu, Cameron, Evangeline, Jefferson Davis, Vermilion & Vernon Parishes

ZONE 2 - Assumption, Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, South St. Martin, St. Mary, St. Tammany, Terrebonne & Washington Parishes

ZONE 3 - Acadia, Ascension, East Baton Rouge, East Feliciana, Iberia, Iberville, Lafayette, Livingston, Pointe Coupee, St. Helena, St. Landry, North St. Martin, Tangipahoa, West Baton Rouge & West Feliciana Parishes

ZONE 4 - Avoyelles, Caldwell, Catahoula, Concordia, East Carroll, Franklin, Grant, Jackson, LaSalle, Lincoln, Madison, Morehouse, Ouachita, Rapides, Richland, Tensas, Union, West Carroll & Winn Parishes

ZONE 5 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches, Red River, Sabine & Webster Parishes

ZONE DEFINITIONS FOR SHEET METAL WORKERS:

ZONE 1 - Allen, Beauregard, Calcasieu, Cameron & Jefferson Davis Pars.

ZONE 2 - Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Tammany, Terrebonne & Washington Parishes

ZONE 3 - Acadia, Ascension, Assumption, East Baton Rouge, East Feliciana, Evangline, Iberia, Iberville, Lafayette, Livingston, Pointe Coupee, St. Helena, St. Landry, St. Martin, St. Mary, Tangipahoa, Vermilion, West Baton Rouge & West Feliciana Parishes

ZONE 4 - Avoyelles, Bienville, Bossier, Caddo, Caldwell, Catahoula, Claiborne, Concordia, De Soto, East Carroll, Franklin, Grant, Jackson, LaSalle, Lincoln, Madison, Morehouse, Natchitoches, Ouachita, Rapides, Red River, Richland, Sabine, Tensas, Union, Vernon, Webster, West Carroll & Winn Parishes



ZONE DEFINITIONS FOR TRUCK DRIVERS

ZONE 1 - Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon

ZONE 2 - Acadia, Iberia, Lafayette, St. Landry, St. Martin, St. Mary & Vermilion Parishes

ZONE 3 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster

ZONE 4 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, St. James, Tangipahoa, Washington, West Baton Rouge & West Feliciana Parishes

ZONE 5 - Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist & St. Tammany Parishes

TRUCK DRIVER CLASSIFICATION DEFINITIONS:

ZONE 2 - GROUP 1 - Teamsters, pick-up drivers
GROUP 2 - Stake bodies (all sizes); platform dump
GROUP 3 - Truck & trailer; dump
GROUP 4 - Mixers on trucks up to & including 3 yds.
GROUP 5 - Mixers over 3 yds.
GROUP 6 - Winch trucks
GROUP 7 - Miss. wagons & Koehring dumpster, tandem dumps & similar dirt moving equip, up to & including 8 yds.
GROUP 8 - Miss. wagons, Koehring dumpsters, tandem dumps & similar dirt moving equipment over 8 yds.

ZONE 3 - GROUP 1 - Pick-ups, spotters & dumpers of dirt, gravel, etc.
GROUP 2 - Stake bodies; flat beds (all sizes)
GROUP 3 - Single axle dumps & water trucks; transit mix, up to & including 3 yds.
GROUP 4 - Tandem axle dump, batch & water trucks over 3 tons, pickups with trailer
GROUP 5 - Miss. wagons, floats, tractor trailers; rubber tired tractors & wobble wheels
GROUP 6 - Euclids, lowboys, dempsey dumpster, Koehring dumps, 5 axle trucks, transit mix over 3 yds.
GROUP 7 - Fork lift

ZONE 4 - GROUP 1 - Pick-ups
GROUP 2 - Over 1 ton up to but not including 3 tons
GROUP 3 - 3 tons up to but not including 5 tons
GROUP 4 - 5 tons & over including but not limited to: winch, dempsey dumpster, lowboy, semi-trailer, euclid, tournapull & similar equipment when used for transporting material
GROUP 5 - Larger trucks, carrying capacity rear axles 50,000 lbs. & over
GROUP 6 - Winch truck with A-frame when used for transporting

ZONE 5 - GROUP 1 - Up to but not including 1-1/2 tons
GROUP 2 - 1-1/2 tons up to but not including 3 tons
GROUP 3 - 3 tons up to but not including 5 tons
GROUP 4 - 5 tons & over

WELDERS: Receive rate prescribed for craft performing operation to which welding in incidental.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: MICHIGAN COUNTY: IONIA
DECISION NUMBER: MI84-5004 DATE: DATE OF PUBLICATION
Supersedes Decision Number MI83-2022 dated March 18, 1983, in 48 FR 11614.
DESCRIPTION OF WORK: RESIDENTIAL CONSTRUCTION PROJECTS - consisting of single family homes and apartments up to and including four (4) stories.

| | Basic Hourly Rates | Fringe Benefits |
|---|---|---|
| BRICKLAYERS | $ 8.50 | |
| CARPENTERS | 9.75 | |
| CEMENT MASONS | 5.65 | |
| DRYWALL HANGERS | 8.50 | |
| DRYWALL TAPERS | 8.30 | |
| ELECTRICIANS | 5.65 | |
| LABORERS: | | |
| Unskilled | 5.65 | |
| Landscape | 4.25 | |
| Masons Tenders | 5.65 | |
| PAINTERS | 9.00 | |
| PLUMBERS & PIPEFITTERS | 9.25 | |
| POWER EQUIPMENT OPERATORS: | 4.81 | |
| Bulldozer | 5.65 | |
| ROOFERS | 5.65 | |
| SHEET METAL WORKERS | $6.28 | |
| SOFT FLOOR LAYERS | 8.00 | |
| TILE SETTERS | 8.00 | |
| WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental. | | |

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: Missouri COUNTY: Cole
DECISION NUMBER: MO84-4012 DATE: Date of Publication
Supersedes Decision No. MO82-4068, dated December 27, 1982, in 47 FR 57619.
DESCRIPTION OF WORK: Building Projects (excluding single family homes and apartments up to and including 4 stories)

| | Basic Hourly Rates | Fringe Benefits |
|---|---|---|
| ASBESTOS WORKERS | $18.99 | $2.76 |
| BOILERMAKERS | 17.495 | 3.00 |
| BRICKLAYERS; STONEMASONS; TILE LAYERS | 14.00 | .50 |
| CARPENTERS: | | |
| Carpenters & Lathers | 13.45 | 1.28 |
| Millwrights | 14.20 | 1.28 |
| Piledrivers | 13.85 | 1.28 |
| CEMENT MASONS | 14.85 | |
| ELECTRICIANS: | | |
| Electricians | 15.29 | 3.12+ 10% |
| Cable Splicers | 15.54 | 3.12+ 10% |
| ELEVATOR CONSTRUCTORS: | | |
| Mechanics | 16.49 | 2.69 +a |
| Helpers | 70%JR | 2.69 +a |
| Probationary Helpers | 50%JR | |
| IRONWORKERS | 15.825 | 2.90 |
| PAINTERS: | | |
| Brush | 13.20 | .20 |
| Spray; Structural Steel; Stage or Saddle; Blasting | 13.70 | .20 |
| PLASTERERS | 14.05 | |
| PLUMBERS & PIPEFITTERS | 17.85 | 5.18 |
| ROOFERS: | | |
| Roofers | 15.10 | .65 |
| Roofers in coal tar Pitch | 15.60 | .65 |
| SHEET METAL WORKERS | 12.86 | .91 |
| SPRINKLER FITTERS | 16.67 | 3.23 |
| LABORERS: | | |
| Group 1 | 11.40 | 1.75 |
| Group 2 | 11.65 | 1.75 |
| Group 3 | 11.75 | 1.75 |
| POWER EQUIPMENT OPERATORS: | | |
| Group 1 | 15.17 | 3.00 |
| Group 2 | 15.17 | 3.00 |
| Group 3 | 13.92 | 3.00 |
| Group 4 | 13.47 | 3.00 |
| POWER EQUIPMENT OPERATORS (CONT'D): | | |
| Group 5: | | |
| (a) | 15.87 | 3.00 |
| (b) | 16.72 | 3.00 |
| (c) | 17.17 | 3.00 |
| (d) | 17.92 | 3.00 |
| (e) | 15.67 | 3.00 |
| (f) | 17.07 | 3.00 |
| (g) | 17.57 | 3.00 |
| (h) | 18.07 | 3.00 |
| TRUCK DRIVERS: | | |
| Group 1 | 11.30 | 2.00+ d |
| Group 2 | 11.70 | 2.00+ d |
| Group 3 | 12.00 | 2.00+ d |

FOOTNOTES:
a. Employer contributes 8% of basic hourly rate for over 5 years' service and 6% of basic hourly rate for 6 months' to 5 years' service as Vacation Pay Credit, also 7 Paid Holidays
d. After 1 year a week's vacation

LABORERS CLASSIFICATIONS

Group 1: General Laborer; Heaters; Material Plant Man; Carpenter Tender; Landscaper; Signalman; Wrecker (old/new structures); Form Handler; Post Hole Digger; Cleaning and Clearing of all debris for all crafts; Loading and unloading, conveying, distributing, collecting and hoisting of construction material and debris; Backfilling, Grading and Landscaping; Covering of tanks, structures and material piles with Tarpaulins or other materials; Handling and cleaning of concrete chutes; Cleaning of concrete spills and chipping where hand tools are required; Cleaning of masonry and other type walls and windows; Signal and Hoisting Concrete Buckets; Rodman; All tools run by gas, electricity, or air except Vibrator, Jackhammer and Paving Breaker; Air Compressors; Motor Buggies; Pumps, except Set-up Men and Nozzle Men; Unloading and handling steel; Chipping Tool Operator; Concrete Mixer Operator

Group 2: First Semi-Skill - Brick Mason, Plasterer and Cement Finishers Tenders; Mortarmen; Scaffold Builders for Brick, Plasterer and Cement Masons; Forklifts (walk-behind or other similar types)

Group 3: Second Semi-Skiller - Concrete Pumps Set-up Men and Nozzle Men; Tile Layers, Bottom Men, Sewers and Drains; Cutting Torch; Burning Bar; Trench or Pier Holes 12' or over; Wagon Drill; Air Track or any Mechanical Drill; Power Man; Tamper 100 lbs. or over; Paving Breaker; Jackhammer and Vibrator; Laser Beam Man for Sewer; Grade checker

POWER EQUIPMENT OPERATORS CLASSIFICATIONS

Group 1: Backhoe, Cableway; Crane, Crawler or Truck; Crane, Hydraulic Truck or Cruiser mounted 16 tons and over; Crane, Locomotive, Derrick, Steam; Derrick Car and Derrick Boat; Dragline; Dredge; Gradall; Crawler or tire mounted; Locomotive, gas, steam and other powers; Piledriver, land or floating; Scoop, Skimmer; Shovel, power (steam, gas, electric or other powers); Switch Boat; Whirley



POWER EQUIPMENT OPERATORS: (Cont'd)

Group 2: Air Tugger with Air Compressor; Anchor placing Barge; Asphalt Spreader; Athey Force Feeder Loader (self-propelled); Backfilling Machine; Boat Operator Push Boat or Tow Boat (job site); Boiler, High Pressure Breaking in period; Boom Truck, placing or erecting; Boring Machine, Footing Foundation; Bullfloat; Cherry Picker; Combination Concrete Hoist and Mixer such as Mixermobile; Compressor (when operator runs throttle); Compressors, two not more than 50' apart; Compressor, Generator Combination; Compressor Pump Combination; Compressor Welder Combination; Concrete Breaker (truck or tractor mounted); Concrete Pump, such as Pumpcrete Machine; Concrete Spreader; Conveyor, large (not self-propelled) Hoisting or moving brick and concrete into, or into and on floor level, one or both; Crane, Hydraulic Rough Terrain, self-propelled; Crane, Hydraulic Truck or Cruiser mounted under 16 tons; Drilling Machines, self-powered, used for earth or rock drilling or Boring (Wagon Drills and any Hand-drills obtaining power from other sources including Concrete Breakers, Jackhammers and Barco equipment on engineer required); Elevating Grader, Engine Man, Dredge; Excavator or Powerbelt Machine; Finishing Machine, self-propelled Oscillating Screed; Fork Lift; Grader Road with power blade; Highlift; Hoist, concrete and brick (Brick Cages or Concrete Skips operating in or on Tower, Tower-mobile, or similar equipment); Hoist, stack; Hydrohammer; Lad-a-vator, hoisting brick or concrete; Loading Machine (such as Barber-Greene); Mechanic, on job site; Mixer, paving; Mixer-mobile; Mucking Machine; Pipe Wrapping Machine; Plant, asphalt; Plant Concrete producing or Ready-mix job site; Plant, Mixing job site; Plant, power, generating job site; Pumps, two self-power over 2" through 6"; Pumps, electric submersible, one through three, over 4" Quad-Track; Roller, Asphalt, Top or Subgrade; Scoop, tractor drawn; Spreader Box; Subgrader; Tie Tamper; Tractor-Crawler, or wheel type with or without power unit, power Take Off, and attachments regardless of size; Trenching Machine, Tunnel Boring Machine; Vibrating Machine, Automatic propelled; Welding Machines (gasoline or diesel) more than one but not over four (regardless of size); Well Drilling Machines; plant heating job site.

Group 3: Air Tugger with plant air; Boiler, for power or heating shell of buildings or temporary enclosures in connection with construction work; Boiler, temporary; Compressor, air one; Compressor, air (mounted on truck); Concrete Saw, (self-propelled); Conveyor, large (not self-propelled); Conveyor, large (not self-propelled) moving brick and concrete (distributing) on floor level; Curb Finishing Machine, Ditch Paving Machine; Elevator (building construction or alteration); Endless Chain Hoist; Fireman; Form Grader; Generator, one over 30 KW or any number developing over 30 KW; Greaser; Hoist, one drum regardless of size (except brick or concrete); Lad-a-vator; Manlift; Mixer, aspahlt, over 8 cu. ft. capacity; Mixer, if two or more of one bag capacity or less are used by one Employer on job, an Operator is required; Mixer, without Side Loader 2 bag capacity or more; Mixers, with Side Loader, 2 bag capacity or more; Mixers, with Side Loader, regardless of size, not Paver; Oiler on Dredge; Oiler on Truck Crane; Pug Mill Operator; Pump; Pump-self powered, automatic controlled over 2" during use in connection with construction work; Scissor Lift (used for hoisting); Sweeper, street; Tractor small wheel type 50 HP and under with Grader Blade and similar equipment; Welding Machine, one over 400 amp.; Winch Operating from truck; Mechanic in shop

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POWER EQUIPMENT OPERATORS (Cont'd)

Group 4: Boat Operator Outboard Motor (job site); Conveyors (such as Con-Vay-it) regardless of how used; Oiler; Sweeper, floor

Group 5:
(a) Air-pressure; Oiler Engineer operating under 10 lbs.
(b) Air-pressure; Oiler Engineer operating over 10 lbs.
(c) Air-pressure Engineer operating under 10 lbs.
(d) Air-pressure Oiler Engineer operating over 10 lbs.
(e) Crane, Climbing (such as Linden); Crane, Pile Driving and extracting; Crane, using Rock Socket Tool; Derrick; Diesel, gas or electric, hositing material erecting steel (150' or more above ground); Dragline, 7 cu. yds. and over; Hoist, 3 or more drums in use; Scoop, Tandem; Shovel, power 7 cu. yds. and over; Tractor, Tandem, Crawler, Tunnel Man assigned to work in tunnel or tunnel shaft; Wrecking, when machine is working on second or higher; Crane - Booms (including jib) 100 ft. to 150 ft.
(f) Crane, Boom (including jib) 150 ft. to 200 ft.
(g) Crane, Boom (including jib) 200 ft. to 250 ft.
(h) Crane, Boom (including jib) 250 ft. to 300 ft

TRUCK DRIVERS CLASSIFICATIONS

Group 1: Warehousemen; Dumper; Flat Bed and Pick-up; Farm Tractor; Water Truck, single-axle; Fuel Truck, single axle

Group 2: Tandem; Tractor Trailer; Winch; Fork Lift; Tandem Water Truck; Tandem Fuel Truck

Group 3: Tandem-slip-bed operation Pitman; Hydro Broom Truck; Transit Mixer; Euclid, Belly Dump; Cat Wagon; Oil Distributor; Ross Carrier; Dumpster; Half Track; Water Pull; Mechanic

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii))

SUPERSEDESA DECISION

STATE: Missouri COUNTIES: Boone,Cooper and Howard
DECISION NUMBER: MO84-4013 DATE: Date of Publication
Supersedes Decision No. MO82-4066, dated December 27, 1982, in 47 FR 57615.
DESCRIPTION OF WORK: Building Projects (excluding single family homes and apartments up to and including 4 stories).

| | Basic Hourly Rates | Fringe Benefits |
|---|---|---|
| ASBESTOS WORKERS | $17.29 | $ 4.35 |
| BOILERMAKERS | 17.345 | 3.00 |
| BRICKLAYERS,STONEMASONS & TILE LAYERS | 14.00 | .50 |
| CARPENTERS: | | |
| Carpenters & Lathers | 13.45 | 1.08 |
| Millwrights | 14.10 | 1.08 |
| Piledrivers | 13.85 | 1.08 |
| CEMENT MASONS | 14.85 | |
| ELECTRICIANS: | | |
| Area 1: | | |
| Electricians | 15.29 | 3.12 +10% |
| Cable Splicers | 15.54 | 3.12 +10% |
| Area 2: | | |
| Electricians (contracts exceeding 2000 man hrs.) | 16.18 | 2.51 +10% |
| Electricians (contracts not exceeding 2000 man hrs.) | 14.58 | 2.51 +10% |
| ELEVATOR CONSTRUCTORS: | | |
| Area 1: | | |
| Mechanics | 16.89 | 2.69 +a |
| Helpers | 70%JR | 2.69 +a |
| Probationary Helpers | 50%JR | |
| Area 2: | | |
| Mechanics | 16.49 | 2.69 +a |
| Helpers | 70%JR | 2.69 +a |
| Probationary Helpers | 50%JR | |
| GLAZIERS: | | |
| Area 1 | 14.24 | 2.96 +17.14% |
| IRONWORKERS | 16.25 | 4.25 |
| LINE CONSTRUCTION: | | |
| Lineman and Cable Splicers | $16.37 | $1.00-23-3/4% |
| Groundman,Winch Drivers | 12.03 | 1.00-23-3/4% |
| Groundman Driver | 11.60 | 1.00-23-3/4% |
| Equipment Operators | 14.64 | 1.00-23-3/4% |
| Groundman | 11.60 | 1.00-23-3/4% |
| PAINTERS: | | |
| Area 1: | | |
| Brush | 13.20 | .20 |
| Spray, Structural Steel, Sandblasting | 13.70 | .20 |
| Area 2: | | |
| Brush | 14.25 | |
| Spray | 15.25 | |
| PLASTERERS | 14.35 | |
| PLUMBERS,PIPEFITTERS | 16.38 | 2.2[illegible] |
| ROOFERS: | | |
| Roofers | 15.10 | .65 |
| Roofers in Coat Tar Pitch | 15.60 | .65 |
| SHEET METAL WORKERS: | | |
| Area 1 | 12.86 | .91 |
| Area 2 | 16.75 | 2.7[illegible] |
| SPRINKLER FITTERS | 19.86 | 3.2[illegible] |
| LABORERS: | | |
| Group 1 | 11.40 | 1.75 |
| Group 2 | 11.65 | 1.75 |
| Group 3 | 11.75 | 1.75 |
| POWER EQUIPMENT OPERATORS: | | |
| Cooper & Howard Cos.: | | |
| Group 1 | 15.46 | 3.75 |
| Group 2 | 15.11 | 3.75 |
| Group 3: | | |
| (a) | 10.05 | 3.75 |
| (b) | 13.21 | 3.75 |
| (c) | 10.85 | 3.7[illegible] |
| (d) | 13.46 | 3.75 |

| | Basic Hourly Rates | Fringe Benefits |
|---|---|---|
| POWER EQUIPMENT OPERATORS: (CONT'D): | | |
| Cooper & Howard Counties: | | |
| Group 4 | $15.71 | $3.75 |
| Group 5 | 15.36 | 3.75 |
| Group 6 | 15.96 | 3.75 |
| Group 7: | | |
| (a) | 15.21 | 3.75 |
| (b) | 14.96 | 3.75 |
| (c) | 12.96 | 3.75 |
| Group 8 | 16.46 | 3.75 |
| Group 9 | 15.96 | 3.75 |
| Boone County: | | |
| Group 1 | 15.17 | 3.00 |
| Group 2 | 15.17 | 3.00 |
| Group 3 | 13.92 | 3.00 |
| Group 4 | 13.47 | 3.00 |
| Group 5: | | |
| (a) | 15.87 | 3.00 |
| (b) | 16.72 | 3.00 |
| (c) | 17.17 | 3.00 |
| (d) | 17.92 | 3.00 |
| (e) | 15.67 | 3.00 |
| (f) | 17.07 | 3.00 |
| (g) | 17.57 | 3.00 |
| (h) | 18.07 | 3.00 |

| | Basic Hourly Rates | Fringe Benefits |
|---|---|---|
| TRUCK DRIVERS: | | |
| Boone County: | | |
| Group 1 | 12.305 | 1.50-a |
| Group 2 | 12.455 | 1.50-a |
| Group 3 | 12.955 | 1.50-a |



FOOTNOTES:
a. Employer contributes 8% of basic hourly rate for over 5 years' service and 6% of basic hourly rate for 6 months' to 5 years' service as Vacation Pay Credit, also 7 Paid Holidays
b. After 1 year a weeks vacation, also 7 Paid Holidays

## AREA DESCRIPTIONS

ELECTRICIANS:
Area 1: Boone and Howard Counties
Area 2: Cooper County

ELEVATOR CONSTRUCTORS:
Area 1: Cooper and Howard Counties
Area 2: Boone County

GLAZIERS:
Area 1: Cooper and Howard Counties

PAINTERS:
Area 1: Boone and Howard Counties
Area 2: Cooper County

SHEET METAL WORKERS:
Area 1: Boone and Cooper Counties
Area 2: Howard County

## LABORERS CLASSIFICATIONS

Group 1: General Laborer; Watchman; Flagman; Heaters; Material Plant Man; Carpenter Tender; Landscaper; Signalman; Wrecker (old/new structures); Form Handler; Post Hole Diggers; Cleaning and clearing of all debris for all crafts; Loading and unloading, conveying, distributing, collecting and hoisting of construction material and debris; Backfilling, Grading and Landscaping; Covering of tanks, structures and material piles with Tarpaulins or other materials; Handling and cleaning of Concrete Chutes; Cleaning of Concrete Spills and Chipping where hand tools are required; Cleaning of masonry and other type walls and windows; Signal and Hoisting Concrete Buckets; Rodman; All tools run by gas, electricity, or air except Vibrator, Jackhammer and Paving Breaker; Air Compressors; Motor Buggies; Pumps, except Set-up Men and Nozzle Men; Unloading and handling steel; Chipping Tool Operator; Concrete Mixer Operator

Group 2: First Semi-skill - Brickmason, Plasterer and Cement Finishers' Tenders; Mortarmen; Scaffold Builders for brick; Plasterer and Cement Masons; Forklift (walk-behind or other similar types)

LABORERS CLASSIFICATIONS (Cont'd)

Group 3: Second Semi-skill - Concrete Pumps Set-up Men and Nozzle Men; Tile Layers, Bottom Men, Sewers and Drains; Cutting Torch; Burning Bar; Trench or Pier Holes 12' or over; Wagon Drill; Air Track or any mechanical Drill; Powder Man; Tamper, 100 lbs. or over; Paving Breaker; Jackhammer and Vibrator; Laser Beam Man for Sewer; Grade Checker for roads and railroads

POWER EQUIPMENT OPERATORS CLASSIFICATIONS
Cooper and Howard Counties

Group 1: Asphalt Paver and Spreader; Asphalt Plant Mixer Operator; Asphalt Plant Operator; Back Fillers; Backhoe; Barber-Greene Loader; Blade, power; Boats, power; Boilers (2); Boring Machines; Cableways; Cherry Pickers; Chip Spreader; Concrete Ready-mix Plant, portable (job site); Concrete Mixer Paver; Crane, Overhead; Crusher, rock; Derricks and Derricks Cars (power operated); Ditching Machines; Dozers; Dredges, any type power; Grade-all, similar type; Hoist; Endless Chain, power operated with power travel; Loaders; Mechanic and Welder; Mucking Machine; Orange Peels; Pumps, material; Push Cats; Scoops; Self-propelled Rotary Drill; Shovel, power; Side Boom; Skimmer Scoop; Testhole Machine; Throttle Man

Group 2: Boilers (1); Brooms, power operated; Chip Spreader (Front Man; Clef Plane Operator; Compressors (1) 125' or over; Concrete Saws, self-propelled; Crab, power operated; Curb Finishing Machine; Fireman on Rigs; Flex Plane; Floating Machine; Form Grader; Greaser; Hoist, Endless Chain, power operated; Hopper, power operated; Hydra Hammer; Lad-a-vator, similar type; Rollers; Siphons, Jets, and Jennies, Sub-grader; Tractors over 50 H.P.; Compressors (2) 125' or over not more than 20' apart, Compressors, Tandem; Compressors, single, truck mounted; Elevator; Finishing Machine

Group 3:
(a) Oilers
(b) Fork Lift, masonry
(c) Oiler Driver
(d) A-frame Trucks; Fork Lift, all types (except masonry); Mixers (with Side Loaders); Pumps (with Well Points) Dewatering Systems, Test or Pressure Pumps; Tractors (except when hauling material) less than 50 H.P.

Group 4: Clamshells, 80 feet of boom or over (including jib); Crane or Rigs, 80 feet of boom or over (including jib); Draglines, 80 feet of boom or over (including jib); Pile Drivers, 80 feet of boom or over (including jib)

Group 5: Hoists, each additional drum over 1 drum

Group 6: Crane or Rigs over 200 feet of boom



POWER EQUIPMENT OPERATORS CLASSIFICATIONS (Cont'd)
Cooper and Howard Counties (Cont'd)

Group 7: Ready Mixed Concrete Plants;
(a) Crane Operator
(b) Loader Operator and Plant Man
(c) Conveyor Operator

Group 8: Master Mechanic

Group 9: Crane, Tower or Climbing

Boone County

Group 1: Backhoe, Cableway; Crane, Crawler or Truck; Crane, Hydraulic Truck or Crusier mounted 16 tons and over; Crane, Locomotive, Derrick, Steam; Derrick Car and Derrick Boat; Dragline; Dredge; Gradall, Crawler or tire mounted; Locomotive, gas, steam and other power; Piledriver, Land or Floating; Scoop Skimmer; Shovel, power (steam, gas, electric or other powers); Switch Boats; Whirley

Group 2: Air Tugger, with Air Compressor; Anchor Placing Barge; Asphalt Spreader; Athey Force Feeder Loader (self-propelled); Backfilling Machine; Boat Operator; Push Boat or Tow Boat (job site); Boiler, high pressure breaking in period; Boom Truck, placing or erecting; Boring Machine; Footing Foundation; Bullfloat; Cherry Picker; Combination Concrete Hoist and Mixer such as Mixer-mobile; Compressor (when operator runs throttle); Compressors, two not more than 50' apart; Compressor Generator Combination; Compressor Pump Combination; Compressor Welder Combination; Concrete Breaker (truck or tractor mounted); Concrete Pump, such as Pumpcrete Machine; Concrete Spreader; Conveyor, large (not self-propelled) Hoisting or moving brick and concrete into, or into and on floor level, one or both; Crane, Hydraulic Rough Terrain, self-propelled; Crane; Hydraulic Truck or Cruiser mounted under 16 tons; Drilling Machines, self-powered, used for earth or rock drilling or boring (Wagon Drills and any Hand Drills obtaining power from other sources including Concrete Breakers, Jackhammers and Barco Equipment no engineer required); Elevating Grader, Engine Man, Dredge; Excavator or Powerbelt Machine; Finishing Machine, self-propelled Oscillating Screed; Fork Lift; Grader, road with power blade; Highlift; Hoist, concrete and brick (Brick Cages or Concrete Skips operating in or on tower, Towermobile, or similar equipment; Hoist, Stack; Hydro-hammer; Lad-a-vator, hoisting brick or concrete; Loading Machine (such as Barber-Greene); Mechanic, on job site; Mixer, paving; Mixer-mobile; Mucking Machine; Pipe Wrapping Machine; Plant, asphalt; Plant, concrete producing or Ready-mix job site; Plant, heating job site; Plant, mixing job site; Plant, power generating job site; Pumps, two self-power over 2" through 6"; Pumps, electric submersible, one through three, over 4"; Quad-Track; Roller, Asphalt, Top or Subgrader; Scoop, tractor drawn; Spreader Box; Subgrader; Tie Tamper; Tractor, Crawler, or wheel type with or without power unit, power take offs and attachments regardless of size; Trenching Machine, Tunnel Boring Machine, Vibrating Machine, automatic, propelled; Welding Machines (gasoline or diesel) more than one but not over four (regardless of size); Well Drilling Machine

POWER EQUIPMENT OPERATORS (Cont'd)
Boone County (Cont'd)

Group 3: Air Tugger with plant air; Boiler for power or heating shell of buildings or temporary enclosures in connection with construction work; Boiler, temporary; Compressor, air one; Compressor, air (mounted on truck); Concrete Saw (self-propelled); Conveyor, large (not self-propelled); Conveyor, large (not self-propelled moving brick and concrete distributing) on floor level; Curb Finishing Machine, Ditch Paving Machine; Elevator (building construction or alteration); Endless Chain Hoist; Fireman; Form Grader; Generator, one over 30 KW or any number developing over 30 KW; Greaser; Hoist, one drum regardless of size (except brick or concrete); Lad-a-vator; Manlift; Mixer, Asphalt, over 8 cubic feet capacity; Mixer, if two or more mixers of one bag capacity or less are used by one Employer on job, an Operator is required; Mixer, without Side Loader, 2 bag capacity or more; Mixers, with Side Loader, 2 bag capacity of more; Mixer, with Side Loader, regardless of size, not Paver; Oiler on Dredge; Oiler on Truck Crane; Pug Mill Operator; Pump, Sump-self powered, automatic controlled over 2" during use in connection with construction work; Scissor Lift (used for hoisting); Sweeper, street; Tractor small wheel type 50 HP and under with Grade-blade and similar equipment; Welding Machine, one over 400 amp.; Winch operating from Truck; Mechanic in shop

Group 4: Boat Operator Outboard Motor (job site); Conveyors, (such as Con-vay-it) regardless of how used; Oiler; Sweeper, floor

Group 5:
(a) Air-pressure; Oiler Engineer operating under 10 lbs.
(b) Air-pressure; Oiler Engineer operating over 10 lbs.
(c) Air-pressure Engineer operating under 10 lbs.
(d) Air-pressure Oiler Engineer operating over 10 lbs.
(e) Crane, climbing (such as Linden); Crane, Pile driving and Extracting; Crane, using Rock Socket Tool; Derrick, diesel, gas or electric, hoisting material erecting steel (150' or more above ground); Dragline, 7 cu. yds. and over; Hoist, three or more drums in use; Scoop, Tandem; Shovel, power, 7 cu. yds. and over; Tractor, Tandem Crawler Tunnel Man assigned to work in tunnel or tunnel shaft; Wrecking, when machine is working on second or higher; Crane, Booms (including jib) 100 feet to 150 feet
(f) Crane, Boom (including jib) 150 feet to 200 feet
(g) Crane, Boom (including jib) 200 feet to 250 feet
(h) Crane, Boom (including jib) 250 feet to 300 feet



TRUCK DRIVERS
Boone County

Group 1: Warehouseman; Dump Truck; Flat Bed; Pick-up; Farm Tractor; Single-axle Water Truck; Fuel Truck, single axle

Group 2: Tandem; Tractor-trailer; Winch Truck; Forklift; Tandem Water Truck; Tandem Fuel Truck

Group 3: Pitman; Hydro Boom Truck; Tandem-slip bed operation; Transit Mixer; Euclid; Belly Dump; Cat Wagon; Mechanic; Oil Distributor; Water Pull; Ross Carrier; Dumpster; Halftruck

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii))

SUPERSEDEAS DECISION

STATE: Missouri COUNTY: Pulaski
DECISION NO.: MO84-4014 DATE: Date of Publication
Supersedes Decision No. MO83-4051 dated July 15, 1983 in 48 FR 32456
DESCRIPTION OF WORK: Building Projects (excluding single family homes and apartments up to and including 4 stories)

| | Basic Hourly Rates | Fringe Benefits |
|---|---|---|
| ASBESTOS WORKERS | $16.92 | $2.25 |
| BOILERMAKERS | 17.495 | 3.00 |
| BRICKLAYERS, STONEMASONS & TILE LAYERS | 14.00 | .50 |
| CARPENTERS: | | |
| Projects under $500,000.00 | 13.81 | 2.45 |
| Projects $500,000.00 and over | 14.31 | 2.45 |
| CEMENT MASONS | 14.38 | 2.70 |
| ELECTRICIANS: | | |
| Electricians | 15.04 | 9%+ 1.89 |
| Cable Splicers | 15.44 | 9%+ 1.89 |
| IRONWORKERS, STRUCTURAL, ORNAMENTAL, REINFORCING | 15.825 | 2.90 |
| LABORERS: | | |
| Laborers, general | 11.80 | 1.65 |
| Plumbers laborers, hod carriers, plaster tenders & mason tenders | 12.15 | 1.65 |
| Powderman | 12.80 | 1.65 |
| PAINTERS: | | |
| Brush & roller | 12.00 | 2.60 |
| Taping, paperhanging & floor work | 12.50 | 2.60 |
| Spray, structural steel & sandblasting | 13.25 | 2.60 |
| PIPEFITTERS& PLUMBERS | 17.85 | 5.18 |
| SHEET METAL WORKERS | 16.94 | 3%+ 2.54 |
| TRUCK DRIVERS: | | |
| GROUP 1 | 11.35 | 2.00 |
| GROUP 2 | 11.75 | 2.00 |
| GROUP 3 | 11.82 | 2.00 |
| GROUP 4 | 11.87 | 2.00 |
| GROUP 5 | 12.02 | 2.00 |
| GROUP 6 | 12.85 | 2.00 |
| ROOFERS | 12.00 | .66 |
| PLASTERERS | 15.555 | 1.62 |

| | Basic Hourly Rates | Fringe Benefits |
|---|---|---|
| TRUCK DRIVERS: | | |
| Ft. Leonard Wood Only: | | |
| GROUP 1 | $12.35 | $2.00 |
| GROUP 2 | 12.50 | 2.00 |
| GROUP 3 | 12.57 | 2.00 |
| GROUP 4 | 12.62 | 2.00 |
| GROUP 5 | 12.77 | 2.00 |
| GROUP 6 | 13.10 | 2.00 |
| POWER EQUIPMENT OPERATORS: | | |
| GROUP 1 | 15.17 | 3.00 |
| GROUP 2 | 15.17 | 3.00 |
| GROUP 3 | 13.92 | 3.00 |
| GROUP 4 | 13.47 | 3.00 |
| GROUP 5: | | |
| (a) | 15.87 | 3.00 |
| (b) | 16.72 | 3.00 |
| (c) | 17.17 | 3.00 |
| (d) | 17.92 | 3.00 |
| (e) | 15.67 | 3.00 |
| GROUP 6 | 17.07 | 3.00 |
| GROUP 7 | 17.57 | 3.00 |
| GROUP 8 | 18.07 | 3.00 |

DECISION NO.: MO84-4014

TRUCK DRIVER CLASSIFICATION DEFINITIONS

GROUP 1 - Flat bed drivers; pick-ups and station wagons; tireman & station attendant; dump, single axle

GROUP 2 - Flat bed, tandem axle; dump, tandem; tank trucks, single axle

GROUP 3 - Agitator & transit-mix

GROUP 4 - Winch trucks; steel haulers, derrick & A-trucks; distributors drivers & operators; tank truck; tandem & semi-tractors; wheel tractors; oilers, greasers & mechanic helpers; heavy excavating & hauling euclids, dumpsters, etc.

GROUP 5 - Fork lifts & high lifts, etc., when unloading or carrying

GROUP 6 - Mechanics

## POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - Backhoe; cableway; crane, crawler or truck; crane, hydraulic truck or cruiser mounted 16 tons & over; crane, locomotive, derrick, steam; derrick car & derrick boat; dragline; dredge; gradall, crawler or tire mounted; locomotive, gas, steam & other powers; piledriver, land or floating; scoop, skimmer; shovel, power (steam, gas, electric or other powers); switch boat; whirley

GROUP 2 - Air tugger w/air compressor; anchor placing barge; asphalt spreader; athey force feeder loader (self-propelled); backfilling machine; boat oper. push boat or tow boat (job site); boiler, high pressure breaking in period; boom truck, placing or erecting; boring machine, footing foundation; bullfloat; cherry picker; combination concrete hoist & mixer such as mixermobile; compressor (when operator runs throttle); compressors, two not more than 50' apart; compressor-generator combination; compressor pump combination; compressor welder combination; concrete breaker (truck or tractor mounted); concrete pump, such as pumpcrete machine; concrete spreader; conveyor, large (not self-propelled) hoisting or moving brick & concrete into, or into & on floor level, one or both; crane, hydraulic rough terrain, self-propelled; crane, hydraulic truck or cruiser mounted under 16 tons; drilling machines, self-powered, used for earth or rock drilling or boring (wagon drills & any hand drills obtaining power from other sources including concrete breakers, jackhammers & barco equipment no engineer required); elevating grader, engine man, dredge; excavator or powerbelt machine; finishing machine, self-propelled oscillating screed; fork lift; grader, road with power blade; highlift; hoist, concrete & brick (brick cages or concrete skips operating in or on tower, tower mobile, or similar equipment); hoist, stack; hydro hammer; lad-a-vator, hoisting brick or concrete; loading machine (such as Barber-Greene); mechanic, on job site; mixer, paving; mixer-mobile; mucking machine; pipe wrapping machine; plant, asphalt; plant, concrete producing or ready-mix job site; plant, heating job site; plant, mixing job site; plant, power, generating job site; pumps, two self-power over 2" through 6"; pumps, electric submersible, one through three, over 4"; quad-track; roller, asphalt, top or subgrade; scoop, tractor drawn; spreader box; subgrader; tie tamper; tractor-crawler, or wheel type with or without power unit, power take offs, & attachments regardless of size; trenching machine, tunnel boring machine, vibrating machine, automatic, propelled; welding machines (gasoline or diesel) more than one but not over four (regardless of size); well drilling machine

GROUP 3 - Air tugger w/plant air; boiler, for power or heating shell of buildings or temporary enclosures in connection with construction work; boiler, temporary; compressor, air one; compressor, air (mounted on truck); concrete saw, (self-propelled); conveyor, large (not self-propelled) conveyor, large (not self-propelled) moving brick & concrete (distributing) on floor level; curb finishing machine, ditch paving machine; elevator (building construction or alteration); endless chain hoist; fireman; form grader; generator, one over 30 KW or any number developing over 30



POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS (Cont'd)

GROUP 3 CONTD:
KW; greaser; hoist, one drum regardless of size (except brick or concrete); lad-a-vator; manlift; mixer, asphalt, over 8 cu. ft. capacity; mixer, if two or more mixers of one bag capacity or less are used by one Employer on job, an operator is required; mixer, without side loader, 2 bag capacity or more; mixers, with side loader, 2 bag capacity or more; mixer, with side loader, regardless of size, not paver; oiler on dredge; oiler on truck crane; pug mill operator; pump, sump-self-powered, automatic controlled over 2" during use in connection with construction work; scissor lift (used for hoisting); sweeper, street; tractor small wheel type 50 h.p. & under with grader blade & similar equipment; welding machine, one over 400 amp.; winch operating from truck; mechanic in shop

GROUP 4 - Boat operator outboard motor (job site); conveyors, such as con-vay-it) regardless of how used; oiler; sweeper, floor

GROUP 5 (a) - Air pressure; oiler engineer operating under ten pounds
(b) - Air-pressure, oiler engineer operating over ten pounds
(c) - Air pressure engineer operating under ten pounds
(d) - Air pressure oiler engineer operating over ten pounds
(e) - Crane, climbing (such an linden); crane, pile driving & extracting; crane, using rock socket tool; derrick, diesel, gas or electric, hoisting material erecting steel (150" or more above ground); dragline, 7 cu. yds. & over; hoist, three or more drums in use; scoop, tandem; shovel, power 7 cu. yds. & over; tractor, tandem crawler, tunnel man assigned to work in tunnel or tunnel shaft; wrecking, when machine is working on second or higher; crane-booms (including jib) 100 ft. to 150 feet

GROUP 6 - Crane, boom (including jib) 150 feet to 200 feet

GROUP 7 - Crane, boom (including jib) 200 feet to 250 feet

GROUP 8 - Crane, boom (including jib) 250 feet to 300 feet

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

[FR Doc. 84-6157 Filed 3-8-84; 8:45 am]
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SUPERSEDEAS DECISION

STATE. NORTH CAROLINA
DECISION NUMBER: NC84-1004
COUNTIES: Statewide
DATE: Date of Publication
Supersedes Decision No.: NC81-1148, December 30, 1980, 45 FR 86200.
DESCRIPTION OF WORK: Water and Sewer construction projects and Heavy construction projects excluding Dam construction projects.

| | Basic Hourly Rates | Fringe Benefits |
|---|---|---|
| BOILERMAKERS | $16.20 | 3.315 |
| BRICKLAYERS | 7.23 | |
| CARPENTERS | 6.63 | |
| CEMENT MASONS/FINISHERS | 6.11 | |
| ELECTRICIANS | 8.56 | |
| FENCE ERECTORS | 4.64 | |
| IRONWORKERS | 8.20 | |
| LABORERS: | | |
| Unskilled | 4.41 | |
| Air Drill Operator | 5.92 | |
| Asphalt Rakers | 4.93 | |
| Pipelayers | 5.17 | |
| MILLWRIGHTS | 5.27 | |
| PAINTERS | 7.12 | |
| PLUMBERS & PIPEFITTERS | 7.42 | |
| TRUCK DRIVERS | 4.67 | |
| TV & GROUTING TECHNICIANS | 9.21 | |
| POWER EQUIPMENT OPERATORS: | | |
| Asphalt Distributors | 5.77 | |
| Asphalt Finishers | 5.69 | |
| Asphalt Pavers | 5.69 | |
| Asphalt Screeds | 5.69 | |
| Backhoe | 6.40 | |
| Boring Machine | 5.65 | |
| Bulldozer | 5.96 | |
| Crane | 7.60 | |
| Draglines | 6.34 | |
| Drills | 7.23 | |
| Loaders | 5.79 | |
| Manhole Builders | 5.84 | |
| Mechanics | 7.16 | |
| Motor Graders | 6.24 | |
| Rollers | 4.98 | |
| Scrapers, Pans | 5.42 | |
| Tractors | 5.49 | |
| Trenching Machines | 6.58 | |
| Well Drillers | 6.50 | |

WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: TENNESSEE
DECISION NUMBER: TN84-1005
COUNTY: DAVIDSON
DATE: Date of Publication
Supersedes Decision Number TN82-2059, dated November 19, 1982 in 47 FR 52223.
DESCRIPTION OF WORK: Building construction projects (does not include single family homes and apartments up to and including 4 stories).

| | Basic Hourly Rates | Fringe Benefits |
|---|---|---|
| BRICKLAYERS,STONEMASONS | $13.80 | .50 |
| CARPENTERS | 8.59 | |
| CEMENT MASONS | 11.04 | |
| DRYWALL FINISHERS | 8.18 | |
| DRYWALL HANGERS | 8.40 | |
| ELECTRICIANS | 9.35 | |
| ELEVATOR CONSTRUCTORS: | | |
| Mechanics | 12.44 | 2.69+a |
| Helper | 8.71 | 2.69+a |
| Probationary Helper | 6.22 | |
| GLAZIER | 8.72 | |
| HEATING & AIR CONDITIONING MECHANICS | 6.50 | |
| INSULATORS | 6.35 | |
| IRONWORKERS | 7.85 | .76 |
| LABORERS: | | |
| Unskilled | 5.53 | |
| Mason Tenders | 6.00 | |
| Mortar Mixers | 6.75 | |
| LATHERS | 11.40 | .40 |
| MARBLE SETTER,TILE SETTER, & TERRAZZO WORKERS | 8.54 | |
| PAINTERS,PAPERHANGERS | 6.69 | |
| PIPEFITTERS | 12.03 | 1.96 |
| PLASTERERS | 11.55 | 1.10 |
| PLUMBERS | 10.89 | 2.52 |
| ROOFER,WATERPROOFERS | 8.83 | |
| SHEET METAL WORKERS | 10.87 | 2.54 |
| SOFT FLOOR LAYERS | 8.63 | |
| TRUCK DRIVERS | 7.04 | |
| POWER EQUIPMENT OPERATORS: | | |
| Backhoe | 7.50 | |
| Bulldozer | 6.50 | .04 |
| Crane,Derrick & Dragline Operator | 9.73 | |
| Front End Loader | 7.60 | |
| Roller | 6.33 | |
| Scraper | 6.50 | .04 |

WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR 5.5 (a)(1)(ii)(A)).

FOOTNOTE:

a - Seven Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Friday after Thanksgiving Day; Christmas Day. Vacation Pay Credit: Employer contributes 8% of the basic hourly rate for employees with 5 years or more of service, or 6% of the basic hourly rate for employees with 6 months to 5 years of service.

federal register

Friday
March 9, 1984

Part III

# Department of Housing and Urban Development

**Office of the Assistant Secretary for Housing—Federal Housing Commissioner**

**24 CFR Part 251**

**Coinsurance for the Construction or Substantial Rehabilitation of Multi-Family Housing Projects; Proposed Rule**

**DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

**Office of the Assistant Secretary for Housing—Federal Housing Commissioner**

**24 CFR Part 251**

**[Docket No. R-84-1138; FR-1198]**

## Coinsurance for the Construction or Substantial Rehabilitation of Multifamily Housing Projects

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

**ACTION:** Proposed rule.

**SUMMARY:** The Department proposes to add a new 24 CFR Part 251 entitled, "Coinsurance for the Construction and Rehabilitation of Mulifamily Housing Projects." This part would establish a new program of coinsurance for multifamily Mortgage loans insured under the authority of section 221(d)(3) or 221(d)(4) of the National Housing Act.

**DATE:** Comment due date: May 8, 1984.

**ADDRESSES:** Communications concerning this rule should be identified by the above docket number and title and comments should be filed with the Rules Docket Clerk, Office of the General Counsel, Room 10278, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410. Copies of written views or comments will be available for public inspection and copying during regular business hours at the above address.

**FOR FURTHER INFORMATION CONTACT:** James Hamernick, Office of Multifamily Housing Development, Room 6128, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410, telephone (202) 755-7520. (This is not a toll-free number.)

**SUPPLEMENTARY INFORMATION:** Section 307 of the Housing and Community Development Act of 1974 (Pub. L. 93-383) amended the National Housing Act by adding a new section 244 entitled, "Coinsurance". Section 244 authorizes the Secretary of Housing and Urban Development to insure, under any provision of title II of the National Housing Act, any Mortgage otherwise eligible under that title, pursuant to a Coinsurance Contract that provides that the lender (1) assume a percentage of any loss (and share in Mortgage Insurance Premium income) and (2) carry out (subject to audit and review requirements) such delegated processing functions as the Secretary approves.

The Department has previously undertaken a number of coinsurance initiatives under the section 244 authority. Regulations issued on February 12, 1976 (41 FR 6446) established a new Part 204 that initiated a program of coinsurance for one- to four-family dwellings insured under section 203 of the National Housing Act. On September 29, 1976 (45 FR 59796), HUD amended 24 CFR by adding a new Part 250 entitled, "Coinsurance for State Housing Finance Agencies". This program authorized the coinsurance of Mortgages covering newly constructed or substantially rehabilitated multifamily projects financed by State Housing Finance Agencies. In addition, regulations issued on July 2, 1980 (45 FR 45117) added a new Part 255 that authorized a program of "Coinsurance for the Purchase or Refinancing of Existing Multifamily Housing Projects". This regulation permits qualified lending institutions to coinsure and perform delegated processing on Mortgage loans on existing multifamily projects using sections 207 and 223(f) of the National Housing Act as the insuring authorities. This section 223(f) coinsurance rule has been substantially amended, as described below.

This proposed rule, a new Part 251, would provide to private lenders (as well as State Agencies) a companion authority to 24 CFR Part 255. It would authorize a new program of coinsurance for newly constructed or Substantially Rehabilitated multifamily projects insured under section 221(d)(3) or under section 221(d)(4) of the National Housing Act.

The Department has moved cautiously in implementing multifamily coinsurance with delegated processing. The original 1980 section 223(f) rule (insurance of mortgages covering existing multifamily projects) authorized a limited coinsurance program for supervised depository institutions, i.e., commercial banks, savings and loan associations, and savings banks. With publication of a substantially revised interim rule on March 31, 1982 (47 FR 13519), HUD made private mortgage companies eligible as coinsuring lenders and provided special guarantees for GNMA designed to help provide a secondary market for Coinsured Mortgages. In response to public, as well as internal, comments on these revisions, HUD issued a further revision to Part 255 as an interim rule on May 25, 1983 (48 FR 23386). This 1983 revision contained new provisions for full reinsurance to enhance the feasibility of Mortgage banker participation, and also added State Housing Finance Agencies as eligible lenders. The changes were designed to make available to a full range of private and State Agency Mortgage lenders a coinsurance program that facilitates the refinancing or purchase of existing rental housing, including housing requiring repairs.

In the process of developing these rules, HUD has adopted a general policy of delegating to participating FHA lenders those processing and underwriting functions that program users are capable of performing in accordance with HUD criteria, but without HUD staff involvement. Since sections 221 and 223(f) are the only FHA multifamily insuring authorities attracting significant use, it is logical to extend coinsurance beyond section 223(f) to a section 221 program. Thus, the addition of this proposed Part 251 to the revised Part 255 rule will result in a comprehensive HUD policy with respect to delegated multifamily processing. For the lender groups now eligible to coinsure section 223(f) Mortgages, it offers a coinsurance vehicle for also financing properties involving new construction or Substantial Rehabilitation.

HUD believes that State Agencies will prefer the coinsurance programs under Parts 251 and 255 over the coinsurance program already available to them under Part 250. While Part 250 has been in effect since 1976, no State Agencies have been approved as coinsurers to date. Because of these factors, HUD proposes to remove Part 250 when Parts 251 and 255 are made final, and specifically requests public comment on this point.

For the most part, Part 251 differs from Part 255 only to the extent that additional property and Mortgage requirements are needed where new construction or Substantial Rehabilitation is involved. Both programs share the same coinsurance policy framework, one in which lenders capable of sharing HUD's insurance risk are permitted to perform underwriting and servicing functions with minimal Federal involvement. In this proposed Part 251, the requirements concerning property eligibility, Mortgage terms and cost limits, eligibility and regulation of Mortgagors, insurance of advances, inspections and cost certification primarily track similar requirements found in the Section 221 full insurance program. With respect to lender eligibility and contract rights, Part 251 draws upon the existing Part 255 coinsurance provisions. There are similar provisions with respect to sharing of Mortgage Insurance Premiums on a basis of 80 percent to HUD and 20 percent to the lender; authorization of

full or partial reinsurance at the lender's option; acquisition and sale of properties by the lender (not HUD) after default; restrictions on the assignment of Coinsured Mortgages; lender obligation to bear a deductible of 5 percent of unpaid Mortgage balance at default; HUD claims settlement of 85 percent of loss (72.25 percent if the lender carries reinsurance at 100 percent or at the maximum permitted by State law); and HUD guarantees to GNMA providing protection against coinsurance losses.

In its effort to devlop a coherent and comprehensive program of multifamily coinsurance, the Department has already benefitted from the numerous, detailed public comments it received with respect to the revision of the Part 255–223(f) program published on May 25, 1983. Extensive additional comments are anticipated with respect to this proposal for a new Part 251. With the benefit of both sets of public comments, as well as further internal Departmental study and analysis, we anticipate being in a position to promulgate *final* rules for both of these programs that are mutually consistent, both as to policy details and language.

In preparing the drafts of this proposed rule, an effort has been made to simplify the text as much as possible through the use of "plain English" and to improve readability through arrangements of the provisions in a manner that generally flows chronologically from lender approval and protect eligibility, through application submission and project construction, to occupancy and managment. To the extent this simplified language withstands analysis for technical sufficiency both within and without the Department during the 60-day public comment period, it will be incorporated in the final version of Part 255 as well as this Part 251.

Comments are requested from interested persons on any aspect of this rule and especially upon (1) the impact the program authorized by this Part might have on the availability of Mortgage credit to borrowers dependent on Mortgage insurance provided under sections of the National Housing Act other than section 244 and (2) the flow of credit to older, declining neighborhoods and to purchasers of older and low-cost housing. The comment period will provide the Mortgage lending industry and adequate opportunity to make its views known, and the comments will be considred as due consultation with the industry as required by section 244(c) of the National Housing Act. All comments from the industry and any other interested persons on these and other subjects relevant to the rule will be carefully considered before final regulations are adopted.

This rule does not constitute a "major rule" as that term is defined in section 1(b) of Executive Order 12291 on Federal Regulation issued by the President on February 17, 1981. Analysis of the proposed rule indicates that it does not (1) have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) 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.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332. The Finding of No Significant Impact is available for public inspection during regular business hours at the Office of the Rules Docket Clerk, Office of the General Counsel, Room 10278, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

This Rule was listed as item H–66–78 (Sequence Number 83) under the Office of Housing in the Department's Semiannual Agenda of Regulations published on October 17, 1983 (48 FR 47440), pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

The catalog of Federal Domestic Assistance program numbers are 14.135 and 14.137.

Pursuant to 5 U.S.C. 605(b) (The Regulatory Felxibility Act), the undersigned hereby certifies that this rule would not have a significant economic impact on a substantial number of small entities. While some small Mortgagees may not be able to participate in the coinsurance program because of its asset requirements, their access to HUD's full insurance program under sections 221(d) (3) and (4) of the National Housing Act remains unaffected by this proposal.

Information collection requirements contained in this proposed rule have been submitted to the Office of Management and Budget for review under section 3504(h) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)). Please send any comments regarding the collection of information requirements to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503, Attention: Desk Officer for HUD. After OMB review and approval, the public will be notified of the OMB control number assigned these requirements through a technical amendment to this rule.

**Description of Proposed Part 251**

The following description of proposed Part 251 is provided for the convenience of the public in evaluating this coinsurance proposal. Its emphasis is upon the manner these proposed regulations differ from, or continue regulatory requirements found in, the existing Part 221 full insurance program (Low Cost and Moderate Income Mortgage Insurance) or the revised Part 255 (Coinsurance for the Purchase or Refinancing of Existing Multifamily Housing Projects). This discussion is not intended to be an exhaustive presentation of every feature of the proposed program and, accordingly, the reader should be aware that many sections of the rule are not addressed in this description. Thus, the reader should read the proposed rule in its entirety for full understanding of its provisions.

*PART 251—COINSURANCE FOR THE CONSTRUCTION OR SUBSTANTIAL REHABILITATION OF MULTIFAMILY HOUSING PROJECTS*

*Subpart A—General requirements*

Subpart A of the proposal contains General Provisions that (1) relate this particular proposal to its basic statutory authority in section 244 of the National Housing Act, (2) set forth definitions of technical terms to be used throughout Part 251, and (3) describe the relation of any future amendments to Part 251 to any existing coinsurance commitments and contracts.

Section 251.1 (Purpose and scope) is based upon a similar section in 24 CFR Part 255 authorizing a coinsurance program with respect to the purchase or refinancing of existing multifamily structures.

Section 251.2 (Coinsurance Contract) is similar to a definition found in 24 CFR 255.8(e). It describes the nature of the statutory Coinsurance Contract Part 251 will authorize.

Section 251.3—*Definitions.* The definitions in this section are basically those now used in the regular section 221 full insurance program. An attempt has been made to simplify existing regulatory language. For example, definitions (a) and (p), "Builder's and Sponsor's Profit and Risk Allowance" and "Sponsor's Profit and Risk Allowance", respectively, list all the specific items that may be included in

these special allowances, unlike the more indirect language in 24 CFR 221.550a which lists the items that are excluded.

The definitions of "Mortgage", (j), and "Mortgagor", (k), are not found in Part 221 but are contained in 24 CFR 255.8.

Definitions (b), (d), (g), (h), (i) and (m) are streamlined versions of the same definitions relating to eligible Mortgagors found in the regular section 221 program at 24 CFR 221.510.

"Sound Capital Resources", (o), "Coinsured Mortgage", (c), and "Mortgage Insurance Premium", (1), are substantially the same definitions as are found at 24 CFR 255.8.

"Surplus Cash", (r), is substantially the same definition as is found in § 221.531(b).

"Substantial Rehabilitation", (g), is a new definition. There currently is no definition of this term in the regular section 221 full insurance program. This definition is generally the same as that used in the section 207 full insurance program, and is the obverse of the description of repairs used in the section 223(f) coinsurance program (§ 255.228)—i.e., the two definitions are mutually exclusive. This Part 251 coinsurance definition, however, would remove a special exemption for the purchase of fire safety equipment and certain replacement items, such as ranges and refrigerators, currently found in § 255.228(c), thereby requiring that these expenses be counted against the "Substantial Rehabilitation" threshold. The Department believes that the special exemptions are unnecessary in light of the increased per-unit dollar limit and the addition of a high-cost factor in the determination of what will be considered "Substantial Rehabilitation." The term "major building components" has also been modified to exclude elevators as a major component. The Department believes that the replacement of elevators is not of the same magnitude as the replacement of the other building components listed in the rule, and that their replacement should not count as the replacement of a major component for purposes of determining whether substantial rehabilitation is taking place. After public comments on this rule are taken into account, conforming changes to eliminate these provisions may also be made to the Part 255 (223(f)) coinsurance program and the Parts 207 and 221 full insurance programs.

"Firm Commitment", (f) is a new definition. "Distribution", (e), and "Residual Receipts", (n), are derived from definitions used in the regulatory agreements executed in the section 221 full insurance program.

Section 251.4 (Effect of amendments) is based upon similar provisions contained in 24 CFR Parts 221 and 255. A new requirement is added providing that if the regulations are amended, the amendment would apply to a coinsured loan if there is not an initial endorsement or start of construction within 60 days of commitment by a coinsuring lender, or within 60 days of the date of any amendment, reissuance, or extension of a commitment that occurred before the amendment of the regulation.

*Subpart B (Lender Requirements)*

The provisions of subpart B are essentially the same as those of subpart B in the Part 255 (223(f)) coinsurance program. However, § 251.102(a) would require a one-time application fee for approval as a coinsuring lender. (The Department will also consider adding this provision to Part 255.) The fee would be paid only once if the lender were to seek coinsuring lender approval for both 221 and 223(f) coinsurance. In addition, the review for approval as a coinsuring lender under this Part 251 would not duplicate any approval process already carried out under the Part 255 (223(f)) coinsurance program. It would consist of a minimal general review and a full review of only those items related to construction, inspections, insured advances, and other items peculiar to the new construction or Substantial Rehabilitation program.

Section 251.104(a) is a revision of the language in § 255.104(a). It makes clear that action to suspend or withdraw approval of a coinsurer need not proceed under 24 CFR Part 24, HUD's regulations dealing with the debarment or suspension of participants in HUD programs. Depending on the circumstances, HUD would have flexibility to use Part 24 or any of the grounds for withdrawal or suspension referred to in § 251.104(a) (1)–(6). The rule would also specify that a coinsurer's failure to pay any amount owed to a GNMA Mortgage-backed securities holder would be grounds for withdrawal or suspension of the coinsurer's approval (§ 251.104(a)(5)), and that lenders cannot delegate the servicing of coinsured loans in GNMA securities pools (§ 251.105(a)).

Not included in the text of the proposed rule, but under consideration within the Department, is the addition of provisions to authorize certain participation and pledge arrangements similar to those permitted under 24 CFR 207.261. Comment is invited on whether there will be a need for such a provision in this coinsurance program, and if so, what the scope of such a provision should be.

Section 251.107—*Reinsurance.* The provisions regarding reinsurance are similar to those for section 223(f) coinsurance at § 255.106. There are essentially two options for insurance of coinsurance risk. Under the first option, the coinsuring lender may insure 50 percent of its coinsurance liability. For this option, the loss-sharing formula distributing the losses between HUD and the lender remains the same—i.e., the lender assumes the top portion of the loss up to 5 percent of the Mortgage outstanding at default and then shares (in an amount of 15 percent) with HUD in any remaining loss.

Under the second option, the lender may insure 100 percent of its coinsurance liability. If the lender does so, the loss-sharing formula changes as described in § 251.820—i.e., the lender assumes the top portion of the loss up to 5 percent of the Mortgage outstanding at default and the next 15 percent of any remaining loss, and then shares (in the amount of 15 percent) with HUD in any remaining loss. Arithmetically, the coinsurer's liability is equal to the 5 percent deductible plus 27.75 percent (15 percent plus 15 percent of the residual 85 percent) of the remaining loss; HUD's liability is 72.25 percent (85 percent of 85 percent) of the loss remaining after the five percent deductible.

The lender may also insure that part of its coinsurance risk that equals the maximum amount that an insurer is authorized to insure under State law. In such a case, the formula for claim payment is the same as that for 100 percent reinsurance.

*Subpart C (Program Requirements)*

Subpart C (Program Requirements) covers such questions as: What type of project can be developed under this program? What types of Mortgages are eligible and for what amount? What are the categories of Mortgagors eligible to apply for the benefits of this program? To what extent may Mortgages already in the lender's portfolio also be coinsured under this program? In addition, requirements with respect to labor standards and nondiscrimination in housing and employment are set forth.

Section 251.201 defines the types of projects or property improvements that are eligible for assistance under Part 251. It is based upon similar sections found in 24 CFR Part 221 (§§ 221.545 and 221.546), 24 CFR Part 255 (§§ 255.228 and 255.229), and 24 CFR Part 207 (§§ 207.24 and 207.32a). In essence, for a project to be eligible for assistance it must consist

of five or more dwelling units and must be either newly constructed or Substantially Rehabilitated. What is meant by "Substantial Rehabilitation" is set forth in § 251.3 (Definitions).

The general thrust of § 251.201(a)(5) is the same as §§ 221.229 and 221.546(a) with regard to permitted commercial space. However, the specific provision generally limiting commercial space to five percent of net rentable area represents new policy. The policy set forth in the section with respect to commercial tenants is intended to be proposed for other FHA insurance programs.

Section 251.202 (Eligible Mortgagors) is based upon 24 CFR § 221.510. Certain special types of Mortgagors (e.g., rehabilitation sales and "public" Mortgagors) were not included because they are currently demonstrating little interest in the section 221 full insurance program and the Department wishes to provide eligibility criteria that are as clear-cut and nontechnical as possible for coinsuring lenders. The Department will carefully review any public comments addressing this initial determination.

Section 251.203 sets forth the method under which the principal amount of a Mortgage that may be coinsured under this program is determined. Essentially, three criteria must be met. There are statutory, per dwelling unit dollar ceilings (that may be adjusted upward in high-cost areas); a percentage of replacement cost factor (that varies with type of Mortgagor); and a percentage of projected net income to debt service limitation that also varies with type of Mortgagor.

The first two tests are based upon similar provisions contained in 24 CFR 221.514 and 221.515. The format used in this restatement, however, is very different from that found in Part 221. We are no longer including the specific per-unit dollar limits from the statute, inasmuch as they are adjusted, as a practical matter, in almost every geographic area by the high-cost factor. It is, therefore, preferable and less confusing for lenders and interested sponsors to obtain applicable dollar limits from the appropriate HUD field office.

The third test, setting forth a projected net income to debt service limitation on the maximum coinsurable amount, represents current and past Departmental practice, but was never expressly set forth in the regulations until promulgation of 24 CFR Part 255. The debt service calculation is an essential and obvious one that should be stated formally since it reflects clear HUD policy in this area. With respect to determining the net projected income of cooperative projects, the Department's current policy of allowing an additional 5 percent deduction is continued. Cooperative units must be "sold." The Department believes that marketing problems and risks, especially during the construction and immediate post-construction period, justify this particular deduction.

Section 619 of the Housing and Urban-Rural Recovery Act of 1983 (Pub. L. 98-181, approved November 30, 1983) (the 1983 Act) amended the Mortgage limit provisions of sections 221(d)(3) and 221(d)(4) of the Act to facilitate refinancing to perform Substantial Rehabilitation. The limits on Mortgages for Substantial Rehabilitation of properties are generally based upon the sum of the cost of rehabilitation plus the value of the property before rehabilitation. However, under prior law, where an existing Mortgage was involved, and application to insure a new Mortgage was made, the Mortgage limits were based upon the sum of the estimated cost of rehabilitation plus the existing indebtedness (rather than the value of the property before repair). The 1983 Act deletes the latter formula, so that the Mortgage limits are the same for refinancing as they are for financing where there is a purchase and Substantial Rehabilitation. This change would permit owners of properties involving an existing indebtedness who wish to rehabilitate the project and retain ownership to realize a portion of their equity upon refinancing. Section 203(d)(2) of the proposed Part 251 reflects this recent statutory change.

Section 404 of the 1983 Act removed HUD's authority to set maximum interest rates for HUD-insured single family and multifamily Mortgages (including insurance under section 221 of the Act), and provided instead that the rate would be that agreed upon by the borrower and lender. This change has already been implemented for all HUD programs (see Notice published in the **Federal Register** on December 23, 1983 at 48 FR 56746), and is incorporated in § 251.204 of this proposed rule.

Section 251.206(b) would permit the lender to collect a lender's premium of .25 percent per year of the average outstanding balance of the Mortgage beginning not earlier than 12 months after the date of initial endorsement in insurance of advances cases, and at endorsement in insurance upon completion cases. This provision would allow the lender to collect its premium throughout the full period of its coinsurance exposure, to the extent authorized be law. In insurance of advance cases, the premium would begin one year after initial endorsement, since § 251.801 would set the MIP paid by the Mortgagor for that period at one percent—the statutory per year maximum for MIP under section 203(c) of the National Housing Act. A similar provision in the Part 255-223(f) rule (§ 255.402(b)) permits collection of the lender's premium after the anniversary date of the first payment to principal, when (as in the case of insurance of advances under this proposed rule) the annual MIP drops from one percent to .5 percent.

Other sections in this subpart—§ 251.205 (Term of the Mortgage), §251.206 (Lender's fees and premium), §251.208 (Nondiscrimination in housing and employment), and 251.209 (Labor standards and prevailing wage requirements) are based upon statutory and regulatory provisions applicable to section 221 of the National Housing Act and Part 255-223(f). A section designated § 251.210 (Operating loss loans) is being held in reserve at the present time. Regulatory authority for these loans appears in the section 221 full insurance program at § 221.514(e), and will be provided for in Part 251 if they are determined to be necessary for successful program operation. Public comment is invited on this issue.

Section 251.207—*Coinsurance of Mortgages in Lender's Portfolio.* This is a new provision developed for the coinsurance program and is not part of the regular 221 full insurance program. A similar provision—limiting the coinsurance of loans in a lender's portfolio to 25 percent of the loans presented by the lender for coinsurance in any 12-month period—is found in 24 CFR 255.208. Section 251.207(b) would add a provision exempting portfolio loans from the 25 percent limitation where the lender's sole involvement is servicing or where the Mortgages are insured by HUD under its full insurance programs. The limitation is not necessary to protect HUD's financial interests in the case of the refinancing of fully insured portfolio loans, since the underlying projects originally received HUD construction processing and the lender would be assuming a greater risk of loss than under the full insurance program. It makes little sense to apply the limitation against loans that are held by a lender for servicing purposes only but are presented for refinancing by the Mortgagee of record. (The Department may also add these two exceptions to the 223(f) coinsurance rule).

The proposed rule does not provide for the use of Part 251 coinsurance in connection with Section 8 New or Substantial Rehabilitation. This is

consistent with the Department's position against seeking additional Section 8 authority for these programs and the repeal of virtually all Section 8 New Construction/Substantial Rehabilitation authority by section 209 of the 1983 Act. It may be possible, however, for a portfolio loan for a project receiving these types of Section 8 assistance to be refinanced under Part 251. The department specifically invites comments on whether the final rule should contain appropriate language to provide for such an eventuality.

*Subpart D—Processing and Commitment*

A sponsor/developer seeking a Coinsured Mortgage loan would apply to an approved lender. The sponsor-developer would be required to provide, as part of its application, documentation required by the lender to comply with the requirements of Part 251. These documentary requirements would be set forth in detail in appropriate HUD handbooks. The lender must perform all of the processing and make all of the determinations of the eligibility of a Mortgage for coinsurance under the program, except for certain environmental, previous participation, fair housing—equal opportunity, and intergovernmental review requirements that, under law or by their very nature, may not be delegated by the Secretary of HUD. Upon completion of processing, the lender may issue a commitment to coinsure the Mortgage. Closing of the loan is done by the lender, except that endorsement of the Mortgage for coinsurance will be done by the Commissioner or the Commissioner's authorized departmental representative upon certification by the lender of compliance with the terms and conditions of the program.

For the first three commitments to coinsure prepared for issuance by the lender, it will be HUD's policy to require the lender to submit its complete case file, in order that the Commissioner may ascertain that the lender is processing applications in full compliance with the requirements of Part 251.

*Subpart E—Insurance of Advances; Insurance Upon Completion; Construction Period*

This subpart covers requirements that must be met by the Mortgagor and lender during the construction period. Section 251.401 provides that either insurance of advances or insurance upon completion may be used under the program. Section 251.402 relates to insured advances during construction and to financial and lending requirements needed to assure satisfactory completion of the project. It is based upon 24 CFR 221.540 through 221.542 and 221.509(b)(3). Section 251.402(a)(1) states explicitly that a two percent working capital deposit will be required for *both* new construction and Substantial Rehabilitation projects. In current full insurance regulations, there is an express two percent requirement for new construction, but lower deposits may be allowed for rehabilitation projects. In practice, a 2 percent requirement has been applied in both cases and this paragraph merely reflects this fact. See § 221.540(a).

Section 251.402(a)(2), relating to Mortgagor cash deposits to assure completion, incorporates new provisions comparable to amendments promulgated by an interim rule published on August 4, 1983 applicable to the section 221 full insurance program. (See 48 FR 35389, at 35392, amending § 221.540). The rule provides that, in cases where the required Mortgagor deposit is made up, in whole or in part, by a Federal, State or local grant or loan, Mortgage proceeds may be advanced before the full disbursement of the grant or loan funds. However, any funds supplied by the Mortgagor must be disbursed in full before the advance of Mortgage proceeds.

Section 251.402(d) relates to surety bonds or other assurances of completion for a multifamily project. It reflects policies established in a final HUD rule published on September 27, 1983 applicable to the Section 221 full insurance program, requiring payment and performance bonds to cover the full amount of construction or rehabilitation costs. (See 48 FR 44068, at 44070, amending § 221.542).

Section 251.404 relates to inspections during construction and to cost certification requirements. Its provisions apply both in insurance of advances and insurance upon completion cases. the same inspection standards required for FHA full insurance programs would also apply to this coinsurance program. The provisions relating to cost certification are drawn from similar provisions in 24 CFR 221.547–221.553 and 221.557 and 221.558.

Secton 251.405 provides that when the cost certifications submitted under § 251.404 are reviewed and approved by the lender, the lender will determine whether a Mortgage reduction is necessary and whether any requests for a Mortgage increase are approvable. (See 24 CFR 221.555).

Section 251.406 deals with the application of net income received before the beginning of amortization and is based upon 24 CFR 221.543.

Section 251.407 relates to endorsement by the Commissioner or the Commissioner's designee of the Mortgage note. The endorsed note must identify the section of the National Housing Act and the regulations under which the Mortgage is coinsured, the prcentage of risk assumed by the lender and by the Commissioner, and the effective date of coinsurance.

*Subpart F—Mortgage and Closing Requirements*

Subpart F relates to the types of property interests the Mortgage may cover; requirements with respect to evidence of title; and required Mortgage provisions with respect to payments, MIP, fire and hazard insurance, prepayment privileges, late charges, secondary liens, and conversion of the property to other uses. The provisions of this subpart are basically the same as those in the regular section 221 full insurance program. There has been some minor rewriting and reordering of the text for clarity and improved organization. Certain provisions of this subpart are similar to provisions under section 223(f) coinsurance (Part 255) as well as the section 221 full insurance program. To aid in comparison, the following table comparing the various provisions is provided:

| New | Old |
|---|---|
| 251.501 | 221.544 |
| 251.502 | 221.562 |
| | 221.563 |
| 251.503 | 221.511 |
| | 221.512 |
| | 221.517 |
| | 221.521 |
| | 221.522 |
| | 221.523 |
| | 221.524 |
| | 221.525 |
| | 255.221 |
| 251.504 | 221.520 |
| | 255.210 |
| 251.505 | 255.107 |
| 251.506 | New |

*Subpart G—Requirements Relating to Structure of Mortgage Entity and Transfer of Ownership Interest*

Subpart G pertains to the transfer of ownership interests by various types of Mortgagors. Section 251.601 sets forth requirements applicable to all Mortgagors in cases of a transfer of ownership interest. It is based upon material found in the regulatory agreement in HUD's multifamily full insurance programs. Sections 251.602 and 251.603 are based upon similar regulatory provisions in 24 CFR Part 221. (See §§ 221.535 and 221.535a.) They

relate to transfers of ownership after construction or Substantial Rehabilitation, respectively, to either cooperatives or to nonprofit entities.

*Subpart H—Program Requirements Relating to Project Operation*

Subpart H covers requirements applicable to the operation of a project after the Mortgage is endorsed for coinsurance. Section 702 requires Mortgagors to establish a reserve for replacements and, in the case of Cooperative Mortgagors, a general operating reserve. It is based upon similar requirements in 24 CFR 221.530 and 221.534.

Section 251.703—Rents and Charges—is based upon similar provisions found in 24 CFR 221.530 and 531, that were revised on April 19, 1983 (48 FR 16670, at 16674). The revision effectively ends HUD control of rents and other charges for General Mortgagors under section 221(d)(4) of the National Housing Act, while continuing control on other Mortgagors under that authority and on projects insured under section 221(d)(3). While general reference to Section 8 housing subsidies is made in this section, the Department, as noted above, does not contemplate use of this coinsurance program in conjunction with the Section 8 New Construction or Section 8 Substantial Rehabilitation programs.

Sections 251.704 (Use of project funds), 251.705 (Distributions and Residual Receipts), and 251.706 (Project management) incorporate requirements and procedures which HUD has historically included in the regulatory agreement or in its administrative requirements. Section 251.706 (Project management) is also based upon similar provisions found in Part 221. (See §§ 221.530–221.534 and 221.536–221.537.)

*Subpart I—Contract Rights and Obligations*

Subpart I covers contract rights and obligations under the coinsurance program, and is based upon the provisions contained in Subpart D of 24 CFR Part 255. Topics include Mortgage Insurance Premiums, delinquency and default under the Mortgage, termination of coinsurance, claim procedure and payment of insurance benefits, and remedies for default by a lender-issued under GNMA's Mortgage-Backed Securities Program.

There are, however, some differences. Section 251.801 contains procedures for the payment of Mortgage Insurance Premiums in insurance of advances cases. This is new, since Part 255 is a refinancing and repair program and does not provide for construction advances. The amount of the MIP would be one percent of the average outstanding principal balance for the year after the date of initial endorsement, of which .65 percent would go to HUD and .35 percent to the lender.

The time periods within which lenders must take certain actions are set forth in detail: If the lender has not received the Mortgagor's payment by the 16th day of the month in which it is due, the lender would have to notify HUD of the delinquency by the 20th of that month (§ 251.807) and, if the default continues for a period of 30 days, the lender would have to notify HUD not only within the next 30 days but also a monthly basis thereafter until the default has been cured or the lender has filed an insurance claim (§ 251.810); the lender would generally have to notify HUD of its election to acquire the property and file an insurance claim within 75 days of the date of default (§ 251.815); and within 30 days of submitting the notice of its election, the lender would have to institute action to either foreclosure the Mortgage or acquire title to the Mortgaged property through a deed-in-lieu of foreclosure (§ 251.816). These provisions are designed to give HUD timely and continuous notice of troubled Mortgages, and to encourage expeditious action with respect to defaults.

As noted above, HUD would pay a greater amount of insurance benefits where the lender has obtained no insurance of its coinsurance exposure or has insured one-half of its risk. Section 251.820(b)(3) would extend this treatment to a qualifying State Housing Agency lender that obtains reinsurance from an authorized public Mortgage insurer for all or part of its coinsurance risk, where a true identity of interest exists between the Agency and the insurer. This is intended to cover the one State that has such an arrangement, and recognizes the fact that where a true identity of interest exist between the coinsuring lender and its insurer, the coinsurer is essentially providing self-insurance.

Section 251.820(d) contains a new provision specifying that if the lender's reinsurance is increased after endorsement, HUD's insurance benefits would be reduced accordingly. However, HUD's insurance benefits would not be increased if reinsurance is subsequently reduced or cancelled. These provisions are intended to permit HUD to pay insurance benefits in line with the actual reinsurance obtained, while establishing HUD's maximum insurance liability at the time of endorsement. Also, the provisions in § 251.811 on financial relief to cure a default are much more detailed than the analogous provision at § 255.414 and are designed to reflect more accurately Departmental policy in this area.

Section 251.813 (Termination of Coinsurance Contract), omits, as a ground for termination, failure of the lender to file an insurance claim within the time prescribed (see § 255.415(e)). The Department intends also to delete this provision from Part 255 on the ground that denial of all insurance benefits is too harsh a penalty for filing a late claim. Current Departmental policy is reflected in § 251.821(b) that provides for a curtailment of relevant interest payments otherwise due under the claim where there is a late filing.

The Department also is giving consideration to adding a new section to the rule to cover situations in which, after settlement of its insurance claim, the lender sells the property for an amount considerably in excess of the higher of the two appraised values. Under § 251.822(f)(3) of the proposed rule, if the property is not sold within 12 months after the date of acquisition, the higher of the two appraised values is deducted in the calculation of insurance benefits. If the property is subsequently sold for an amount greatly in excess of such appraised value, the lender receives a windfall. The regulation contemplated by the Department might provide that in such instances, the lender would pay to HUD a specified portion of the amount by which the net sales price (after deducting from the selling price disposition costs, closing costs, and other expenses incurred after the payment of coinsurance benefits) exceeds the higher of the two appraised values. In no event would the lender be required to pay to HUD more than the amount that HUD paid in settling the coinsurance claim. The Department intends to include a provision to this effect in the rule when published in final form if it determines that such a provision is feasible, and specifically invites comments on this issue. Section 251.818(e) has been "reserved" for this purpose.

**List of Subjects in 24 CFR Part 251**

Mortgage insurance, Coinsurance of multifamily mortgages.

Accordingly, title 24 of the Code of Federal Regulations is amended by adding a new Part 251, to read as follows:

## PART 251—COINSURANCE FOR THE CONSTRUCTION OR SUBSTANTIAL REHABILITATION OF MULTIFAMILY HOUSING PROJECTS

### Subpart A—General Provisions

Sec.
251.1 Purpose and scope.
251.2 Coinsurance contract.
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**Authority:** (Sec. 7(d) Department of HUD Act (42 U.S.C. 3535(d)), Sec. 244, National Housing Act, 12 U.S.C. 1715z(9)).

### Subpart A—General Provisions

#### § 251.1 Purpose and scope.

(a) Section 307 of the Housing and Community Development Act of 1974 amended the National Housing Act (the Act) by adding a new Section 244 entitled, "Coinsurance". Section 244 authorizes the Department to insure, under a Coinsurance Contract, any Mortgage otherwise eligible for insurance under Title II of the Act. The Coinsurance Contract provides that the approved lender (1) assume a percentage of any loss and (2) carry out (subject to monitoring) underwriting, commitment, property disposition and other functions that the Federal Housing Commissioner (Commissioner) approves.

(b) HUD expects that the sharing of risk and the assumption by the lender of major processing functions will reduce processing time and HUD staff burden, and increase lender involvement in all phases of the HUD Mortgage insurance process.

(c) Section 244(c) of the Act permits the Secretary to coinsure Mortgages only if the Secretary determines, after due consultation with the Mortgage lending industry, that coinsurance will not disrupt the Mortgage market or reduce the availability of Mortgage credit to borrowers who depend upon full Mortgage insurance provided under the Act. HUD invites the Mortgage lending industry and other interested parties to make their views known on these issues both during the 60-day period following publication of the proposed Part 251 in the **Federal Register** and at any later time. Issuance of this Part 251 (and any later amendment to it) for effect will mean that no adverse effects are reasonably predictable at the time of issuance. However, the Department will continue to monitor the effects of coinsurance and will welcome the submission of evidence that shows that disruptions of the Mortgage market or reductions in Mortgage credit are occurring as a result of the coinsurance program.

(d) This part provides for the coinsurance of Mortgages under Section 221(d)(3) or Section 221(d)(4) of the Act, which cover newly constructed or Substantially Rehabilitated multifamily projects.

(e) No full insurance authorized under any provision of the Act will be withdrawn, denied, or delayed because of the availability of coinsurance under this part.

(f) If the Commissioner determines that coinsurance under this part is having an adverse effect on the availability of Mortgage credit to older and declining neighborhoods or to purchasers of older and lower cost housing, the Commissioner will discontinue the program after due notice. In such a case, no further coinsurance applications will be accepted nor will any further commitments under the program be authorized.

(g) Neither the coinsuring lender nor the Mortgager shall have any vested or other right in the General Insurance Fund.

**§ 251.2 Coinsurance Contract.**

The Contract of Coinsurance is the agreement between the lender and the Commissioner to coinsure a Mortgage under this part. It is evidenced by an endorsement on the Mortgage note by the Commissioner, or by the Commissioner's authorized Departmental representative, and includes the terms, conditions and provisions of this part.

**§ 251.3 Definitions.**

(a) "Builder's and Sponsor's Profit and Risk Allowance" (BSPRA) is an amount included in replacement cost where an identity of interest, as defined by the Commissioner, exists between the Mortgager and general contractor. The amount is a percentage of the total estimated cost of on-site land improvements; structures; general requirements; general overhead expenses; architect's fees; carrying and financing charges; and legal, organizational and audit expenses. The appropriate percentage to be applied is established by the Commissioner and may not exceed 10 percent.

(b) "Builder-seller Mortgagor" means an entity organized:

(1) To construct or rehabilitate a project and that, by written agreement with a Nonprofit Mortgagor, will sell the project (at final endorsement) to the Nonprofit Mortgagor at a purchase price not exceeding the certified cost of the project under § 251.404;

(2) To operate the project (subject to regulation by the lender) in accordance with requirements of the Commissioner, until sold to the Nonprofit Mortgagor; and

(3) To operate the project, if it is not sold within two years to a Nonprofit Mortgagor, as a Limited Distribution Mortgagor.

(c) "Coinsured Mortgage" means a Mortgage concerning which the risk of loss is shared by the lender and the Commissioner. The coinsurance is evidenced by endorsement of the Mortgage note by the Commissioner or by the Commissioner's authorized Departmental representative.

(d) "Cooperative Mortgagor" means a nonprofit cooperative ownership housing corporation, regulated by the lender under a regulatory agreement, that restricts permanent occupancy of the project to members of the corporation, and requires membership eligibility and transfer of membership in a manner approved by the Commissioner.

(e) "Distribution" means the withdrawal of any cash or asset of the project excluding outlays for:

(1) Mortgage payments;

(2) Reasonable expenses necessary for the proper operation and maintenance of the project; and

(3) Repayment of advances from the owner, when such repayments are authorized by the Commissioner.

(f) "Firm Commitment" means the commitment from the lender to the Mortgagor that contains final determinations by the lender of the maximum insurable Mortgage based upon complete working drawings and specifications and cost estimates, preparerd in a manner specified by the Commissioner. The Firm Commitment may not be issued for longer than 60 days, by which time the project must be initially endorsed (insurance of advance cases) or construction started (insurance upon completion cases). The Firm Commitment may be extended by the lender as provided in § 251.302(c) of this part.

(g) "General Mortgagor" means any Mortgagor approved by the lender that does not meet any of the definitions in paragraphs (b), (d), (h), (i) or (m) of this section and that is regulated by the lender by means of a regulatory agreement.

(h) "Investor-sponsor Mortgagor" means an entity organized in the same manner as a Builder-seller Mortgagor and subject to the same restrictions, except that the project will be sold to a Cooperative Mortgagor rather than a Nonprofit Mortgagor.

(i) "Limited Distribution Mortgagor" means an entity restricted by Federal or State law, and by the lender by means of a regulatory agreement, as to its rate of return and other aspects of its operation.

(j) "Mortgage" means a first lien on real estate and other property commonly given to secure either advances on real estate or the unpaid balance of the purchase price of real estate under the laws of the jurisdictions in which the real estate is located. "Mortgage" includes any credit instrument(s) secured by the real estate.

(k) "Mortgagor" means the original borrower under a Mortgage and its successors, and any assigns approved by the Commissioner.

(l) "Mortgage Insurance Premium" (MIP) means the Mortgage Insurance Premium collected under §§ 251.801 and 251.802 of this Part.

(m) "Nonprofit Mortgagor" means an entity that is organized for reasons other than financial gain and that the lender finds is not controlled or directed by persons or firms seeking to derive financial gain from it. The operation of a Nonprofit Mortgagor must be regulated under Federal or State law, and by the lender by means of a regulatory agreement.

(n) "Residual Receipts" means (1) for projects owned by Nonprofit Mortgagors, all Surplus Cash and (2) for projects owned by Limited Distribution Mortgagors, any Surplus Cash remaining after allowable Distributions have been made or funds have been set aside for their payment.

(o) "Sound Capital Resources" means the excess of the coinsuring lender's assets (minus any valuation allowances) over its liabilities (generally referred to as net worth), plus allowed letters of credit. Net worth includes paid-in capital stock, surplus, reserves, undistributed earnings and any other unencumbered resources of the coinsuring lender. Sound Capital Resources may include (up to the limit specified in § 251.102(b)(2)) an unconditional and irrevocable firm letter of credit from a supervised financial institution with assets of not less than $100,000,000. For purpose of determining Sound Capital Resources, a loss reserve established to cover coinsurance liability under this part that is treated as a liability in the Mortgagee's balance sheets may be deemed a capital item rather than a liability.

(p) "Sponsor's Profit and Risk Allowance" (SPRA) is an amount included in replacement cost where no identity of interest, as defined by the Commissioner, exists between the general contractor and Mortgagor. The amount is a percentage of the sum of the architect's fee; carrying and financing charges; and legal, organizational and audit expenses. The appropriate percentage is established by the Commissioner and may not exceed 10 percent.

(q) "Substantial Rehabilitation" consists of repairs, replacements, and improvements:

(1) The cost of which exceeds the greater of:

(i) 15 percent of the property's value after completion of all repairs, replacements, and improvements, or

(ii) $6,500 per dwelling unit (adjusted by any applicable high-cost area factor under § 251.203(a)), *or*

(2) That involve the replacement of more than one major building component. For purposes of this definition, the term "major building component" includes:

(i) Roof structures,

(ii) Ceiling, wall, or floor structures,

(iii) Foundations,
(iv) Plumbing systems,
(v) Heating and air conditioning systems, or
(vi) Electrical systems.

(r) "Surplus Cash" means any unrestricted cash remaining after:

(1) The payment of: (i) All sums due or currently required to be paid under the terms of any Mortgage or note coinsured by the Commissioner;

(ii) All amounts required to be deposited in any replacement or operating reserve; and

(iii) All other obligations of the project unless funds for payment are set aside, or deferral of payment has been approved by the lender; and

(2) The escrow of an amount equal to: (i) The aggregate of any special funds required to be maintained by the project; and

(ii) The project's total liability for tenant security deposits.

In computing Surplus Cash, the Mortgagor must follow any administrative requirements prescribed by the Commissioner.

**§ 251.4 Effect of amendments.**

The Commissioner may amend the regulations in this part from time to time. Amendments will not adversely affect the interests of a lender under a Contract of Coinsurance on any Mortgage already coinsured or on any Mortgage to be coinsured on which the lender has already issued a Firm Commitment, provided the Mortgage is initally endorsed (insurance of advances) or construction starts (insurance upon completion) within 60 days after issuance of the Firm Commitment. The 60 days will run from the date of the original issuance of the Firm Commitment or from the date of any amendment, reissuance, or extension of a commitment that occurred before the effective date of the amendment of the regulation.

## Subpart B—Lender Requirements

**§ 251.101 Eligible lender.**

The Commissioner may approve as a coinsuring lender any lender that (a) is currently a HUD-approved multifamily lender under 24 CFR 203.3 through 203.6 or 203.8(b) and (b) meets the requirements of § 251.102.

**§ 251.102 Review and approval as coinsuring lender.**

The Commissioner will review an applicant lender's technical staff and procedures before granting approval as a coinsuring lender under this part. This review, including an on-site review of the lender's operations, will establish the adequacy of technical staff, processing procedures, development and measurement oversight, Mortgage servicing, and any disposition functions.

(a) A fee of $5,000 is charged for each application for approval as a coinsuring lender. This fee will not be refunded once the application has been determined acceptable for initial review.

(b) An applicant lender must submit:

(1) A written opinion of its counsel that it has the necessary powers to participate in the coinsurance program under this part.

(2) Evidence acceptable to the Commissioner of Sound Capital Resources of not less than $1,500,000, including liquid funds of at least $500,000. Up to $500,000 of the Sound Capital Resources may be met by an unconditional and irrevocable firm letter of credit. The lender must agree that, for the period of the coinsurance, it will maintain the basic Sound Capital Resources requirement and an additional one dollar of Sound Capital Resources for each 300 dollars of outstanding principal indebtedness on Mortgages it has coinsured under this part.

(3) Evidence acceptable to the Commissioner that the lender has the operating procedures, internal management controls, and technical staff (under contract or in its own employ) necessary to discharge full Mortgage underwriting, development, oversight, servicing, management, property repair and disposition, and other functions. It must employ adequate staff to monitor contract work and make final underwriting conclusions. It must agree to notify HUD of any changes in its operating procedures and principal staff and to make no changes that are inconsistent with this part.

(4) The lender's most recent detailed audit report of its financial records, supplemented as the Commissioner may require. The audit must be made by an independent certified public accountant or independent public accountant licensed by a regulatory authority of a State or other political subdivision on or before December 31, 1970.

(5) A statement agreeing to file annual audits similar to those described in paragraph (a)(4) of this section and annual reports on its processing and commitment activities, coinsured loan portfolio and loan servicing activities. The annual audits and reports must be prepared in formats acceptable to the Commissioner and submitted within the time limits established by the Commissioner.

(6) A statement agreeing to auditing by the Commissioner, the HUD Inspector General, and the Comptroller General of the United States with respect to its activities under this part. For this purpose, the Commissioner, the HUD Inspector General, the Comptroller General and their authorized agents shall have access to the financial records of the lender.

(7) A statement agreeing to comply with the provisions of title 8 of the Civil Rights Act of 1968, the Equal Credit Opportunity Act, Executive Order 11063, other Federal laws and all regulations issued pursuant to these authorities with respect to the lending, investing, or coinsuring of funds in real estate Mortgages.

(8) A statement agreeing to retain all its legal obligations under this part, if it delegates servicing functions, as provided in § 251.105.

(9) A statement agreeing to abide by all applicable requirements issued by the Commissioner for performing its functions under this part.

**§ 251.103 Duration of approval.**

Initial approval as a coinsuring lender will continue in force until one of the following occurs:

(a) Expiration of the Secretary's authority to coinsure under this part. A temporary lapse in this authority will not terminate the leader's approved coinsurer status or affect outstanding Firm Commitments or coinsurance in force. However, lenders are responsible for suspending issuance, extension, or reopening of commitments during these periods.

(b) Withdrawal of approval under §251.104.

**§251.104. Withdrawal of approval.**

(a) Approval as a coinsuring lender under this part may be withdrawn or suspended for any of the following causes:

(1) Failure to maintain satisfactory Sound Capital Resources.

(2) Failure to discharge its responsibilities under any regulatory agreement, Coinsurance Contract, or administrative procedures issued by the Commissioner under this part.

(3) Payment by the lender, in any insurance transaction, of any fee, kickback, or other consideration, directly or indirectly, to any person who has received any consideration from another person for services related to the transaction; however, compensation may be paid for the actual performance of services approved by the Commissioner.

(4) Submission of a false, fraudulent or incomplete report to HUD or the incurring of any indebtedness to HUD

for which no satisfactory repayment plan or agreement is in effect.

(5) Failure to pay any amount owed to a holder of securities guaranteed by the Government National Mortgage Association (GNMA) and backed by a coinsured loan.

(6) Assigning a Coinsured Mortgage to an entity that is not a HUD-approved coinsuring lender.

(7) Other reasons the Commissioner determines to be justified in accordance with Part 24 of this title or by action of the Mortgagee Review Board in accordance with Part 25 of this title.

(b) Withdrawal or suspension of approval as a coinsuring lender will not affect any coinsurance or Firm Commitments in effect at the time of the withdrawal or suspension of approval.

**§251.105 Delegation of Servicing.**

(a) The lender must directly service all coinsured loans included in GNMA securities pools. In all other instances, the lender may choose to service its coinsured loans or arrange for another entity to service the Mortgages as long as the contract servicer is a HUD-approved lender under §§203.1 through 203.6 or §203.8(b) of this chapter and the coinsuring lender retains its obligations under this part.

(b) The lender must inform HUD of any delegation of servicing on a form prescribed by the Commissioner.

(c) If HUD considers the servicer's performance to be unsatisfactory, HUD may require the lender to cancel the servicing arrangement after giving the lender a 30-day written notice.

**§251.106 Assignment of Coinsured Mortgages.**

(a) A lender may assign a Coinsured Mortgage to another lender if the following requirements are satisfied:

(1) The assignee is a HUD-approved coinsuring lender;

(2) The lender shows good cause for the assignment;

(3) The Commissioner finds that the assignment is for good cause and that there will be no disadvantage to the Federal Housing Administration (FHA); and

(4) The Commissioner gives prior written approval for the assignment.

(b) The lender must inform HUD on a form prescribed by the Commissioner following the assignment of any Coinsured Mortgage. The lender will not be relived of its obligation to pay Mortgage Insurance Premiums until HUD has received this notice.

(c) If the Mortgage is used to back securities guaranteed by the Government National Mortgage Association (GNMA), GNMA approval also is required for the assignment of the pooled Mortgage.

**§251.107 Reinsurance.**

(a) The lender may reinsure its potential loss with respect to a particular project. Reinsurance may be obtained for:

(1) 50 percent of its risk;

(2) 100 percent of its risk; or

(3) That percentage of its risk that equals the maximum amount the reinsurer is authorized by State law to reinsure.

(b) The effect of reinsurance on the insurance benefits payable by HUD is covered in § 251.820.

(c) Any reinsurance policy must name the Commissioner as contingent beneficiary, where default by the lender compels the Commissioner under § 251.823 to reimburse the Government National Mortgage Association for the amount that the Association had to pay securities holders as a result of the lender's default in payment subject to the ceilings provided in § 251.823.

**§ 251.108 Pledging and other security arrangements. [Reserved]**

## Subpart C—Program Requirements

**§ 251.201 Eligible project.**

(a) Newly constructed and Substantially Rehabilitated projects are eligible under this part. A project:

(1) Must have five or more units;

(2) May be detached, semi-detached, row houses, or multifamily structures;

(3) Must comply with all applicable zoning or deed restrictions, and applicable building and other governmental regulations;

(4) Must be designed in accordance with HUD minumum property requirements; and

(5) Must be designed primarily for residential use, but may include commercial and community facilities determined to be adequate to serve the occupants. In general, the net rentable commercial area in any project may not exceed five percent of the total net rentable area, unless the commercial tenants leasing the space meet specific financial responsibility standards established by the Commissioner. In no event may the net rentable commercial area exceed 20 percent of the total net rentable area.

(b) The Commissioner must review all projects proposed for coinsurance under this part for compliance with the requirements of the National Environmental Policy Act of 1969 and related laws and authorities as set forth in Part 50 of this title.

(c) No insurance will be made available under this part for any building located in an area identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards unless (1) the jurisdiction in which the project is located is participating in the National Flood Insurance Program and is subject to 44 CFR 59–79 or (2) less than a year has passed since FEMA notification regarding such hazards, and flood insurance is obtained in compliance with the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001).

(d) No insurance will be made available under this part with respect to a property within the Coastal Barriers Resources System established by the Coastal Barriers Resources Act (16 U.S.C. 3501).

(e) Wherever applicable, projects under this part must comply with the National Historic Preservation Act (16 U.S.C. 470).

(f) Involuntary displacement of tenants must be minimized under a plan developed by the Mortgagor, in any case where it is anticipated that Substantial Rehabilitation will cause such displacement.

**§ 251.202 Eligible Mortgagors.**

Nonprofit, Builder-seller, Investor-sponsor, Cooperative, Limited Distribution, and General Mortgagors, as defined in § 251.3 and approved by the lender in accordance with standards established by the Commissioner, are eligible under this part. Differing maximum insurable Mortgage limits (see § 251.203) apply under Sections 221(d)(3) and 221(d)(4) of the Act, depending upon the type of Mortgagor entity involved.

**§ 251.203 Maximum Mortgage limitations.**

The maximum Mortgage coinsurable under this part is the lowest of the amounts determined under the following limits:

(a) *Statutory cost limits.* Congress has established maximum per unit dollar amounts for costs attributable to dwelling use. These limitations vary by number of bedrooms, structure type (elevator or non-elevator), Mortgagor type, and section of the Act, and are changed from time to time by statute. In addition, to compensate for geographic differences in construction costs, the Commissioner may establish, where appropriate, high-cost area factors. These are multiples of the otherwise applicable basic dollar limits. The factor for any geographic area may not exceed 175 percent of the basic limit. The maximum coinsurable amount applicable to a particular project may be obtained from the appropriate HUD field office. On an individual project basis in

high-cost areas, the Commissioner may approve the use of a factor of up to 240 percent of the basic limit where costs justify it, except that for projects to be purchased by the Government National Mortgage Association under Section 305 of the Act (Tandem programs), the Commissioner may not approve a factor of more than 190 percent. In the unusually high-cost areas of Alaska, Guam and Hawaii, the Commissioner may approve the use of a factor of up to 360 percent. The Commissioner is also permitted to increase the otherwise applicable dollar limits by up to 20 percent to account for the installation in the project of a solar energy system (as defined in section 2(a) of the Act) or certain residential energy conservation measures (as defined in section 210(11)(A)–(G) and (I) of Pub. L. 95–619). The maximum coinsurable amount cannot exceed the sum of the project's total calculated statutory cost limit plus the applicable percentage below of structural and land costs not attributable to dwelling use:

| Section | Mortgagor | Percentage |
|---|---|---|
| (1) 221(d)(3) | General and Limited Distribution. | 90 |
| (2) 221(d)(3) | All others | 100 |
| (3) 221(d)(4) | All Mortgagors | 90 |

(b) *Replacement cost limits.* The replacement cost of a project is the total of the lender's estimate of the value of the land (or the value of the leasehold estate), determined in a manner prescribed by the Commissioner, plus physical improvements, utilities within the boundaries of the land, architect's fees, taxes, carrying and financing charges and miscellaneous charges incident to construction that are allowed by the Commissioner and approved by the lender. In the case of General and Limited Distribution Mortagogors, replacement cost is increased by BSPRA or SPRA, as appropriate. The maximum Coinsurable Mortgage cannot exceed the applicable percentage of the project's total replacement cost as follows:

| Section | Mortgagor | Percentage |
|---|---|---|
| (1) 221(d)(3) | General and Limited Distribution. | 90 |
| (2) 221(d)(3) | Cooperative | 98 |
| (3) 221(d)(3) | All others | 100 |
| (4) 221(d)(4) | All Mortgagors | 90 |

(c) *Debt service limits.* The net projected project income available for payment of debt service is determined by reducing the estimated gross income of the project by a vacancy and collection loss factor and by the cost of all estimated operating expenses, including deposits to the reserve for replacements, taxes, and distributions, where appropriate. (In the case of cooperatives, net income is determined by deducting up to an additional 5 percent for operating reserves and collection losses.) The maximum Coinsurable Mortgage cannot exceed the amount that could be amortized by the applicable percentage of net income set out below:

| Section | Mortgagor | Percentage |
|---|---|---|
| (1) 221(d)(3) | General and Limited Distribution. | 90 |
| (2) 221(d)(3) | All others | 95 |
| (3) 221(d)(4) | All Mortgagors | 90 |

(d) *Rehabilitation projects—additional limits.* In addition to the limits of paragraphs (a), (b) and (c) of this section, the following additional limits apply to projects to be Substantially Rehabilitated. (In the case of General and Limited Distribution Mortgagors, the cost of rehabilitation includes BSPRA or SPRA, as appropriate, where a cost-plus contract is used.)

(1) Where the property is owned by the Mortgagor in unencumbered fee simple, the Mortgage may not exceed 100 percent of the cost of rehabilitation regardless of type of Mortgagor or whether Section 221(d)(3) or 221(d)(4) is used.

(2) Where the property is owned by the Mortgagor but is subject to existing indebtedness to be refinanced by part of the proceeds of the Coinsured Mortgage, the maximum Coinsurable Mortgage may not exceed the sum of the cost of rehabilitation plus the applicable percentage of the lender's estimate of value of the property before rehabilitation as follows:

| Section | Mortgagor | Percentage |
|---|---|---|
| (i) 221(d)(3) | General and Limited Distribution. | 90 |
| (ii) 221(d)(3) | All others | 100 |
| (iii) 221(d)(4) | All Mortgagors | 90 |

(3) Where the property is to be acquired and the purchase price to be financed with part of the proceeds of the Coinsured Mortgage, and

(i) The Mortgagor is a General or Limited Distribution Mortgagor using Section 221(d)(3), or any Mortgagor using Section 221(d)(4), the maximum Coinsurable Mortgage cannot exceed 90 percent of the sum of the cost of rehabilitation plus the lesser of the purchase price of the property or the lender's estimate of value of the property before rehabilitation; or,

(ii) The Mortgage is to be coinsured under Section 221(d)(3) and the Mortgagor is not a General or Limited Distribution Mortgagor, the maximum Coinsurable Mortgage cannot exceed the sum of the cost of rehabilitation plus the lesser of the purchase price of the property or the lender's estimate of the value of the property before rehabilitation.

**§ 251.204 Maximum interest rate.**

The interest rate in a commitment to coinsure, including a commitment for Mortgage increase, shall be at such rate as may be agreed upon by the Mortgagor and the coinsuring lender at the time the commitment is issued. The interest rate may be increased or decreased only after reprocessing and issuance of an amended commitment. The interest rate may not be increased after initial endorsement (insurance of advances) or start of construction (insurance upon completion), except that where a Mortgage increase is requested, processed, and approved, a higher rate may be applied to the amount of the increase only.

**§ 251.205 Term of the Mortgage.**

The Mortgage term may not exceed 40 years from the date of first payment to principal.

**§ 251.206 Lender's fees and premium.**

(a) The lender may collect from the Mortgagor, and include in the Mortgage, an application fee, financing fee, permanent placement fee, and inspection fee. These fees may not exceed the maximums approved by the Commissioner. The lender may collect additional fees, approved by the Commissioner, that are outside the Mortgage and that must be disclosed at initial endorsement (insurance of advances) or endorsement (insurance upon completion). In no event will the fees allowed under this paragraph be permitted to exceed comparable fees allowed in the full insurance programs under sections 221(d)(3) and 221(d)(4) of the Act.

(b) The coinsuring lender may collect a lender's premium of .25 percent per year of the average outstanding principal balance of the Mortgage (without regard to delinquent payments or prepayments) beginning not earlier than 12 months after the date of initial endorsement (insurance of advances) or the date of endorsement (insurance upon completion). This premium will be for the account of the lender or an insurer of the lender.

**§ 251.207 Coinsurance of Mortgages in lender's portfolio.**

(a) Coinsurance under this part is available for Mortgages that the lender (or a related entity) already holds in its own portfolio only if:

(1) The project requires Substantial Rehabilitation;

(2) The loan is current and has not been in default, modification, or forbearance at any time during the two years preceeding the submission of the application to the lender;

(3) Refinancing of portfolio loans makes up no more than one-fourth of the total number of loans the lender presents for endorsement for coinsurance during any 12-month period; and

(4) The entire loan transaction is reviewed and approved by the Commissioner (in his or her discretion) before any commitment is issued.

(b) The following loans will not be subject to the one-fourth limitation in paragraph (a)(3) of this section:

(1) Mortgages insured by HUD under its full insurance programs; and

(2) Mortgages in which the lender's sole involvement is servicing.

**§ 251.208 Nondiscrimination in housing and employment.**

The Mortgagor must certify to the lender and to the Commissioner that it will:

(a) Not use tenant selection procedures that discriminate against families with children, unless the project was specifically designed for housing the elderly;

(b) Not discriminate against any family because of the sex of the head of household;

(c) Comply with title VIII of the Civil Rights Act of 1968 and implementing regulations that prohibit discrimination because of race, color, religion, sex, or national origin; administer the project and related activities to further fair housing in an affirmative manner; and comply with State and local fair housing laws;

(d) Comply with Executive Order 11063 and implementing regulations that prohibit discrimination because of race, color, creed, or national origin in housing and related facilities provided with Federal financial assistance; and

(e) Not discriminate because of race, color, religion, sex, or national origin against any employee or applicant for employment. Provisions to this effect, and, in addition, the provisions of Executive Order 11246 and 41 CFR Chapter 60, where appropriate, will apply to any contract or subcontract for project repairs and improvements.

**§ 251.209 Labor standards and prevailing wage requirements.**

(a) *In general.* The following labor standards and prevailing wage requirements shall be applicable to Mortgages coinsured under this part (except as specified in paragraph (b) of this section), and compliance with such requirements shall be evidenced at such time and in such manner as the Commissioner may prescribe:

(1) *Labor Standards.* Any contract, subcontract, or building loan agreement executed for a project to be constructed or Substantially Rehabilitated under this part shall comply with all applicable labor standards and provisions of 29 CFR Part 5, issued by the Secretary of Labor.

(2) *Ineligible advances.* No advance under the Mortgage shall be eligible for coinsurance after the lender determines (in accordance with the Commissioner's administrative procedures) that the general contractor or any subcontractor or any firm, corporation, partnership or association in which the contractor or subcontractor has a substantial interest was, on the date the contract or subcontract was executed, on the ineligible list established by the Comptroller General, pursuant to 29 CFR 5.12, issued by the Secretary of Labor.

(3) *Wage certificate.* No advance under any Mortgage shall be coinsured under this part unless there is filed with the application for the advance, and no mortgage shall be coinsured under this part unless there is filed with the Commissioner after completion of the construction or Substantial Rehabilitation, a certificate or certificates in the form required by the Commissioner, supported by such other information as the Commissioner may prescribe, certifying that the laborers and mechanics employed in the construction of the dwelling or dwellings or housing project involved have been paid not less than the wages prevailing in the locality in which the work was performed for the corresponding classes of laborers and mechanics employed on construction of a similar character, as determined by the Secretary of Labor before the beginning of construction and after the date of filing of the application for insurance.

(b) *Excepted transactions.* The Commissioner may waive the requirements of paragraph (a) of this section with respect to a cooperative housing project where laborers or mechanics not otherwise employed at any time in the construction of the project voluntarily donate their services without compensation for the purpose of lowering their housing costs in the project and the Commissioner determines that any amounts saved thereby are fully credited to the cooperative undertaking the construction.

**§ 251.210 Operating loss loans. [Reserved]**

## Subpart D—Processing and Commitment

**§ 251.301 Processing and development responsibilities.**

(a) The lender is responsible for the performance of all functions under this part, including acceptance and review of applications, issuance of commitments, inspections, and closings, except those functions specified in paragraphs (b) and (c) of this section.

(b) Certain functions are retained by the Commissioner. The lender must submit any information required by the Commissioner to permit determinations of compliance with requirements concerning:

(1) Previous participation of the principals of the Mortgagor, general contractor, consultant, and management agent in accordance with the Previous Participation and Clearance Review Procedures of 24 CFR 200.210 through 200.218;

(2) Environmental impact under the National Environmental Policy Act of 1969 and related laws and authorities set forth in 24 CFR Part 50;

(3) Equal opportunity considerations in the development and operation of the proposed project;

(4) The intergovernmental review procedures of 24 CFR Part 52. These procedures apply to cases involving 200 or more units in urbanized areas or 50 or more units in non-urbanized areas; and

(5) The National Historic Preservation Act, 16 U.S.C. 470, where applicable.

(c) The Commissioner's authorized Departmental representative must endorse the Mortgage for coinsurance.

**§ 251.302 Processing and commitment.**

(a) After acceptance of an application for a commitment to coinsure, the lender will determine the maximum insurable Mortgage, review plans and specifications for compliance with the HUD standards, determine the acceptability of the proposed management agent, and make other determinations necessary to assure acceptability of the proposed project. The lender must make these determinations in the manner prescribed by the Commissioner, using appropriate forms where prescribed by the Commissioner.

(b) The lender may issue a Firm Commitment to coinsure after

completion of its review and after receipt of written evidence from HUD of (1) the acceptability of the project in the areas of responsibility retained by the Commissioner under § 251.301(b), (2) a waiver, where needed, of the approved high-cost factor under § 251.203(a), and (3) completion of any case review requirements of the Commissioner that are part of its lender approval process. A copy of the Firm Commitment must be sent to HUD Headquarters within five days of issuance.

(c) Subject to standards established by the Commissioner, the lender is responsible for extending commitments, assuring commitments are updated when appropriate, and amending commitments. The lender may also reopen commitments within 90 days of the expiration of an earlier commitment, reconsider previously rejected applications, and may charge a reopening or reexamination fee acceptable to the Commissioner.

## Subpart E—Insurance of Advances; Insurance Upon Completion; Construction Period

### § 251.401 Insurance of advances or insurance upon completion; applicability of requirements.

Either insurance of advances or insurance upon completion procedures may be used under this part. In insurance upon completion cases, only the permanent loan is coinsured and a single endorsement is required after satisfactory completion of construction or Substantial Rehabilitation. In insurance of advances cases, progress payments approved by the lender are also coinsured and both an initial and final endorsement on the Mortgage are required. The requirements of §§ 251.404 through 251.406 apply in either case and the Mortgage and other closing documents must meet the requirements of Subpart F.

### § 251.402 Insurance of advances.

(a) *Financial Requirements.* (1) Before initial endorsement, the Mortgagor (other than a Nonprofit Mortgagor) must make a working capital deposit of two percent of the face amount of the Mortgage. The deposit must be made to the lender or be controlled by the lender in a depository acceptable to it. Unless the Commissioner approves exceptions, this deposit may be used only for equipping and rent-up of the project and, during construction, for allocation by the lender to accruals for taxes, ground rents, MIP, property insurance premiums, and assessments required by the terms of the Mortgage.

(2) Before initial endorsement, the Mortgagor must deposit with the lender cash that the lender deems sufficient, when added to the proceeds of the insured Mortgage, to assure completion of the project and to pay the initial service charge, the carrying charges, and the legal and organizational expenses incident to construction of the project. This cash will be held by the lender in a special account or by an acceptable depository designated by the lender under an appropriate agreement. The agreement will require all cash held to be disbursed for work and material on the physical improvements, and for other charges and expenses to be paid when due, before the advance of any Mortgage money. If all or part of the funds required under paragraph (a)(2) of this section are to be provided through a grant or loan from a Federal, State or local governmental agency or instrumentality, Mortgage proceeds may, with the prior written approval of the Commissioner, be advanced before the full disbursement of the grant or loan funds, to pay the cost of work, material or other charges and expenses. However, if any portion of these funds is to be provided by the Mortgagor, that portion must be disbursed in full before the disbursement of the Mortgage proceeds.

(3) Charges to be paid by the Mortgagor in connection with the financing that are in excess of the initial service charge and that are acceptable to the Commissioner must be deposited with the lender in cash at or before initial endorsement. Alternatively, a note, in a form prescribed by the Commissioner, may be accepted by the lender. The note must evidence the obligations of a party other than the Mortgagor and may not be secured by the assets of the Mortgagor entity.

(4) The lender must require assurance of completion of offsite public utilities and streets. (An exception is made where a public body has agreed to install offsite improvements without cost to the Mortgagor and this agreement is acceptable to the lender.) The assurance must be either a cash escrow deposit or the retention by the lender at initial closing of a specified amount of the Mortgage proceeds allocated to land in the project analysis. If a cash escrow is used, it must be deposited with the lender or a depository designated by the lender. The lender may also require a surety bond.

(5) The lender may accept, in lieu of a cash deposit required by paragraphs (a)(1), (3) and (4) of this section, an unconditional irrevocable letter of credit issued to the lender by a banking institution. If all or part of the funds required under paragraph (a)(2) of this section are to be provided through a grant or loan from a Federal, State or local governmental agency or instrumentality, the lender may accept for the portion so provided, in lieu of a cash deposit required by paragraph (a)(2) of this section, either an unconditional irrevocable letter of credit issued to the lender by a banking institution or an agreement, as described in § 207.19(c)(7) of this chapter, entered into by HUD, the governmental agency or instrumentality, the Mortgagor and the lender. The lender of record may not be the issuer of any letter of credit referred to in this paragraph (a)(5) without the prior written consent of the Commissioner. If a demand under a letter of credit referred to in this paragraph is not immediately met, the lender must provide cash equivalent to the undrawn balance under the letter of credit.

(b) *Building loan agreement.* Before initial endorsement, the lender and Mortgagor must execute a building loan agreement in a form approved by the Commissioner. This agreement sets out the terms and conditions under which progress payments may be advanced during construction. To be covered by coinsurance, each progress payment must be approved by the lender and must contain a certificate that the prevailing wage requirements of § 251.209 have been met.

(c) *Insured advances for components stored off-site.* The provisions of 24 CFR 221.541a apply to projects coinsured under this part, except that the lender performs the functions otherwise performed by the Commissioner.

(d) *Assurance of completion.* (1) The Mortgagor must furnish assurance of completion of the project. The lender may establish more stringent criteria, but, at a minimum, must require assurance by bonds issued by a surety company acceptable to the Commissioner for payment and performance each in the amount of 100 percent of the estimated construction or rehabilitation cost, or a completion assurance agreement secured by a cash deposit in the amount of 15 percent (or 25 percent where the structure contains an elevator and is four stories or more) of the amount of the estimated construction or rehabilitation cost. An unconditional and irrevocable letter of credit may be substituted for this cash deposit under the same terms and conditions as provided in paragraph (a)(5) of this section.

(2) Alternatively, where the estimated cost of construction or rehabilitation is $500,000 or less, the lender may accept assurance of completion in the form of a personal indemnity agreement executed by the controlling principals of the general contractor.

**§ 251.403 Insurance upon completion.**

A commitment to coinsure upon completion prescribes a designated period during which the Mortgagor must start construction or Substantial Rehabilitation. If construction or rehabilitation is started as required, the commitment will be valid for an additional period no longer than the lender's estimate of the construction period plus six months, except as extended as provided in § 251.302(c).

**§ 251.404 Requirements applicable to both insurance of advances and insurance upon completion cases.**

(a) *Latent defects escrow.* (1) In insurance upon completion cases, the Mortgagor must make a cash escrow deposit of two and one-half percent of the principal amount of the mortgage, or provide a surety bond of 10 percent of the lender's estimate of the cost of construction or Substantial Rehabilitation, as a latent defects escrow. An unconditional and irrevocable letter of credit may be substituted for this cash escrow deposit under the same terms and conditions as provided in § 251.402(a)(5). This escrow must be retained by the lender for 18 months after substantial completion.

(2) In insurance of advances cases, if a completion assurance agreement referred to in § 251.402(d) was used at initial endorsement, an amount equal to two and one-half percent of the construction contract must be retained for a period of 18 months following substantial completion as a latent defects escrow.

(b) *Inspections during construction.* The lender must inspect projects under this part at such times during construction or Substantial Rehabilitation as the lender determines, within standards established by the Commissioner. The inspections must be conducted to assure compliance with the contract documents.

(c) *Cost certification requirements—Mortgagor.* (1) Before initial endorsement (insurance of advances) or start of construction (insurance upon completion), the Mortgagor and the lender must enter into an agreement satisfactory to the Commissioner that precludes any excess of Mortgage proceeds over maximum insurable Moretgage limits. In this agreement, the Mortgagor must also disclose its relationship with the builder, including any collateral agreement, and agree to:

(i) Enter into a construction contract that (1) complies with the requirements of § 221.548 of this Chapter (as to whether the contract should be lump sum or cost-plus) and (2) is appproved by the lender and acceptable to the Commissioner as to form and content;

(ii) Execute a certificate of actual costs when all physical improvements are complete; and

(iii) Reduce the Mortgage if necessary in accordance with § 251.405.

(2) The provisions of paragraph (c)(1) of this section relating to disclosure and the requirement of a construction contract do not apply where the Mortgagor is the general contractor.

(3) If the Mortgagor, the general contractor, or their officers, directors, or stockholders have any interest, financial or otherwise, as defined by the Commissioner, in any subcontractor, material supplier, or equipment lessor, the Mortgagor must disclose the identity of interest before start of construction. The lender may approve the use of a subcontractor, material supplier, or equipment lessor having an identity of interest if the amounts paid to that entity do not exceed the rate prevailing in the locality for similar types of labor and materials.

(4) The Mortgagor's certificate of actual cost, in a form prescribed by the Commissioner, must be submitted to the lender when the improvements are completed to the satisfaction of the lender and before final endorsement (or before endorsement in the case of insurance upon completion). The certificate must show the actual cost to the Mortgagor of:

(i) The cost-plus construction contract or the lump sum construction contract or the cost of the construction of the project where the Mortgagor also acts as the general contractor and no construction contract is executed;

(ii) The architect's fee;

(iii) The offsite public utilities and streets not included in paragraph (c)(4)(A) of this section;

(iv) The organizational and legal expenses;

(v) In the case of General or Limited Distribution Mortgagors, where a cost-plus contract is used, the BSPRA or SPRA as applicable; and

(vi) Other items of expense approved by the Commissioner.

(d) *Cost certification requirements—general contractor.* (1) Where a cost-plus form of contract is used, the Mortgagor must also submit to the lender a certification of the general contractor, in a form prescribed by the Commissioner, as to all actual costs paid for labor, materials, and subcontract work under the general contract, exclusive of the builder's fee.

(2) Where there is a cost-plus contract and the lender determines that an identity of interest (as defined by the Commissioner) exists between the Mortgagor or general contractor or any of their officers, directors, stockholders, or partners and any subcontractor, material supplier, or equipment lessor, the lender may require the Mortgagor to submit a certification by the subcontractor, material supplier, or equipment lessor as to the actual costs paid for labor, materials, subcontractors and overhead. This certification must be in a form prescribed by the Commissioner.

(e) *Exclusions.* The certifications required by paragraphs (c)(4) and (d) of this section must exclude any kickbacks, rebates, trade discounts, or other similar payments to the general contractor, the Mortgagor or any of their officers, directors, stockholders or partners.

(f) *Records.* The Mortgagor must maintain adequate records of all costs of any construction or other cost items that do not represent work under the general contract and, in the case of a lump sum contract, must require the builder to keep similar records and, if requested by the lender or the Commissioner, must make these records (including any collateral agreements) available for examination, including examination by the Inspector General of HUD or the Comptroller General.

(g) *Certificate of public accountant.* In all projects exceeding 40 units, cost certifications must be supported by a certificate as to their accuracy by an independent Certified Public Accountant or by an independent public accountant licensed by a regulatory authority of a State or other political subdivision on or before December 31, 1970. The certification must include a statement that the accounts, records, and supporting documents have been examined in accordance with generally accepted auditing standards to the extent necessary to verify the actual costs.

(h) *Requisites of agreement and certification.* Any agreement, statement or certification required by this section must specifically state that it has been prepared for the purpose of influencing an official action of the Commissioner and may be relied upon by the Commissioner and the lender as true.

(i) *Cost certification incontestable.* Upon the lender's approval of the Mortgagor's certification, the certification will be final and incontestable except for fraud or

material misrepresentation on the part of the Mortgagor.

**§ 251.405 Lender's review of mortgage amount.**

When the cost certifications submitted under § 251.404 are reviewed and approved by the lender, the lender must determine, in accordance with standards set by the Commissioner, whether a mortgage reduction is necessary and whether any requests for a mortgage increase are approvable.

**§ 251.406 Application of net income received before beginning of amortization.**

In the case of General and Limited Distribution Mortgagors, net income (as defined by the Commissioner) that is received after final endorsement but before the beginning of amortization will be applied in one or more of the following ways as the lender determines:

(a) To advance amortization;

(b) To offset construction costs approved by the lender; or

(c) To be deposited in the reserve for replacements in addition to the monthly deposits required by the regulatory agreement.

**§ 251.407 Endorsement by the Commissioner.**

Before start of construction in insurance of advances cases, and in all cases after completion of construction or Substantial Rehabilitation and completion of the lender's review of the Mortgage amount, the lender will hold a closing and submit required documentation to the Commissioner or the Commissioner's authorized Departmental representative for coinsurance of the Mortgage by endorsement of the Mortgage note. The note must identify the section of the Act and the regulations under which the Mortgage is coinsured, the percentage of risk assumed by the lender and the Commissioner, and the date of coinsurance, i.e., the date of HUD endorsement of the project Mortgage. The lender's submission must include a certification that it has obtained written HUD approval of compliance with the requirements referred to in § 251.301(b).

## Subpart F—Mortgage and Closing Requirements

**§ 251.501 Mortgage requirements—real estate.**

(a) The Mortgage must be on real estate held:

(1) In fee simple;

(2) Under a renewable lease for not less than 99 years;

(3) Under a lease running at least 75 years from the date the Mortgage is executed; or

(4) Under a lease executed by a governmental agency, or other lessor approved by the Commissioner, for up to the maximum term the agency or lessor may enter into, but not less than 50 years from the date the Mortgage is executed.

(b) The property must be held by an eligible Mortgagor.

**§ 251.502 Title.**

(a) *Eligibility of title.* Title to the Mortgaged property must be vested in the Mortgagor on the date the Mortgage is filed for record.

(b) *Title evidence.* Before coinsurance of the Mortgage, the Mortgagor must furnish the lender with a survey, satisfactory to the lender, of the Mortgaged property and a title insurance policy covering the property. If, for reasons that are satisfactory to the lender, title insurance cannot be furnished, the Mortgagor must furnish evidence of title in accordance with paragraph (b)(2) of this section. The types of title evidence are:

(1) A title insurance policy issued by a company, and in a form, satisfactory to the lender. The policy must name the lender, the Mortgagor, and the Commissioner as the insureds, as their interests may appear. The policy must also provide that, upon acquisition of title by the lender, it will become an owner's policy running to the lender.

(2) An abstract of title satisfactory to the lender, prepared by an abstract company or individual engaged in the business of preparing abstracts of title, accompanied by a legal opinion satisfactory to the lender as to the quality of the title, signed by an attorney experienced in the examination of titles.

**§ 251.503 Mortgage provisions.**

(a) The Mortgage must be executed on a form approved by the Commissioner for use in the jurisdiction in which the property is located. The form must not be changed without the prior written approval of the Commissioner.

(b) The Mortgage must be executed by an eligible Mortgagor.

(c) The Mortgage must be a first lien on property that conforms with property standards prescribed by the Commissioner.

(d) The Mortgage must provide for equal monthly payments on interest and principal due on the first day of each month in accordance with a level annuity amortization plan agreed to by the Mortgagor and lender and acceptable to the Commissioner.

(e) The lender will determine the date of first payment to principal. The lapse of time between completion of the project and beginning of amortization must not be longer than the lender determines, in accordance with standards established by the Commissioner, to be necessary to obtain sustaining occupancy.

(f)(1) The Mortgage must provide that all monthly payments made by the Mortgagor to the lender be added together into a single payment made by the Mortgagor on each monthly payment date. The lender must apply payments received from the Mortgagor or for the account of the Mortgagor to the following items in the order listed:

(i) MIP under the Contract of Coinsurance;

(ii) Ground rents, taxes, special assessments, and fire and other hazard insurance premiums;

(iii) Interest on the Mortgage; and

(iv) Principal on the Mortgage.

(2) Any deficiency in the amount of the aggregate monthly payment required under paragraph (f)(1) of this section will constitute a fiscal default. The Mortgage will further provide for a grace period of 30 days within which time the default must be made good.

(g) The Mortgage must provide for payments by the Mortgagor to the lender, on each monthly payment date, of an amount sufficient to accumulate the next annual MIP one payment period before the MIP is due. These payments will continue only as long as the Contract of Coinsurance is in effect.

(h) The Mortgage must provide for equal monthly payments sufficient to pay any ground rents, estimated taxes, water charges, special assessments, and fire and other hazard insurance premiums, within a period ending one month before these items become due. The Mortgage must also make provision for adjustments in case the estimated amount of any of these items differs from amounts actually payable by the Mortgagor.

(i)(1) Partial or full prepayment of the Mortgage is permitted where (i) the Mortgage is insured under Section 221(d)(4) of the Act or (ii) the Mortgagor is a Limited Distribution Mortgagor and 20 years have elapsed since final endorsement of the Mortgage. In all other cases, prepayment is permitted only with the prior written consent of the Commissioner.

(2) Where the Mortgage is given to secure a loan made by a lender that has obtained the funds for the loan by the issuance and sale of bonds or bond anticipatory notes, or both, the Mortgage may contain a prepayment restriction

and prepayment penalty charge acceptable to the Commissioner as to term, amount and conditions.

(j) The Mortgage may provide for the collection by the lender of a late charge, not to exceed four percent of each payment to interest and principal that is more than 15 days late, or such other charges as may be agreed to by the lender and the Commissioner, to cover the extra expense of handling delinquent payments. Late charges must be separately charged to and collected from the Mortgagor and may not be deducted from any total monthly payment.

(k) The Mortgage must contain a convenant prohibiting the use of the property for any purpose other than the purpose intended on the day the Motrgage was executed.

(l) The Mortgage must contain a convenant, acceptable to the Commissioner, that binds the Mortgagor to keep the property insured by one or more standard policies for fire or other hazards stipulated by the Commissioner or the lender. The amount must comply with the coninsurance clause applicable to the location and character of the property, but may not be less than 80 percent of the actual cash value of the insurable improvements and equipment of the project. The initial coverage must be in the amount estimated by the lender after completion of the project. Loss must be payable to the lender and the Commissioner as their interests may appear. The lender is responsible for verifying that the insurance is maintained in force and for obtaining the required insurance if the Mortgagor fails to do so.

**§ 251.504 Mortgage lien and other obligations.**

The Mortgagor and the lender must certify at endorsement of the loan for insurance, and the lender must determine, that:

(a) The property covered by the mortgage is free from all liens other than the Coinsured Mortgage, except that the property may be subject to an inferior lien, made or held by a Federal, State or local governmental agency or instrumentality as provided in 24 CFR 221.520(b). No lien (other than State or local liens of taxes and assessments, or ground rents) may have a priority equal or superior to the Coinsured Mortgage.

(b) All contractural obligations in connection with the Mortgage transaction, including the purchase of the property and the improvements to the property, are paid. An exception is made for obligations that are approved by the lender and determined by the lender to be of a lesser priority for payment than the obligation of the insured Mortgage and that meet standards established by the Commissioner.

(c) Any additional obligations provided for in this section are represented by promissory notes on forms approved by the Commissioner. These notes must not be due and payable until the maturity date of the Mortgage, but may be prepaid from Surplus Cash or Residual Receipts in accordance with the conditions prescribed in the regulatory agreement between the lender and the Mortgagor.

**§ 251.505 Regulatory agreement.**

The lender and the Mortgagor must execute a regulatory agreement in a form acceptable to the Commissioner. The regulatory agreement must require the Mortgagor to comply with the requirements of Subparts G and H and other applicable provisions of this part for as long as the Commissioner and the lender are coinsurers of the Mortgage. In the regulatory agreement, the lender may regulate the Mortgagor on other matters if the Commissioner determines that the additional lender controls or requirements do not conflict with the requirements of this part or requirements contained in the administrative instructions issued under this part.

**§ 251.506 Other closing documents.**

The lender will require execution of such other closing documents as the Commissioner may require.

## Subpart G—Requirements Relating to Structure of Mortgagor Entity and Transfers of Ownership Interest

**§ 251.601 Requirements applicable to all projects.**

(a) The Mortgagor may issue shares of captial stock, partnership participations or beneficial certificates of interest, as applicable, only in the number and form approved by the lender.

(b) The Mortgagor must comply with the Commissioner's administrative procedures for previous participation clearance and Transfers of Physical Assets before conveying, assigning or transferring any ownership interest in the project or any beneficial interest in any trust holding title to the project.

(c) The Mortgagor must obtain the Commissioner's and the lender's written approval before:

(1) Conveying, assigning, transferring, encumbering or disposing of any legal interest in the project, including rents and security deposits;

(2) Engaging, except for natural persons, in any business or activity, including the operation of any other project, or incurring any liability or obligation not in connection with the project.

(d) The Mortgagor may not resign or withdraw from the project until the lender has approved a substitute Mortgagor.

**§ 251.602 Requirements for projects intended for cooperative ownership.**

(a) *Investor-sponsor's escrow.* The lender must hold in escrow the amount it determines will be needed, in the event the project is not transferred to a Cooperative within two years of the date of project completion, to reduce the principal of the Mortgage to an amount authorized for a Limited Distribution Mortgagor. The amount held in escrow may be disbursed to the Mortgagor if the transfer occurs within the two-year period. where the transfer does not occur within this period, the escrow will be applied against the Mortgage or in such other manner as the lender and the Commissioner authorize.

(b) *Compensation to Investor-sponsor.* The consideration for the transfer to a Cooperative Mortgagor will be the assumption of the Mortgaged indebtedness plus a down payment in an amount which, when added to the original principal, may not exceed the Investor-sponsor's actual certified cost as approved by the lender under § 251.404.

**§ 251.603 Requirements for projects intended for nonprofit ownership.**

(a) *Builder-seller's escrow.* The lender must hold in escrow the amount it determines will be needed, in the event the project is not transferred to a Nonprofit Mortgagor within two years of the date of project completion, to reduce the principal of the Mortgage to an amount authorized for a Limited Distribution Mortgagor. The amount held in escrow may be disbursed to the Mortgagor if the transfer occurs within the two-year period. Where the transfer does not occur within this period, the escrow will be applied against the Mortgage or in such other manner as the lender and the Commissioner authorize.

(b) *Compensation to Builder-seller.* The consideration for the transfer to the Nonprofit Mortgagor shall be the assumption of the Mortgage indebtedness, to which may be added a cash payment in an amount which, when added to the original principal, may not exceed the Builder-seller's actual certified cost as approved by the lender under § 251.404.

## Subpart H—Program Requirements Relating to Project Operation

### § 251.701 General.

In order to be eligible for the benefit of insured financing under this part, the Mortgagor must agree to be regulated and restricted by the lender with respect to the ongoing operation of the project as set forth in this subpart.

### § 251.702 Reserve for replacements and general operating reserve.

(a) The Mortgagor must establish and maintain with the lender a reserve for replacements. The Mortgagor must accumulate, maintain and use this reserve only as provided in the regulatory agreement and the Commissioner's administrative instructions.

(b) In addition to the reserve for replacements required by paragraph (a) of this section, a Cooperative Mortgagor must establish with the lender a general operating reserve in an amount required by the Commissioner's administrative procedures. The Cooperative Mortgagor must accumlulate, maintain and use this reserve only as provided in the regulatory agreement and the Commissioner's administrative instructions.

(c) To the extent consistent with the project's liquidity needs, money placed in a reserve for replacements (and, in the case of Cooperatives, a general operating reserve) must be invested in United States Treasury securities, securities issued by a Federal agency, or deposits that are insured by an agency of the Federal Government.

### § 251.703 Rents and charges.

(a) For any units receiving section 8 assistance, rent adjustments must be determined in accordance with the regulations governing the program under which the unit is receiving assistance.

(b) For any project constructed for occupancy exclusively by the elderly or handicapped, or for any assisted units within a project subject to paragraph (a) of this section, the Mortgagor may charge tenants for facilities or services only after obtaining the Commissioner's written approval.

(c) For any project coinsured under section 221(d)(3) and not otherwise subject to paragraph (a) or (b) of this section, the Mortgagor may collect unit rents and other charges only in amounts less than or equal to those approved by the lender. In determining maximum allowable rents and in passing upon applications for changes, the lender must adhere to standards established by the Commissioner. These standards are designed to set rents at a level needed to maintain the economic soundness of the project and to provide a reasonable return to the Mortgagor and reasonable rents to tenants.

(d) For any project coinsured under section 221(d)(4) and not otherwise subject to paragraph (a) or (b) of this section, the Mortgagor will determine unit rents and the charges for the facilities and services offered by the project.

(e) HUD may preempt any State or local regulation of rents or leases of projects subject to this part as provided in Part 403 of this title.

### § 251.704 Use of project funds.

(a) The Mortgagor must deposit all rents and other receipts of the project in the name of the project in accounts that are fully insured as to principal by an agency of the Federal government. Project funds in excess of those needed to meet short-term project operating expenses may be invested in accordance with the administrative instructions of the Commissioner.

(b) The Mortgagor may use project funds only for:

(1) Payment of Mortgage obligations;

(2) Payment of reasonable expenses necessary to the proper operation and maintenance of the project (including deposits to required reserves);

(3) Distributions of Surplus Cash permitted under § 251.705;

(4) Repayment of Mortgagor advances authorized by the Commissioner's administrative procedures.

(c) The Mortgagor may not use project funds to liquidate liabilities related to the construction of the project, other than the Coinsured Mortgage, unless the lender authorizes this use in accordance with the Commissioner's administrative procedures.

(d) The Mortgagor must deposit and maintain residents' security deposits in a trust account separate and apart from all other funds of the project. This trust account must be held in the name of the project and the balance in the account must at all times equal or exceed the project's liability for residents' security deposits. The owner must comply with any State or local laws regarding investment of security deposits and the Distribution of interest or other income earned thereon. Any earnings received from the investment of security deposits must accrue to the benefit of the project or the project residents.

### § 251.705 Distributions and residual receipts.

(a) The Mortgagor may make, receive or retain Distributions only as provided in this section.

(1) Distributions may be paid only from Surplus Cash that exists as of the end of a semi-annual or annual fiscal period. Distributions are payable only after construction has been completed and the Mortgagor has submitted the cost certifications required by § 251.404. The Mortgagor must compute Surplus Cash and Distributions in accordance with the Commissioner's administrative requirements.

(2) Distributions may be paid only after the end of the fiscal period in which the Surplus Cash is generated.

(3) No Distribution may be paid from borrowed funds or when payments due under the note, Mortgage, or regulatory agreement have not been made.

(4) If any of the conditions listed below applies, the Mortgagor may distribute Surplus Cash only after obtaining the lender's written approval to do so:

(i) The Mortgagor has not satisfactorily responded to any Lender Management Review, Physical Inspection Report, annual financial statement correspondence or any other correspondence that requires the Mortgagor to implement corrective action, and that was received at least 30 days before the end of the fiscal period for which the Surplus Cash computation is made;

(ii) The lender determines that the project has significant uncorrected physical deficiencies; or

(iii) There is a default, other than a fiscal default, under the regulatory agreement.

(b) The Mortgagor must limit Distributions in any one fiscal period to the amount specified below, and must calculate Distributions in accordance with the administrative requirements of the Commissioner.

(1) Cooperative projects not receiving assistance under Part 886, Subparts A and C of this title, Section 8 Housing Assistance Payments Program—Special Allocations, may distribute all Surplus Cash to members. Cooperatives receiving assistance under Part 886, Subparts A and C, may distribute only the portion of Surplus Cash attributable to non-subsidized units.

(2) No Distributions are permitted on nonprofit rental projects.

(3) On projects owned by Limited Distribution Mortgagors, Distributions may not exceed the lesser of Surplus Cash or the Distributions available as of the end of the previous fiscal period. Distributions will be earned annually at the rate of six percent of the initial equity investment. Distributions are cumulative and must be computed in

accordance with the administrative requirements of the Commissioner.

(4) On projects owned by General Mortgagors, all Surplus Cash generated during the previous fiscal period may be distributed to the Mortgagor.

(c) Nonprofit Mortgagors of rental projects must deposit Residual Receipts with the lender within 60 days after the end of each fiscal year in which Surplus Cash is generated. Limited Distribution Mortgagors must deposit Residual Receipts with the lender within 60 days after the end of each annual or semiannual fiscal period in which Surplus Cash is generated. Residual Receipts must at all times remain under the control of the Commissioner who has the authority to direct that all or part of them be used for such purposes as the Commissioner may determine. The Mortgagor may use Residual Receipts only for the purposes for which the Commissioner authorizes their withdrawal. The Mortgagor must invest Residual Receipts in accordance with the administrative requirements of the commissioner and add all earnings on these investments to the Residual Receipts account.

**§ 251.706 Project management.**

The Mortgagor must:

(a) Provide for management satisfactory to the lender and the Commissioner, execute a management contract that meets the requirements of the Commissioner, and deliver to the lender such certifications and information regarding project management as the Commissioner may require.

(b) Maintain the project in good repair and condition and promptly complete necessary repairs and maintenance as required by the lender.

(c) Assure that all project expenses are reasonable in amount and necessary to the operation of the project.

(d) Obtain the lender's and the Commissioner's written approval before undertaking self-management, contracting for management services, or paying (or incurring any obligation to pay) fees for management services.

(e) Establish and maintain the project's books, accounts and records in accordance with the Commissioner's administrative requirements. Books and accounts must be maintained for such periods of time as the Commissioner may prescribe.

(f) Permit the lender, the Commissioner, the HUD Inspector General, the Comptroller General of the United States, or their authorized agents to inspect the project's property, equipment, buildings, plans, offices, apparatus, devices, books, accounting records, contracts, and documents during reasonable business hours. This right to inspect extends to the records of the Mortgagor, as well as to the records of any companies with which the Mortgagor has an identity of interest, as defined in the regulatory agreement.

(g) Furnish the lender and the Commissioner with a financial report on the project's operations within 60 days following the end of each fiscal year, unless the lender authorizes the Mortgagor to submit the report on a later date. Unless the Commissioner agrees to accept an unaudited report, the report must be made by an independent certified public accountant or by an independent public accountant licensed by a State or other political subdivision on or before December 31, 1970.

(h) Upon request, furnish the lender with operating budgets; occupancy, accounting and other reports; properly certified copies of minutes of meetings of the directors, officers, shareholders, or beneficiaries of the Mortgagor entity; and specific answers to questions raised from time to time by the lender relative to income, assets, liabilities, expenses, operation, and condition of the project. The Mortgagor must furnish a response to the lender's management review reports, physical inspection reports and written inquiries regarding annual or monthly financial statements no later than 45 days after receipt of the lender's report or inquiries.

(i) In renting units adhere to the civil rights and equal opportunity requirements set forth in § 251.208.

(j) Give preference to families or individuals displaced from an urban renewal area, or as a result of governmental action or a major disaster as determined by the President.

(k) Permit occupancy of units only under a lease or occupancy agreement approved by the lender in accordance with standards established by the Commissioner.

(l) Adhere to the Commissioner's occupancy requirements for any units assisted under 24 CFR Part 886, Subparts A or C of this title, Section 8 Housing Assistance Payments Program—Special Allocations.

(m) Not permit any part of the project to be rented for transient or hotel purposes. The term rental for transient or hotel purposes means (1) rental for any period less than 30 days or (2) any rental, if the occupants of the housing accommodation are provided customary hotel services, such as room service for food and beverage, maid service, furnishing and laundering of linens, and bellhop service.

## Subpart I—Contract Rights and Obligations

### Mortgage Insurance Premiums

**§ 251.801 MIP in insurance of advances cases.**

(a) *Amount of MIP to be collected from the Mortgagor.* (1) Before the initial endorsement of the Mortgage for coinsurance, the lender must collect a MIP from the Mortgagor equal to one percent of the original amount of the Mortgage.

(2) If the date of the first principal payment is more than one year after the date of initial endorsement, the lender must, before each anniversary of the date of initial endorsement that occurs more than 30 days before the first principal payment, collect from the Mortgagor an additional MIP equal to 0.5 percent of the original Mortgage amount.

(3) Before the first principal payment, the lender must collect from the Mortgagor an amount equal to 0.5 percent of the average outstanding principal balance of the Mortgage for the year following the first principal payment.

(4) Beginning with the first principal payment and continuing until the Coinsurance Contract terminates, the lender must collect monthly MIP sufficient to accumulate 0.5 percent of the average principal that will be outstanding during the upcoming year. No adjustments may be made for delinquent payments or prepayments on the Mortgage except as provided in § 251.804.

(5) The MIP required under paragraphs (a) (1) and (2) of this section may be included in the Mortgage. The Mortgagor must pay the MIP required under paragraphs (a) (3) and (4) of this section from its own funds.

(b) *Payment of MIP by the lender.* (1) At initial endorsement, the lender must pay to the Commissioner an initial MIP equal to .65 percent of the original amount of the Mortgage.

(2) If the date of the first principal payment is more than one year after the date of the initial endorsement, the lender must, on each anniversary of the date of initial endorsement that occurs more than 30 days before the first principal payment, pay to the Commissioner an additional MIP equal to 0.5 percent of the original Mortgage amount.

(3) Following final endorsement, the Commissioner will adjust the MIP so that it equals .65 percent per year of the average outstanding principal balance for the year following the date of initial

endorsement plus 0.5 percent per year of the average outstanding principal balance for the period from the first anniversary of initial endorsement to the date of the first principal payment. If the adjusted amount is less than the amount previously paid by the lender, the Commissioner will refund the excess amount to the lender for application to the Mortgagor's account.

(4) On the date of the first principal payment and each year thereafter on the anniversary of the date on which the first principal payment was due, and continuing until the Coinsurance Contract is terminated, the lender must pay to the Commissioner a MIP equal to 0.4 percent of the average outstanding principal balance of the Mortgage for the 12 months following the date the premium becomes payable. The average outstanding principal balance is computed using the project's amortization schedule. No adjustments may be made for delinquent payments or Mortgage prepayments except as provided in § 251.804.

**§ 251.802 MIP in insurance upon completion cases.**

(a) *Amount of MIP to be collected from the Mortgagor.* (1) Before endorsement of the Mortgage for coinsurance, the lender must collect from the Mortgagor a MIP equal to 0.5 percent per year of the average outstanding principal balance of the Coinsured Mortgage from the date of the endorsement to one year after the due date of the first payment to principal.

(2) For each year thereafter, the lender must collect from the Mortgagor monthly MIP sufficient to accumulate 9.5 percent of the average principal balance outstanding during the upcoming year. No adjustments may be made for delinquent payments or prepayments on the Mortgage except as provided in § 251.804.

(b) *Payment of MIP by the lender.* (1) At endorsement, the lender must pay to the Commissioner an initial MIP equal to 0.5 percent of the face amount of the Mortgage. Following endorsement, the Commissioner will adjust the initial MIP so that it equals 0.5 percent per year of the average outstanding balance of the Mortgage from the date of endorsement to one year after the due date of the first payment to principal. If this adjusted amount is more than the amount paid by the lender at endorsement, the Commissioner will bill the lender for the difference. If the adjusted amount is lower than the amount paid by the lender at endorsement, the Commissioner will refund the excess amount to the lender for application to the Mortgagor's account.

(2) Beginning on the anniversary of the date on which the first principal payment was due and continuing annually thereafter until the Coinsurance Contract is terminated, the lender must pay to the Commissioner a MIP equal to 0.4 percent of the average outstanding principal balance for the 12 months following the date the premium becomes available. The average outstanding principal balance is computed using the project's amortization schedule. No adjustments may be made for delinquent payments or Mortgage prepayments except as provided in § 251.804.

**§ 251.803 Duration and method of payment of MIP.**

(a) MIP payments must continue annually until one of the following occurs:

(1) The Mortgage is paid in full;

(2) A deed to the lender is filed for record; or

(3) The Contract of Coinsurance is otherwise terminated with the consent of the Commissioner.

(b) The lender may pay any MIP required under this part in cash or debentures.

**§ 251.804 Pro-rata refund of annual MIP.**

If the Coinsurance Contract is terminated by prepayment in full or by termination with the consent of the Commissioner after the due date of the first annual MIP, the Commissioner will refund any MIP paid for the period after the effective date of the termination of insurance. The refund will be mailed to the lender for credit to the Mortgagor's account. In computing the pro rata portion of the annual MIP, the date of termination of coinsurance will be the last day of the month in which the Mortgage is prepaid or the Commissioner receives a termination request. No refund will be made if insurance was terminated because of a default or if termination occurs before the date the first annual MIP is due.

**§ 251.805 Late charges—MIP.**

(a) If the Commissioner receives a MIP payment more than 15 days after the later of the billing date or due date, the lender must pay a late charge of four percent of the amount due.

(b) If the Commissioner receives a premium payment more than 30 days after the later of the billing or due date, the lender must pay both the four percent late charge and interest. Interest will be charged from the later of the billing date or the due date at a rate set in conformity with the Treasury Fiscal Requirements Manual.

**§ 251.806 [Reserved]**

**Delinquency and Default Under the Mortgage**

**§ 251.807 Notice of delinquency.**

If the lender has not received the Mortgagor's monthly Mortgage payment by the 16th day of the month in which the payment is due, the lender must notify the Commissioner of the delinquency. The lender must mail this notice in time for it to be received by the Commissioner by the 20th day of that month.

**§ 251.808 Definition of default.**

(a) A fiscal default exists when the Mortgagor fails to make any payment due under the Mortgage.

(b) A covenant default exists when the Mortgagor fails to perform any other covenant under the provisions of the Mortgage if the lender, because of the failure, has accelerated the debt.

**§ 251.809 Date of default.**

For purposes of this subpart, the date of default is:

(a) The date of the first failure to make a monthly payment that is not covered by later payments made by the Mortgagor, when any subsequent payments are applied to the overdue monthly payments in the order in which they were due.

(b) The date of the first uncorrected failure to perform any other obligation under the Mortgage.

**§ 251.810 Notice of default.**

If a default (as defined in § 251.808) continues for a period of 30 days, the lender must notify the Commissioner within 30 days thereafter, unless the default is cured. The lender must submit this notice monthly until the default has been cured or the lender has filed an insurance claim.

**§ 251.811 Financial relief to cure a default.**

(a) To reinstate a defaulted Mortgage, the lender may use one or more of the forms of financial relief described in this paragraph. The lender's efforts to cure a default will not result in a curtailment of interest as provided by § 251.821(b) in any subsequent claim for insurance benefits, if the lender complies with the conditions set forth in this section and the notice requirements set forth in §§ 251.810 and 251.815. The lender must service delinquent loans in accordance with the Commissioner's administrative procedures.

(1) Temporary adjustment of Mortgage payments. Without obtaining the Commissioner's approval, the lender may agree to hold the Mortgage in

default and temporarily adjust payments, if a temporary payment plan meets the conditions listed below. The lender may approve a payment plan that does not meet all of these conditions only after obtaining the Commissioner's written approval.

(i) The temporary payment plan will last no longer than 18 months.

(ii) Payments will be set at less than the debt service and escrows required by the Mortgage for no more than six months.

(iii) The plan requires Mortgagor to pay a specific dollar amount each month toward the Mortgage delinquency, but also gives the lender the right (subject to the Commissioner's administrative procedures) to require that the Mortgagor also apply any net operating income to the Mortgage delinquency.

(iv) The Plan requirements the Mortgagor to furnish the lender monthly accounting reports until the Mortgage is reinstated.

(v) The Mortgagor agrees not to make any Distribution until the Mortgage has been reinstated.

(2) Withdrawal from the reserve for replacements. If the Mortgage is more than 25 days delinquent, the lender may withdraw reserve funds to pay up to one month's debt service and Mortgage escrows. The lender must obtain the Commissioner's written approval for withdrawals that, individually or cumulatively over a 12-month period, would exceed one month's Mortgage payment.

(3) Suspension of deposits to the reserve for replacements. The lender may suspend reserve deposits for up to six months. The lender must obtain the Commissioner's written approval for suspensions in excess of six months during any 36-month period.

(4) Recasting the Mortgage. The lender may recast delinquent principal and interest over the remaining Mortgage term so long as the sum of the outstanding principal balance of the Mortgage and the delinquency being recast does not exceed the original Mortgage amount, and the lender obtains the Commisioner's written approval before executing an agreement permanently modifying the terms of the Mortgage.

(b) For any project comprising a GNMA pool, the lender-issuer must continue to pay the securities holders the full amount of scheduled payments due under the securities, even if the lender does not collect the full amount from the Mortgagor.

**§251.812 Reinstatement of a defaulted mortgage.**

If the Mortgagor cures the default before the completion of any foreclosure proceedings, the insurance will continue as if a default had not occurred. The Mortgagor must pay all reasonable expenses that the lender incurs in connection with the foreclosure proceedings. The lender must give written notice of reinstatement to the Commissioner.

**Termination**

**§251.813 Termination of coinsurance contract.**

(a) The Contract of Coinsurance will terminate if any of the following occurs:

(1) The Mortgage is paid in full;

(2) The lender acquires the Mortgaged property and notifies the Commissioner that it will not make a claim for insurance benefits;

(3) The Mortgagor redeems the property after foreclosure;

(4) A party other than the lender acquires the property at a foreclosure sale;

(5) The Mortgagor and lender jointly request termination and the Commissioner grants approval; or

(6) The lender or its successors or assigns commit fraud or make a material misrepresentation to the Commissioner with respect to the Contract of Coinsurance on the Mortgage.

(b) When the Coinsurance Contract is terminated, all of the rights and obligations of the Mortgagor and the lender, including the obligation to pay MIP, will terminate.

**§ 251.814 Notice and date of termination by Commissioner.**

The Commissioner will notify the lender that the contract of coinsurance on a Mortgage has been terminated and will establish the effective date of the termination. The termination date will be the last day of the month in which any one of the events specified in § 251.813 occurs.

**Claim Procedure and Payment of Insurance Benefits**

**§ 251.815 Notice of election to acquire property and file a claim.**

Unless the Commissioner has given the lender a written extension, the lender must notify the Commissioner of its election to acquire the property and its intention to file a claim for insurance benefits within 75 days of the date of default. The Commissioner will approve an extension of the 75-day deadline if the Commissioner determines that (a) the lender and the Mortgagor are diligently pursuing reinstatement of the Mortgage, and (b) reinstatement of the Mortgage and resolution of the problems that led to the default are feasible.

**§ 251.816 Acquisition of property.**

Within 30 days after submitting the notice required by § 251.815, the lender must institute action either to foreclose the Mortgage or acquire title to the Mortgaged property through deed-in-lieu of foreclosure. The lender must exercise reasonable diligence in pursuing this action, and must promptly report to the Commissioner any developments that might delay the completion of acquisition. During the period that the lender controls the property, it must adhere to the Commissioner's requirements for project management, as set forth in the regulatory agreement and the Commissioner's administrative procedures.

**§ 251.817 Deed-in-lieu of foreclosure.**

In lieu of instituting or completing a foreclosure, the lender may acquire the property by voluntary conveyance from the Mortgagor. The lender may accept a deed-in-lieu of foreclosure if:

(a) The Mortgage is in default at the time the deed is executed and delivered;

(b) The credit instrument is cancelled and surrendered to the Mortgagor;

(c) The Mortgage of record is satisfied as a part of the consideration for the conveyance; and

(d) The deed from the Mortgagor conveys marketable title and contains a covenant that warrants against the acts of the grantor and all claims by, through, or under the grantor.

**§ 251.818 Disposition of property and application for insurance benefits.**

(a) After acquisition of marketable title to the property, the lender must obtain two appraisals of the property performed by independent appraisers. The lender must select the appraisers from a panel approved by the Commissioner. The appraisals must estimate the market value of the property, as of the date of acquisition, for its highest and best use.

(b) After the lender sells the property, or after the end of 12 months from the date of acquisition of title, whichever occurs first, the lender may file a claim for any insurance benefits to which it is entitled under § 251.820. The lender must file the claim no later than 15 days after the sale, or expiration of the 12-month period, whichever is applicable, or Mortgage interest will be curtained in accordance with § 251.821(b).

(c) The lender must file the claim on a form approved by the Commissioner and must state the sales price and the income and expenses incurred in

connection with the acquisition, repair, operation, and sale of the property. The lender must also submit evidence in support of the claim, as prescribed by the Commissioner, including the appraisals required by paragraph (a) of this section, and ledger records and documentation for all accounts relating to the Mortgage transaction.

(d) If the property has not been disposed of at the time of the lender's request for payment, the lender must use the higher of the two appraised values of the property secured in accordance with paragraph (a) of this section in its notification to the Commissioner, in lieu of the sales price.

**§ 251.819 Method of payment.**

The Commissioner will pay insurance benefits in cash, unless the lender files a written request for payment in debentures. In the event that the lender requests debentures, all of the provisions of 24 CFR 207.259(e) will apply.

**§ 251.820 Amount of payment.**

(a) The basis for the computation of insurance benefits will be:

(1) The principal balance of the Mortgage unpaid as of the date of the institution of foreclosure proceedings or the date of acquisition of the property by deed in lieu of foreclosure;

(2) Plus all items set forth in § 251.821;

(3) Less all items set forth in § 251.822.

(b) The Commissioner will pay insurance benefits equal to 85 percent of the amount computed under paragraph (a) of this section if the lender (1) Has obtained no insurance of its coinsurance risk, (2) has insured 50 percent of its coinsurance risk or (3) is a State Housing Agency eligible as a lender under § 203.8(b) of this chapter that obtained reinsurance from an authorized public Mortgage insurer for any portion or all of its coinsurance risk, where the Commissioner finds an identity of interest exists between the State Housing Agency and the public Mortgage insurer.

(c) The Commissioner will pay insurance benefits equal to 72.25 percent of the amount computed under paragraph (a) of this section if the lender has obtained insurance for either 100 percent of its coinsurance risk or that portion of its coinsurance risk that equals the maximum amount that the insurer is authorized to insure.

(d) Unless reinsurance was increased after endorsement, HUD will pay insurance benefits based on the amount of reinsurance at the time of endorsement. If reinsurance was increased after endorsement, HUD's insurance benefits will be reduced accordingly. HUD's insurance benefits will not be increased if reinsurance is reduced or cancelled.

**§ 252.821 Items included in payment.**

The insurance benefits paid will include the following items:

(a) The amount of all payments that the lender made from its own funds and not from project income for:

(1) Taxes, special assessments, and water bills that are liens before the Mortgage;

(2) Fire and hazard insurance on the property; and

(3) Any Mortgage insurance premiums paid after the date of default. However, HUD will not reimburse the lender for any interest, late charge or other penalties imposed because of the lender's failure to make the required payments when due.

(b) An amount equivalent to Mortgage interest on the unpaid principal balance of the Mortgage on the date the lender initiated foreclosure proceedings or on the date the lender acquired title to the property through deed-in-lieu of foreclosure. This interest will be payable from the date of default to the date of payment of the insurance benefits. However, if the lender fails to meet any of the requirements of §§ 251.810, 251.815, 251.816, or 251.818(b), within the specified time (including any permissible extension of time), the accrual of interest allowance on the cash payment will be curtailed by the number of days by which the required action was late. If the lender makes the request for payment in debentures, then all the provisions of § 207.259(e) of this chapter will apply.

(c) An amount not in excess of two-thirds of the costs actually paid by the lender and approved by the Commissioner of acquiring the property. These costs may not include loss or damage resulting from the invalidity or unenforceability of the Mortgage lien or the unmarketability of the Mortgagor's title.

(d) Reasonable payments that the lender made from its own funds and not from project income for:

(1) Preservation, operation and maintenance of the property;

(2) Repairs necessary to meet the objectives of the HUD minimum property standards, those required by local law, and additional repairs that HUD specifically approved in advance; and

(3) Expenses in connection with the sale of the property.

**§ 251.822 Items deducted from payment.**

The following items will be deducted in the computation of insurance benefits:

(a) An amount equal to five percent of the outstanding principal balance of the Mortgage on the date the lender instituted foreclosure proceedings or acquired title to the property through deed-in-lieu of foreclosure.

(b) All amounts received by the lender on account of the mortgage after the institution of foreclosure proceedings or the acquisition of the property through deed-in-lieu of foreclosure after default, and any other reimbursement to the lender, other than under the Coinsurance Contract.

(c) All cash or funds related to the Mortgaged property that the lender holds (or to which it is entitled) including deposits and escrows made for the account of the Mortgagor. However, for any Mortgage comprising a GNMA pool, this deduction must exclude any funds in the lender-issuer's custodial accounts and collateral funding a GNMA Deposit Agreement relating to the lender-issuer loss exposure during the GNMA Indemnity Period.

(d) The amount of any undrawn balance under a letter of credit that the lender accepted in lieu of a cash deposit for an escrow agreement;

(e) Any net income from the Mortgaged property that the lender received after the date of default;

(f) The proceeds from the sale of the project or the appraised value of the project as provided in § 251.818, as follows:

(1) If the lender disposes of the project through a negotiated sale, the amount deducted will be the higher of the sales price or the appraised value.

(2) If the lender disposes of the project through a competitive bid procedure approved by the Commissioner, the amount deducted will be the sales price, even if it is lower than the appraised value.

(3) If the lender has not disposed of the project within 12 months from the date of acquisition, the amount deducted will be the appraised value.

(g) Any and all claims that the lender has acquired in connection with the acquisition and sale of the property. Claims include but are not limited to returned premiums from cancelled insurance policies, interest on investments of reserve for replacement funds, tax refunds, refunds of deposits left with utility companies, and amounts received as proceeds of a receivership.

**Remedies for Default by a Lender-Issuer Under the Government National Mortgage Association (GNMA) Mortgage-Backed Securities Program**

**§ 251.823 Indemnification of GNMA.**

(a) If, after the Commissioner pays a coinsurance claim, the lender-issuer fails to pay the full amount owed to a holder of securities guaranteed by GNMA and backed by a coinsured loan, the Commissioner will reimburse the Association for the amount the Association must pay securities holders as a result of the lender's default in payment.

(b) This amount will not exceed 15 percent or 27.75 percent (whichever is appropriate) of the amount computed under § 251.820, plus the amount referenced in § 251.822(a). The Commissioner will make payment in cash. After payment by the Commissioner, the lender-issuer will have no claim against the Commissioner for any such funds.

**§ 251.824 Withdrawal of lender approval.**

If the Commissioner is required to make payments to GNMA because of the lender-issuer's failure to pay any amount owed to a holder of GNMA securities backed by a Coinsured Mortgage, the Commissioner may request that the Mortgagee Review Board withdraw approval of the lender-issuer as a HUD-approved Mortgagee, under the provisions of Part 25 of this title.

**§ 251.825 HUD recourse against lender-issuer.**

If the Commissioner is required to make payments to GNMA because of the lender-issuer's failure to pay any amount owed to a holder of GNMA securities backed by a Coinsured Mortgage, the lender-issuer will be liable for reimbursing the Commissioner for the payments.

**§ 251.826 GNMA right to assignment.**

If the lender-issuer defaults on its obligations under the GNMA Mortgage-Backed Securities Program, GNMA will have the right, notwithstanding the requirements of § 251.806, to cause all Coinsured Mortgages held in GNMA pools by the defaulting coinsuring lender-issuer to be assigned to another GNMA-approved coinsuring lender-issuer or to itself.

(a)(1) For any Coinsured Mortgage that is not in default and is held by a defaulting lender-issuer, GNMA will first attempt to have the Mortgage assigned to another eligible coinsuring lender by soliciting offers to assume the defaulting lender-issuer's rights and obligations under the Mortgage from those eligible coinsuring lenders that are indicated on a periodically updated listing furnished to GNMA by the Commissioner and that are also GNMA issuers.

(2) If GNMA rejects all offers or no offers are received, GNMA will have the right to perfect an assignment of the Mortgage to itself.

(b) For any Coinsured Mortgage that is in default and held by a defaulting lender-issuer, GNMA will have the right to perfect an assignment of the Coinsured Mortgage directly to itself before extinguishing the Mortgage by completion of foreclosure action or acquisition of title by deed-in-lieu of foreclosure.

(c) GNMA, as assignee, will give the Commissioner written notice within 30 days after taking a Mortgage by assignment in accordance with this section, in order to allow an appropriate endorsement and necessary changes in the Commissioner's records.

(d) The Commissioner will endorse any Mortgage assigned to GNMA as provided by this section for full insurance effective as of the date of assignment in accordance with the appropriate provisions of 24 CFR Part 221. Any future insurance claim by GNMA or any assignment of the fully insured Mortgage will be governed by the appropriate provisions of 24 CFR Part 221, except that any payment will be made in cash instead of debentures.

Dated: February 14, 1984.

**Maurice L. Barksdale,**

*Assistant Secretary for Housing—Federal Housing Commissioner.*

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Friday
March 9, 1984

Part IV

# Environmental Protection Agency

40 CFR Part 461

Battery Manufacturing Point Source Category; Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards; Final Rule

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 461**

**[WH-FRL 2516-2]**

# Battery Manufacturing Point Source Category; Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes effluent limitations guidelines and standards limiting the discharge of pollutants into navigable waters and into publicly owned treatment works (POTW) by existing and new sources that conduct battery manufacturing operations. The Clean Water Act and a consent decree require EPA to issue this regulation.

This regulation establishes effluent limitations guidelines based on "best practicable technology" (BPT) and "best available technology" (BAT), new source performance standards (NSPS) based on "best demonstrated techology", and pretreatment standards for existing and new indirect dischargers (PSES and PSNS, respectively).

**DATES:** In accordance with 40 CFR 100.01 (45 FR 26048, April 17, 1980), this regulation shall be considered issued for purposes of judicial review at 1:00 p.m. Eastern time on March 23, 1984. This regulation shall become effective April 18, 1984.

The compliance date for the BAT regulations is as soon as possible, but in any event, no later than July 1, 1984. The compliance date for new source performance standards (NSPS) and pretreatment standards for new sources (PSNS) is the date the new source begins operations. The compliance date for pretreatment standards for existing sources (PSES) is March 9, 1987.

Under Section 509(b)(1) of the Clean Water Act, judicial review of this regulation can be made only by filing a petition for review in the United States Court of Appeals within 90 days after the regulation is considered issued for purposes of judicial review. Under Section 509(b)(2) of the Clean Water Act, the requirements in this regulation may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

**ADDRESSES:** The basis for this regulation is detailed in four major documents. See Supplementary Information (under "XIV. Availability of Technical Information") for a description of each document. Copies of the technical and economic documents may be obtained from the National Technical Information Service, Springfield, Virginia 22161 (703) 487-4600. For additional technical information contact Ms. Mary L. Belefski, Effluent Guidelines Division (WH-552), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460 (phone (202) 382-7126). Additional economic information may be obtained from Ms. Ellen Warhit, Economic Analysis Staff (WH-586), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, phone (202) 382-5381.

The record for the final rule will be available for public review not later than May 9, 1984 in EPA's Public Information Reference Unit, 2904 (Rear) (EPA Library), 401 M Street, SW., Washington, D.C. The EPA public information regulation (40 CFR Part 2) provides that a reasonable fee may be charged for copying.

**FOR FURTHER INFORMATION CONTACT:** Ernst P. Hall (202) 382-7126.

**SUPPLEMENTARY INFORMATION:**

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## I. Legal Authority

This regulation is being promulgated under the authority of Sections 301, 304, 306, 307, 308, and 501 of the Clean Water Act (the Federal Water Pollution Control Act Amendments of 1972, 33 USC 1251 et seq., as amended by the Clean Water Act of 1977, Pub. L. 95-217), also called "the Act". It is also being promulgated in accordance with the Settlement Agreement in *Natural Resources Defense Council, Inc.* v. *Train*, 8 ERC 2120 (D.D.C. 1976), *modified*, 12 ERC 1833 (D.D.C. 1979), modified by Orders dated October 26, 1982, August 2, 1983, and January 6, 1984.

## II. Scope of This Rulemaking

This regulation, which was proposed on November 10, 1982 (47 FR 51052), establishes effluent limitations guidelines and standards for existing and new battery manufacturing plants.

The battery manufacturing industry is included within the U.S. Department of Commerce Census Standard Industrial Classifications (SIC) 3691, Storage Batteries, and 3692, Primary Batteries, Dry and Wet.

Battery manufacturing began slowly after Galvani's invention of the galvanic cell in 1786 and developed into significance only after Leclanche in 1868 developed the forerunner of the modern dry cell. Rapid technological development and changing requirements over the last 50 or so years have caused and continue to cause new cell types to appear while some established cell types decline or become obsolete. With the established level of change within the industry and high level of research aimed at developing economic automotive power and load leveling batteries, there is a high probability of building new or enlarging existing plants and continuing change of battery production methods and battery types.

Battery manufacturing encompasses the production of modular electric power sources where part or all of the fuel is contained within the unit and electric power is generated directly from a chemical reaction rather than indirectly through a heat cycle engine. There are three major components of a cell—anode, cathode, and electrolyte—plus mechanical and conducting parts

such as case, separator, or contacts. In the strictest sense, a cell contains only one anode-cathode pair whereas a battery is an assemblage of cells connected to combine their electrical output. Common usage has blurred the distinction between these terms. For the purpose of this regulation, the term battery includes both single cells and an assemblage of cells. Production includes electrode manufacture of anodes and cathodes, and associated ancillary operations necessary to produce a battery.

Water is used throughout battery manufacturing to clean battery components and to transport wastes. Water is used in the chemical systems to make most electrodes and special electrode chemicals; water is also a major component of most electrolytes and formation baths.

In this preamble, the following terminology is used. A battery manufacturing site is one physical location (i.e., a particular street address) where battery manufacturing processes occur. A battery plant is the location where subcategory-specific battery manufacturing process elements occur. Two or more battery plants may be located at a particular site. Finally a battery facility is a location where final battery type products or their components are produced. One battery plant can produce more than one battery type product. For example, at one site with the address of 100 Main Street, there are two battery plants that perform manufacturing processes: one plant in the lead subcategory and the other plant in the zinc subcategory. One plant includes a facility producing lead-acid batteries, and the other plant includes two facilities: one producing alkaline manganese batteries and the other producing silver-zinc batteries.

EPA estimates that there are about 230 battery manufacturing sites in the United States. A substantial majority of these are located in California, Pennsylvania, North Carolina, and Texas. The remaining sites are scattered geographically throughout the United States.

## III. Summary of Legal Background

The Federal Water Pollution Control Act Amendments of 1972 established a comprehensive program to "restore and maintain the chemical, physical, and biological integrity of the Nation's waters" [Section 101(a)]. To implement the Act, EPA was to issue effluent limitations guidelines, pretreatment standards, and new source performance standards for industrial dischargers.

The Act included a timetable for issuing these standards. However, EPA was unable to meet many of the deadlines and, as a result, in 1976, it was sued by several environmental groups. In settling this lawsuit, EPA and the plaintiffs executed a "Settlement Agreement" which was approved by the court. This Agreement required EPA to develop a program and adhere to a schedule in promulgating effluent limitations guidelines, new source performance standards, and pretreatment standards for 65 "priority" pollutants and classes of pollutants for 21 major industries. See *Natural Resources Defense Council, Inc.* v. *Train*, 8 ERC 2120 (D.D.C. 1976), *modified*, 12 ERC 1833 (D.D.C. 1979), modified by Orders dated October 26, 1982, August 2, 1983 and January 6, 1984.

Many of the basic elements of the Settlement Agreement were incorporated into the Clean Water Act of 1977. Like the Agreement, the Act stressed control of toxic pollutants, including the 65 "priority" pollutants. In addition, to strengthen the toxic control program, Section 304(e) of the Act authorizes the Administrator to prescribe "best management practices" (BMPs) to prevent the release of toxic and hazardous pollutants from plant site runoff, spillage or leaks, sludge or waste disposal, and drainage from raw material storage associated with, or ancillary to, the manufacturing or treatment process.

Under the Act, the EPA is to set a number of different kinds of effluent limitations. These are discussed in detail within this preamble to the regulation and in the record to this rulemaking. They are summarized briefly below:

### *1. Best Practicable Control Technology (BPT)*

BPT limitations are generally based on the average of the best existing performance by plants of various sizes, ages, and unit processes within the category or subcategory.

In establishing BPT limitations, EPA considers the total cost in relation to the age of equipment and facilities involved, the processes employed, process changes required, engineering aspects of the control technologies, and nonwater quality environmental impacts (including energy requirements). The Agency balances the total cost of applying the technology against the effluent reduction.

### *2. Best Available Technology (BAT)*

BAT limitations, in general, represent the best existing performance in the industrial subcategory or category. The Act establishes BAT as the principal national means of controlling the direct discharge of toxic and nonconventional pollutants to navigable waters.

In arriving at BAT, the Agency considers the age of the equipment and facilities involved, the process employed, the engineering aspects of the control technologies, process changes, the cost of achieving such effluent reduction, and nonwater quality environmental impacts. The Agency retains considerable discretion in assigning the weight to be accorded these factors.

### *3. Best Conventional Pollutant Control Technology (BCT)*

The 1977 Amendments to the Clean Water Act added Section 301(b)(2)(E), establishing "best conventional pollutant control technology" (BCT) for discharge of conventional pollutants from existing industrial point sources. Section 304(a)(4) designated the following as conventional pollutants: BOD, TSS, fecal coliform, pH, and any additional pollutants defined by the Administrator as conventional. The Administrator designated oil and grease as "conventional" on July 30, 1979 (44 FR 44501).

BCT is not an additional limitation but replaces BAT for the control of conventional pollutants. In addition to other factors specified in Section 304(b)(4)(B), the Act requires that BCT limitations be assessed in light of a two part "cost-reasonableness" test. *American Paper Institute* v. *EPA*, 660 F.2d 954 (4th Cir. 1981). The first test compares the cost for private industry to reduce its conventional pollutants with the costs to publicly owned treatment works for similar levels of reduction in their discharge of these pollutants. The second test examines the cost-effectiveness of additional industrial treatment beyond BPT. EPA must find that limitations are "reasonable" under both tests before establishing them as BCT. In no case may BCT be less stringent that BPT.

EPA published its methodology for carrying out the BCT analysis on August 29, 1979 (44 FR 50732). In the case mentioned above, the Court of Appeals ordered EPA to correct data errors underlying EPA's calculation of the first test, and to apply the second cost test. (EPA had argued that a second cost test was not required.)

A revised methodology for the general development of BCT limitations was proposed on October 29, 1982 (47 FR 49176). BCT limits for this category are accordingly deferred until promulgation of the final methodology for BCT development.

*4. New Source Performance Standards (NSPS)*

NSPS are based on the best available demonstrated technology (BDT). New plants have the opportunity to install the best and most efficient production processes and wastewater treatment technologies.

*5. Pretreatment Standards for Existing Sources (PSES)*

PSES are designed to prevent the discharge of pollutants that pass through, interfere with, or are otherwise incompatible with the operation of publicly owned treatment works (POTW). They must be achieved within three years of promulgation. The Clean Water Act of 1977 requires pretreatment for toxic pollutants that pass through the POTW in amounts that would violate direct discharger effluent limitations or interfere with the POTW's treatment process or chosen sludge disposal method. The legislative history of the 1977 Act indicates that pretreatment standards are to be technology-based, analogous to the best available technology for removal of toxic pollutants. EPA has generally determined that pollutants pass through a POTW if the nationwide average percentage of pollutants removed by a well-operated POTW achieving secondary treatment is less than the percent removed by the BAT model treatment system. The General Pretreatment Regulations, which serve as the framework for the pretreatment regulations, are found at 40 CFR Part 403.

*6. Pretreatment Standards for New Sources (PSNS)*

Like PSES, PSNS are designed to prevent the discharge of pollutants which pass through, interfere with, or are otherwise incompatible with the operation of a POTW. PSNS are to be issued at the same time as NSPS. New indirect dischargers, like new direct dischargers, have the opportunity to incorporate in their plant the best available demonstrated technologies. The Agency considers the same factors in promulgating PSNS as it considers in promulgating PSES.

## IV. Methodology and Data Gathering Efforts

The methodology and data gathering efforts used in developing the proposed regulation were summarized in the "Preamble to the Proposed Battery Manufacturing Point Source Category Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards" (47 FR 51052, November 10, 1982), and described in detail in the *Development Document for Effluent Limitations Guidelines and Standards for the Battery Manufacturing Point Source Category* which is referred to in this preamble as development document.

Following proposal of the regulation the Agency provided a sixty-day period for comments, which was scheduled to close on January 10, 1983. At the request of many commenters the comment period was extended for all subcategories until January 24, 1983 and for the lead subcategory until February 7, 1983. The Agency received over 300 individual comments from 24 different commenters.

After considering the comments, the Agency decided to collect additional information relating primarily to the lead subcategory. The Battery Council International (BCI), in coordination with the Agency, developed an industry survey which the Council distributed to their membership and to the Independent Battery Manufacturers Association (IBMA). Completed forms were sent to the EPA at the request of BCI. These surveys contained information on process element flows, treatment system operating characteristics, solid waste disposal, and personal hygiene and cleaning practices required at the plant.

The Agency also made engineering visits to seventeen lead battery manufacturing sites and one foliar battery (Leclanche subcategory) manufacturing site to determine pollutant and flow characteristics of process and nonprocess wastewater streams at these battery plants. During plant visits the Agency collected information, where available, about the quality and flow of raw and treated wastewater. We also received treatment effectiveness data from the plants where monitoring was conducted. Additionally, we collected samples for chemical analysis at five of these sites to determine the nature of the wastewater streams and the effectiveness of end-of-pipe treatment.

As an indication of the effectiveness of existing treatment systems, we also collected discharge monitoring report (DMR) data from state and EPA Regional offices for direct dischargers in the lead subcategory and other battery subcategories. DMR data are self monitoring data supplied by permit holders to meet state or EPA permit requirements. State and EPA Regional offices provided data for five of the eight lead subcategory direct dischargers. Two of these sites had well-operated lime and settle treatment systems.

The Agency performed additional analysis of the new and existing data. All additional data and activities are described in the "Notice of Data Availability and Request for Comment" (48 FR 52604, November 21, 1983) and are also described in substantial detail in the appropriate sections of the development document. The supporting information and additional data are in the public record supporting this final rule.

## V. Control Treatment Options and Technology Basis for Final Regulation

*A. Summary of Category*

The battery manufacturing industry is generally included within SIC 3691 and 3692 of the Standard Industrial Classification Manual, prepared in 1972 and supplemented in 1977 by the Office of Management and Budget, Executive Office of the President.

There are approximately 255 battery manufacturing plants distributed throughout the United States, with the majority located east of the Mississippi River. The data base includes 22 direct dischargers, 150 indirect dischargers, and 83 plants that do not discharge wastewater. Nineteen plants have closed since the proposed rules appeared in November, 1982. The battery manufacturing category employs an estimated 31,000 people with a total production estimated at 1,400,000 kkg of batteries (1,540,000 tons) per year.

The most important pollutants or pollutant parameters generated in battery manufacturing wastewaters are (1) toxic metals—arsenic, cadmium, chromium, copper, lead, mercury, nickel, selenium, silver, and zinc; (2) nonconventional pollutants—aluminum, cobalt, iron, manganese, and COD; and (3) conventional pollutants—oil and grease, TSS, and pH. Toxic organic pollutants generally were not found in large quantities although some cyanide was found in a few subcategories. Because of the amount of toxic metals present, the sludges generated during wastewater treatment generally contain substantial amounts of toxic metals.

In developing this regulation, it was necessary to determine whether different effluent limitations guidelines and standards were appropriate for different segments (subcategories) of the industry. The major factors considered in assessing the need for subcategorization and in identifying subcategories included: waste characteristics, raw materials, manufacturing processes, products manufactured, water use, water pollution control technology, treatment

costs, solid waste generation, size of plant, age of plant, number of employees, total energy requirements, nonwater quality characteristics, and unique plant characteristics. Section IV of the development document contains a detailed discussion of these factors and the rationale for subcategorization. The subcategorization scheme has remained unchanged from proposal.

The subcategories within battery manufacturing are primarily based on anode material. Eight subcategories are addressed in this regulation: cadmium, calcium, lead, Leclanche (zinc anode with an acid eletrolyte), lithium, magnesium, zinc (with alkaline electrolyte), and nuclear. Manufacturing operations differ widely, both within and among subcategories. Subcategory manufacturing process elements are selected so that manufacturing operations within a subcategory are similar and are amenable to a common regulation.

Several unit processes that are associated with other industrial categories are frequently found at battery manufacturing plants and are being regulated in this battery manufacturing regulation. Grid casting, continuous (direct chill) casting of lead, and melting furnaces as they apply to battery manufacturing are regulated here rather than in the metal molding and casting regulation. The wastestreams associated with these unit processes are mold release preparation, direct chill casting, contact cooling water and wet air pollution control associated with these processes.

Lead rolling performed at lead battery manufacturing plants is addressed here rather than in the nonferrous metals forming regulation. EPA is aware of five battery manufacturing plants that have lead rolling operations; however, there is no discharge of wastewater from the lead rolling processes at these plants. Currently these plants contract haul the small amounts of wastewater generated. Accordingly, there are no limitations and standards for this unit process proposed or promulgated. If a plant discharges from this unit process, a discharge allowance may be established on a case-by-case basis using guidance contained in the development document.

### *B. Control and Treatment Options*

Prior to proposing the battery manufacturing regulation, EPA considered a wide range of control and treatment options including both in-process changes and end-of-pipe treatment. These options are discussed in detail in the preamble to the proposed regulation (47 FR 51052). The control and treatment technologies used as the basis for the final limitations and standards are described below.

Current wastewater treatment systems in the battery manufacturing category range from no treatment to a sophisticated physical-chemical treatment (although generally not operated properly) combined with water conservation practices. Of the 255 plants in the data base, 26 percent of the plants have no treatment and do not discharge, 7 percent of the plants have treatment and do not discharge, 15 percent discharge without any treatment, 17 percent have only pH adjustment systems, 4 percent have only sedimentation or clarification devices, 23 percent have equipment for chemical precipitation and settling, 6 percent have equipment for chemical precipitation, settling and filtration, and 2 percent have other treatment systems. The zero discharge plants employ a combination of process operations which do not generate process wastewater, provide in-process or end-of-pipe treatment which eliminates wastewater discharge, or dispose of the wastewater on land. Even though treatment systems are in-place at many plants, the category is generally inadequate in wastewater treatment practices. The systems in-place are generally inadequately sized, poorly maintained, or improperly operated (systems overloaded, solids not removed, pH not controlled, etc.). EPA has determined, therefore, that wastewater treatment practices in the battery manufacturing category are uniformly inadequate and, as discussed below, EPA is transferring performance data from other industrial categories with similar wastewaters.

For the category as a whole, in general, there is no significant difference between direct or indirect dischargers in the nature or degree of treatment employed. Section V of the development document evaluates the treatment systems in-place and the effluent data received.

The control and treatment technologies available for this category include both in-process and end-of-pipe treatments. These technologies are described in Section VII of the development document. In-process treatment includes a variety of water-flow-reduction steps and major process changes such as: cascade and countercurrent rinsing (to reduce the amount of water used to remove unwanted materials from electrodes); consumption of cleansed wastewater in product mixes; and substitution of nonwastewater-generating forming (charging) systems. End-of-pipe treatment includes: Hexavalent chromium reduction; chemical precipitation of metals using hydroxides, carbonates, or sulfides; and removal of precipitated metals and other materials using settling or sedimentation; filtration; and combinations of these technologies.

The treatment effectiveness of the above technologies has been evaluated by observing the performance of these technologies on battery manufacturing and other similar wastewaters. The data base for the performance of lime-and-settle technology is a composite of data drawn from EPA protocol sampling and analysis of aluminum forming, copper forming, battery manufacturing, porcelain enameling, and coil coating wastewaters. These data, called the combined metals data base (CMDB), consist of influent and effluent concentrations for nine pollutants. The wastewaters are judged to be similar in all material respects for treatment because they contain similar ranges of dissolved metals which can be removed by precipitation and solids removal to comparable concentrations.

We regard the combined metals data base as the best available measure for establishing the concentrations of the nine pollutants attainable with lime and settle. Our determination is based on the similarity of the raw and treated wastewaters among the different categories as supported by a statistical analysis for homogeneity. (A separate study of statistical homogeneity of the wastewaters of categories in the CMDB is part of the record of this rulemaking.) The CMDB provides a larger quantity of data that are similar from both technical and statistical standpoints than would be available from any one category alone. The larger quantity of data in the combined metals data enhances the Agency's ability to estimate long-term performance and variability through statistical analysis.

The Agency received comments that there were not enough data points from battery manufacturing used in the combined metals data base (CMDB) to calculate the lead treatment effectiveness concentrations for the lead subcategory. Commenters recommended that EPA collect additional lead data from specified plants. In response to these comments, the Agency visited various suggested plants, as discussed in detail in Section IX of this preamble. As a result, we received long term self monitoring (raw and treated) wastewater data from one lead plant which has lime and settle technology, other raw and treated wastewater sampling data collected by EPA since proposal, and plant-supplied effluent data from various treatment technology

systems. The daily and monthly treatment effectiveness concentrations for the pollutant lead were re-examined in light of the additional data. As discussed in the response to comments on the lead treatment effectiveness concentrations in Section IX, of this preamble, the additional data were screened, leaving one additional plant with over 200 observations. Data from this plant and the one lead battery plant in the CMDB at proposal were used to recalculate daily and monthly treatment effectiveness concentrations. In addition, DMR data from these plants were evaluated and show compliance with the concentration basis for this regulation. The details of calculating the lead treatment effectiveness concentrations and DMR data analysis are described in "Calculation of Lead Treatment Effectiveness Concentrations for the Battery Manufacturing Point Source Category" which is in the administrative record of this rulemaking.

The Agency also examined the performance of filter technology based on the performance of full-scale commercial systems. Twenty-nine battery manufacturing plants reported that they are using a filter. Even though filters are in-place in this category, their operation is generally inadequate in the category (e.g. filters were used as primary solids removal devices). The Agency then examined untreated wastewaters from porcelain enameling (a category for which filtration data were available) and battery manufacturing and determined that they are similar in all material respects based on an analysis for homogeneity of the raw waste values. Therefore, the performance of lime, settle, and filter (LS&F) systems used in porcelain enameling can be and has been applied to assessing the effectiveness of filters in treating battery manufacturing wastewaters. Lime, settle and filter data were also obtained from a primary zinc smelter in the nonferrous metals manufacturing category. The raw wastewater characteristics of the smelter wastewater were within the range of raw wastewater characteristics in the CMDB data and the smelter wastewater was therefore considered to be similar to the CMDB wastewater which includes wastewater from battery manufacturing. The treatment effectiveness concentrations used for lime, settle and filter treatment were based on a summary of the long term data from two porcelain enameling plants and one nonferrous metals manufacturing plant.

After proposal, the Agency collected and analyzed samples from two battery manufacturing plants with end-of-pipe filtration. One plant uses end-of-pipe filtration as its primary means of solids removal after caustic addition. The other plant uses filtration in a polishing filter configuration following lime and settle treatment. The first system would be expected to operate at about the equivalent of lime and settle. The second system by design would represent lime, settle and filter; however, this plant was visited by EPA personnel and was observed to be operated improperly. (The clarifier overflow was being acidified before introduction into the filter.) Despite the observed shortcoming, the samples collected and analyzed at these two plants showed that they were able to achieve the lime, settle and filter treatment effectiveness concentrations used at proposal for the pollutant lead.

The Agency did not modify the proposed lime, settle and filter treatment effectiveness concentrations by using the battery manufacturing data because of the shortcomings described above. However, the samples collected and analyzed by EPA support the treatment effectiveness concentrations using the proposed lime, settle and filter data. In fact, use of these data alone would result in LS&F treatment effectiveness concentrations lower than those used at proposal.

The combined metals data are discussed in more detail in Section IX in this preamble, in Section VII of the development document and in the document "A Statistical Analysis of the Combined Metals Industries Effluent Data" and "Revisions to Data and Analysis of the Combined Metals Data Base" which are in the administrative record for this rulemaking.

Flow reduction is a significant part of the overall pollutant reduction technology for this category. The Agency is promulgating mass-based limitations and standards which account for the significant pollutant removal achieved by flow reduction model technology. Mass-based limits ensure reduction of the total quantity of pollutant discharge. The mass-based limitations and standards established for this category are derived by multiplying the regulatory flow (l/kg) by the overall treatment effectiveness (mg/l) for the model end-of-pipe treatment. The regulatory flows are based on flow data, normalized to production, which were supplied by the industry, and engineering analysis of the data. The production normalized flows used to determine the regulatory flow for each process element are presented in Section V of the development document. Determination of the regulatory flows is presented in Section IX, X, XI, and XII of the development document. Responses to comments relative to the selection of regulatory flows are provided in the Response to Comments Document in the record of this rulemaking.

The monitoring provisions of the final rule are the same as those contained in the proposed rule.

### *C. Technology Basis for Final Regulation*

A brief summary of the technology basis for the regulation is presented below. A more detailed discussion is presented in the development document.

The Agency is promulgating BPT and BAT limitations for the cadmium, lead, and zinc subcategories. The remaining five subcategories are excluded from BPT and BAT limitations for the reasons discussed in Section VIII of the preamble.

BPT: In developing the BPT limitations, the Agency considered the amount of water used per unit of production in each subcategory process element by each plant which was sampled or which supplied usable data in the Agency's initial data collection effort. These data were used to determine the average water use for each subcategory process element. The end-of-pipe treatment technology that seemed appropriate for BPT level treatment of these flows and was practiced in some plants throughout the category was selected. This treatment generally consists of: Hexavalent chromium reduction when required; oil skimming; hydroxide (or lime) precipitation, if not accomplished by pH adjustment; and sedimentation to remove the resultant precipitate and other suspended solids. Sludge from the settling tank is concentrated to facilitate metals recovery or landfill disposal. The effluent that would be expected to result from the application of these technologies was derived by evaluating the performance of some of the best plants in this category and in other categories treating similar wastewaters with these technologies. Section VII and IX of the development document explain the derivation of treatment effectiveness data and the calculation of BPT limitations.

To comply with BPT limitations, EPA estimates (1983 $) that total capital investment would be $0.877 million and that annual cost would be $0.559 million, including interest and depreciation. (These costs assume plants will install BPT treatment systems at the BPT regulatory flow or the actual plant flow if it is lower than the BPT regulatory

flow. Similarly, BAT and pretreatment costs assume that the plant flow is reduced to the flow basis for that limitation or standard.) EPA expects no plant closures, unemployment, or changes in industry production capacity as a result of the BPT effluent limitations. These BPT limitations will result in the removal of 72,133 kg/yr (158,693 lb/yr) of toxic pollutants and 115,537 kg/yr (254,181 lb/yr) of other pollutants from the estimated current discharges. The Agency has determined that the effluent reduction benefits associated with compliance with BPT limitations justify these costs.

*Cadmium Subcategory BPT.* EPA is promulgating BPT effluent limitations based on oil skimming and lime and settle technology. Implementation of BPT limitations will remove 69,598 kilograms (153,437) pounds per year of toxic metals and 101,255 kilograms (223,230 pounds) per year of conventional and other pollutants from the estimated current discharge, at a capital cost, above equipment in place, of $0.088 million and a total annual cost of $0.034 million. The Agency has determined that the effluent reduction benefits associated with compliance with BPT justify the costs.

*Lead Subcategory BPT.* EPA is promulgating BPT effluent limitations based on oil skimming and lime and settle technology. Implementation of BPT limitations will remove 1,442 kilograms (3,172 pounds) per year of toxic metals and 13,493 kilograms (29,685 pounds) per year of conventional and other pollutants from the estimated current discharge, at a capital cost, above equipment in place, of $0.715 million and a total annual cost of $0.499 million. The Agency has determined that the effluent reduction benefits associated with compliance with BPT justify the costs.

Several of the regulatory flows used as the basis for BPT (referred to as regulatory flows or BPT flows) changed from those proposed to reflect updated information on plant flows and production and to reflect to more accurate assessment of flow reduction practices within the subcategory. These flows are discussed briefly in Section IX of this preamble and in Section IX of the development document. The limitations presented in the final BPT regulation reflect these changes.

*Zinc Subcategory BPT.* EPA is promulgating BPT effluent limitations based on oil skimming and lime and settle technology. Implementation of BPT limitations will remove 1,093 kilograms (2,410 pounds) per year of toxic metals and 789 kilograms (1,740 pounds) per year of conventional and other pollutants from the estimated current discharge, at a capital cost, above equipment in place, of $0.073 million and a total annual cost of $0.027 million. The Agency has determined that the effluent reduction benefits associated with compliance with BPT justify the costs.

BAT: EPA is promulgating BAT mass limitations based on the BPT model end-of-pipe common treatment plus flow reduction. The Agency is promulgating BAT limitations based on the same end-of-pipe treatment technology as that of the proposed limitations. The BAT limitations are promulgated as proposed without change except for corrections in the treatment effectiveness concentrations in the CMDB for all subcategories, and also for flows in the lead subcategory.

In developing BAT limitations, the Agency considered the amount of water used per unit of production (liters per metric ton or gallons per ton) for each wastewater stream.

Implementation of the BAT limitations will remove annually an estimated 72,844 kg (160,257 pounds) per year of toxic metal and 119,100 kg (262,020 pounds) of other pollutants (from estimated current discharge) at a capital cost, above equipment in place, of $1.1 million and a total annual cost of $0.60 million. BAT will remove 711 kilograms (1,564 pounds) per year of toxic pollutants incrementally above BPT.

At the time of proposal, EPA indicated that it was seriously considering basing the final regulation on more stringent technologies than those used as the basis for the proposal. Technology additions discussed included filtration, ion exchange and reverse osmosis. As discussed later in this preamble, EPA continues to believe that these technologies are available and can be used to effectively treat battery manufacturing wastewaters.

However, EPA has concluded that compliance with the promulgated limitations will remove practically all the toxic and other pollutants from battery manufacturing wastewater discharges. The BAT limitations will remove approximately 99.78 percent of current toxic pollutant discharges. Given the results achieved by the technologies used as a basis for the promulgated limitations, further treatment would result only in deminimis, insignificant reductions in annual national discharges. Accordingly, EPA has determined that the total amount of each pollutant in the remaining discharges after compliance with BAT does not justify establishing a national requirement based on additional end-of-pipe technology.

Although EPA is not basing the final regulations directly on these additional technologies, their availability, effectiveness and affordability provides significant support for EPA's conclusion that the effluent limitations promulgated today are both technologically and economically achievable. In particular, an alternative means to achieve the promulgated limitations would be to use a less rigorous lime and settle treatment system with flow reduction and add a filter to the end-of-pipe technology. As shown in Section VII of the development document, filters generally reduce discharges of toxic metal pollutants by an average of 33 percent. Moreover, EPA has collected data from two lead battery plants using precipitation and filtration that achieve the concentrations used as a basis for the promulgated regulation. EPA's economic analysis has shown that the addition of filtration at existing plants does not result in any closures or other significant adverse economic impacts. Therefore, many plants can afford to add filtration to the recommended technology and thereby provide further assurance that the applicable limitations are met.

*Cadmium Subcategory BAT.* EPA is promulgating BAT effluent limitations based on flow reduction, oil skimming, and lime and settle technology. Implementation of BAT limitations will remove 70,096 kilograms (154,535 pounds) per year of toxic metals and 109,614 kilograms (241,656 pounds) per year of other pollutants from the estimated current discharges at a capital cost, above equipment in place, of $0.179 million and a total annual cost of $0.055 million. The Agency projects no plant closures, employment impacts or foreign trade effects and has determined that the BAT limitations are economically achievable.

*Lead Subcategory BAT.* EPA is promulgating BAT effluent limitations based on flow reduction, oil skimming and lime and settle technology. Implementation of BAT limitations will remove 1,634 kilograms (3,595 pounds) per year of toxic metals and 16,787 kilograms (36,931 pounds) per year of other pollutants from the estimated current discharges at a capital cost, above equipment in place, of $0.819 million and a total annual cost of $0.510 million. The Agency projects no plant closures, employment impacts or foreign trade effects and has determined that the BAT limitations are economically achievable.

Several of the regulatory flows used as the basis for BAT (referred to as regulatory flows or BAT flows) changed from the proposed regulation to reflect

updated information on plant flows and production and to reflect a more accurate assessment of flow reduction practices within the subcategory. These flows are discussed in Section IX of this preamble and in Section X of the development document. The limitations presented in the final BAT regulation reflect these changes.

*Zinc Subcategory BAT.* EPA is promulgating BAT effluent limitations based on flow reduction, oil skimming, and lime and settle technology. Implementation of BAT limitations will remove 1,114 kilograms (2,456 pounds) per year of toxic metals and 1,058 kilograms (2,332 pounds) per year of other pollutants from the estimated current discharges at a capital cost, above equipment in place, of $0.131 million and a total annual cost of $0.035 million. The Agency projects no plant closures, employment impacts or foreign trade effects and has determined that the BAT limitations are economically achievable.

EPA considered basing BAT for the zinc subcategory on the use of sulfide precipitation rather than lime precipitation, due to its superiority in removing mercury. The Agency rejected this option, however because of the considerable difficulty and expense of retrofitting existing plants with adequate ventilation and other safety measures that are needed to ensure that this technology is used safely.

*NSPS:* EPA is promulgating NSPS as proposed for the calcium, lithium and magnesium subcategories, and slightly less stringent NSPS than those contained in the proposal for the cadmium, lead, zinc and Leclanche subcategories. In developing NSPS, the Agency considered the amount of water used and discharged per unit of production based on the best demonstrated process changes and the best demonstrated end-of-pipe technology to reduce pollutant discharges to the maximum extent feasible. However, the NSPS being promulgated are not based on the use of major incremental end-of-pipe treatment technologies beyond precipitation, sedimentation and filtration to address de minimis discharges that remain after such treatment. As discussed in Section VI of this preamble, the promulgated NSPS do not pose a barrier to entry for new plants in the category.

For the cadmium, lead, and zinc subcategories, EPA proposed NSPS based on precipitation, sedimentation and filtration plus additional technologies including reverse osmosis for the lead and zinc subcategories, and ion exchange and distillation for the cadmium subcategory. Comments on the effectiveness, level of demonstration and environmental need for these technologies were few and mixed.

EPA believes that all of the technologies used as a basis for the proposed NSPS are available, demonstrated technologies. (See Section IX of this preamble for a more detailed discussion of the reverse osmosis technology.) However, EPA has decided to base NSPS on end-of-pipe treatment which generally only adds polishing filtration to the recommended end-of-pipe BAT technologies. The promulgated NSPS limitations will result in the discharge of only a miniscule amount of pollutants from new plants. EPA has concluded that a national standard based on the use of advanced end-of-pipe treatment technology beyond the recommended BAT plus filtration end-of-pipe treatment in order to remove the very small amount of pollutants remaining is not warranted.

The selected NSPS option of filtration is an available, demonstrated technology. As noted previously, however, the use of this technology in the battery category is generally inadequate. Therefore, filter data from the porcelain enameling and nonferrous metals categories have been transferred to the battery category.

One additional modification of the proposal relates to the type of precipitation recommended to be used as part of the precipitation and sedimentation system. The proposed NSPS for the lead and zinc subcategories were based upon the use of sulfide precipitation in conjunction with end-of-pipe filtration. The final promulgated NSPS are based upon sulfide precipitation for the zinc subcategory and lime precipitation for the cadmium and lead subcategories. In general the incremental removal achieved by the use of sulfide technology in addition to lime precipitation technology is extremely small. However, sulfide precipitation is superior to lime precipitation in removing mercury, an exceptionally toxic metal that is of special concern in zinc subcategory discharges. Sulfide precipitation can be performed safely by building appropriate ventilation into new zinc subcategory plants and by following safe operating practices. Sulfide precipitation is demonstrated in this subcategory.

For the Leclanche subcategory, the Agency proposed zero discharge for NSPS. EPA recieved comments on the manufacture of foliar batteries and concluded that because of product quality considerations a discharge allowance for foliar batteries is warranted (see Section IX of this preamble). End-of-pipe treatment is the same as for PSES, which is lime, settle and filter technology.

For all subcategories other than lead, the costs for new sources associated with compliance of this regulation would be extremely variable. New sources can select manufacturing processes which do not generate wastewater, as is practiced at present by at least one plant in each subcategory. Plants using the no discharge processes would incur no compliance costs associated with this regulation. Alternatively new sources can choose various combinations of dry and wet manufacturing processes. For these reasons there is no rational methodology which can be used to project model plants for these subcategories. Therefore, existing plant cost estimates were used to evaluate the new source options for the cadmium, calcium, Leclanche, lithium, magnesium and zinc subcategories. The new source technology would reduce the toxic pollutant levels to 2.3 kilograms (5 pounds) per year per plant, and the discharge of other pollutants to 34.7 kilograms (76.6 pounds) per year per plant. The capital investment cost for an average plant to install the new source option would be $41,228 and the annual cost for an average plant would be $16,344. Details of the costs for end-of-pipe treatment systems and in-process technologies are presented in Section VIII of the development document.

EPA estimates that a new direct discharge lead battery manufacturing plant having the subcategory average annual production level would generate a raw waste of 14,458 kilograms (31,808 pounds) per year of toxic pollutants and 84,919 kilograms (186,822 pounds) per year of other pollutants. The NSPS technology would reduce the toxic pollutant levels to 4.34 kilograms (9.55 pounds) per year and the discharge of other pollutants to 42 kilograms (92.4 pounds) per year. The capital investment cost for a new model lead battery manufacturing plant to install the NSPS technology is estimated to be $0.119 million, with annual costs of $0.069 million.

PSES: EPA is promulgating PSES as proposed except in the lead and Leclanche subcategories. PSES is equivalent to BAT for the cadmium, lead, and zinc subcategories, which consists of end-of-pipe treatment comprised of flow reduction, oil skimming and lime and settle technology.

The Agency proposed to regulate pollutants (primarily toxic metals) at PSES that would pass through a POTW.

The average percentage of the toxic metal pollutants removed by a POTW nationwide ranges from 19 to 66 percent, whereas the percentage that can be removed by a battery manufacturing direct discharger applying the best available technology is expected to be over 99 percent. These pollutants would pass through a POTW and as such are regulated by PSES. The same pollutants that were regulated by the proposed regulation are regulated by the promulgated PSES.

An additional reason for regulating a variety of toxic metals at PSES is that toxic metals are not degraded in the POTW. Those that do not pass through to the receiving waters are removed in the sludge. The presence of highly toxic metals discharged from a battery plant in the POTW sludge may limit a POTW chosen sludge disposal method. For example, a major pollutant discharged by battery plants is cadmium. Under EPA's Criteria for Classification of Solid Waste Disposal Facilities and Practices (40 CFR Part 257), the application of POTW sludge to land used for the production of food-chain crops is restricted when the sludge contains significant concentrations of cadmium.

The mass limitations set forth as PSES are presented here as the only method of designating pretreatment standards. Regulation on the basis of concentration only is not appropriate for this category because flow reduction is a significant part of the model technology for pretreatment. The flow reduction in conjunction with the end-of-pipe technology reduces the amount of toxic pollutants introduced into a POTW. For this reason, the Agency is not promulgating alternative concentration-based pretreatment standards.

To comply with PSES, EPA estimates that total capital investment, above equipment in place, would be $8.20 million and that annual costs would be $4.43 million, including interest and depreciation. Section VIII of the development document explains the basis for these costs. The Agency has concluded that PSES is economically achievable.

The Agency has considered the time for compliance for PSES. Few of the indirect discharge battery manufacturing plants have installed and are properly operating the treatment technology for PSES. Many plants in this and other industries will be installing the treatment equipment suggested as model technologies for this regulation and this may result in delays in engineering, ordering, installing, and operating this equipment. For these reasons, the Agency has decided to establish the PSES compliance date for all facilities at three years after promulgation of this regulation.

As proposed, no PSES are promulgated for the calcium and lithium subcategories because the amount and toxicity of the discharges from these subcategories do not justify developing national standards.

*Cadmium Subcategory PSES.* EPA is promulgating PSES based on flow reduction, oil skimming, and lime and settle technology. Implementation of PSES will remove 27,325 kilograms (60,241 pounds) per year of toxic metals and 42,730 kilograms (94,203 pounds) per year of other pollutants from estimated current discharges, at a capital cost, above equipment in place, of $0.465 million and a total annual cost of $0.159 million. The Agency projects no plant closures, employment impacts or foreign trade effects and has determined that the standards are economically achievable.

*Lead Subcategory PSES.* EPA is promulgating PSES based on flow reduction, oil skimming, and lime and settle technology. Implementation of PSES will remove 21,037 kilograms (46,281 pounds) per year of toxic metals and 216,128 kilograms (475,482 pounds) per year of other pollutants from estimated current discharges, at a capital cost, above equipment in place, of $7.121 million and a total annual cost of $4.073 million. The Agency projects no plant closures, employment impacts or foreign trade effects and has determined that the standards are economically achievable.

Several of the regulatory flows used as the basis for PSES changed from the proposed regulation to reflect updated information on plant flows and production and to reflect a more accurate assessment of flow reduction practices within the subcategory. These flows are discussed in Section IX of this preamble and in Section X of the development document. The standards presented in the final PSES regulation reflect these changes.

*Leclanche Subcategory PSES.* With one exception, EPA is promulgating PSES as proposed with zero discharge of wastewater pollutants. Zero discharge is generally practiced in this subcategory by using dry cleaning techniques or recycle and reuse technologies.

After receiving comments and visiting one foliar plant after proposal, EPA determined that zero discharge was inappropriate for foliar battery production. EPA personnel observed product failures caused by impurities in process water. Plant personnel also provided information which demonstrated that the unique physical dimensions of their product, compared to other Leclanche cells, made them particularly susceptible to failure. After considering the product quality aspects of foliar Leclanche batteries, EPA conclude that a wastewater discharge was required in this application. For foliar batteries only, EPA is promulgating PSES based on water recycle and reuse, oil skimming, and lime, settle, and filter technology. Filtration equipment is in place at the existing foliar battery plant. Implementation of PSES will remove 1,300 kilograms (2,866 pounds) per year of toxic metals and 11,000 kilograms (24,251 pounds) per year of other pollutants from estimated current discharges, at a capital cost, above equipment in place, of $0.063 million and a total annual cost of $0.0315 million. The Agency projects no plant closures, employment impacts or foreign trade effects and has determined that the standards are economically achievable.

*Magnesium Subcategory PSES.* EPA is promulgating PSES based on the proposed technology which includes recycle and reuse of heat paper production wastewater and lime and settle end-of-pipe treatment for other process wastewaters. Implementation of PSES will remove 97 kilograms (214 pounds) per year of toxic metals and 1,018 kilograms (2,244 pounds) per year of other pollutants from estimated current discharges, at a capital cost, above equipment in place, of $0.041 million and a total annual cost of $0.0175 million. The Agency projects no plant closures, employment impacts or foreign trade effects and has determined that the standards are economically achievable.

*Zinc Subcategory PSES.* EPA is promulgating PSES based on oil skimming, and lime and settle technology. Implementation of PSES will remove 3,729 kilograms (8,221 pounds) per year of toxic metals and 3,543 kilograms (7,811 pounds) per year of other pollutants from estimated current discharges, at a capital cost, above equipment in place, of $0.506 million and a total annual cost of $0.146 million. The Agency projects no plant closures, employment impacts or foreign trade effects and has determined that the standards are economically achievable.

PSNS: EPA is promulgating PSNS based on end-of-pipe treatment and in-process controls equivalent to that used as the basis for NSPS. The flow allowances for PSNS are also the same as those for NSPS. As discussed under PSES, pass through of the regulated pollutants will occur without adequate pretreatment and, therefore, pretreatment standards are required.

Alternative concentration-based standards are not being promulgated because flow reduction is a significant part of the PSNS technology, also discussed under PSES. As in the case of NSPS, the model technology for PSNS has been modified (see NSPS discussion).

**VI. Economic Considerations**

*A. Costs and Economic Impact*

EPA's economic impact assessment is set forth in *Economic Impact Analysis of Effluent Standards and Limitations for the Battery Manufacturing Industry*, EPA (EPA–440/2–84–002). This report details the investment and annual costs for the industry as a whole and for plants covered by the battery manufacturing regulation. The report also estimates the probable economic effect of compliance costs in terms of plant closures, production changes, price changes, employment changes, local community impacts, and imports and exports of battery related products.

EPA has identified 149 facilities that will incur costs as a result of this regulation. Of these 149 facilities, 15 are direct dischargers and 134 are indirect dischargers. Total investment for BAT and PSES is projected to be $9.3 million with annual costs of $5.0 million, including depreciation and interest. These costs are in 1983 dollars and are based on the determination that plants will build on existing treatment.

The costs of implementing the regulations were estimated on a plant-by-plant basis for all of the 149 facilities that discharge wastewater. The cost estimates for all of the subcategories except the lead subcategory were derived by a computerized costing program using 1977 plant data resulting in 1978 dollar estimates which have been updated to 1983. The costing program accounted for plant size and for treatment-in-place to develop an estimate of capital and annual costs, which were grouped by subcategory and summed.

The cost methodology for end-of-pipe treatment used at proposal for the lead subcategory was the same as that used for the other subcategories. Following proposal, many comments were received stating generally that compliance costs were underestimated. This necessitated a complete reevaluation of both in-process and end-of-pipe treatment cost methodology. For estimating end-of-pipe wastewater treatment system costs we used a new computer model. This program uses standard engineering costing procedures and generates treatment system costs that are similar to those used at proposal. The treatment system designs and equipment are the same as those considered at proposal. The model generates costs based on June 1983 dollars.

Based on data collected during site visits we revised some in-plant costs and costing procedures. First, we revised our costs for slow formation in the lead subcategory. During the plant visits conducted since proposal we observed that batteries can be stacked in charging racks and slow-formed. We observed sufficient vertical height in the buildings at visited sites to provide the necessary stacking for slow formation without any need for additional floor space in the formation area. Therefore, the in-plant costs were revised to eliminate new building costs for slow formation. Second, the capital recovery factor has been adjusted to reflect a current interest rate. The cumulative effect of the above changes reduced the overall regulatory compliance costs for the lead subcategory.

For purposes of measuring the economic impacts, the industry was subcategorized by the type of product. The economic impacts were estimated through a microeconomic model which projects the price and output behavior of each major industry segment. It is used, in conjunction with compliance cost estimates, to determine post-compliance price and production levels for each industry segment and for each regulatory option.

A financial profile was developed for each of the plants based on average financial ratios for the industry segment in which the plant competes. The primary variables of interest in analyzing individual plants were profitability, as measured by return on sales and return on investment and the discounted cash flow analysis. Other factors considered in judging the likelihood of closure include the degree of integration, and market characteristics such as the degree of competition and the existence of specialty markets. Given the plant-specific compliance cost estimates, the industry-segment-specific financial ratios, and other factors, the effect on individual plants was projected.

There are no potential plant closures or employment effects projected as a result of this regulation. The Agency does not estimate any disproportionate impact on any specific group of plants. Average compliance cost per unit of production is higher for small plants than for large plants. However, the compliance costs for small plants are not large enough to cause plant closures or bankruptcies. Price increases differ somewhat among the product groups ranging from 0.04 percent for cadmium to 0.3 percent for lead. There are no balance-of-trade effects.

The Economic Impact Analysis assumed a reasonable rate of monitoring, varying by size of plant and flow. However, since the regulatory limits are based on monitoring 10 times a month, we performed a sensitivity analysis including costs associated with this level of monitoring activity. The results showed no significant incremental economic impacts.

The Economic Impact Analysis used baseline production and financial information from the 1978 period, updated to 1983 where necessary. In order to evaluate the incremental effects of this regulation over the OSHA lead standard promulgated in 1978, we performed a sensitivity analysis using the OSHA cost estimates. (See Economic and Environmental Analysis of the Current OSHA Lead Standard, Occupational Safety and Health Administration, 1982.) The effect of the OSHA regulation was to increase the baseline costs of production for plants in the lead subcategory and to cause a large number of plants to close. The economic impact analysis for this regulation was reestimated for the plants expected to remain in operation after the compliance deadline of the OSHA regulation. For each of these remaining plants, compliance costs as a percent of revenues were less than one percent and there would be no additional plant closures as a result of this regulation. Accordingly, the Agency concludes that changes in profits and other economic impacts resulting from this regulation would be negligible.

In addition, EPA has conducted an analysis of the incremental removal cost per pound-equivalent for each of the proposed technology-based options. A pound-equivalent is calculated by multiplying the number of pounds of pollutant discharged by a weighting factor for that pollutant. The weighting factor is equal to the water quality criterion for a standard pollutant (copper), divided by the water quality criterion for the pollutant being evaluated. The use of "pound-equivalent" gives relatively more weight to removal of more toxic pollutants. Thus, for a given expenditure, the cost per pound-equivalent removed would be lower when a highly toxic pollutant is removed than if a less toxic pollutant is removed. This analysis is included in the record of this rulemaking, and is entitled *Cost-Effectiveness Analysis of Effluent Standards and Limitations for the Battery Manufacturing Industry*.

*BPT:* Fifteen facilities are direct dischargers that will incur costs as a result of this regulation. The cost estimates are based on the regulatory flows and take into account treatment in place. Since the BPT regulatory flow is on the whole larger than the BAT flow, and the in-process controls tend to be relatively inexpensive, the cost of BAT was less than BPT for a number of plants. Thus, for the purpose of evaluating the economic impacts, it was assumed that the plants would install the least expensive treatment to meet the requirements of BPT. Hence, in those cases where the cost of BAT was less than BPT, it was assumed that the lower BAT costs would be incurred to meet the BPT limits and no incremental cost would be incurred in meeting the BAT limits. For this reason, the costs shown here will be different than those shown in the technical section of the preamble. The BPT regulation is projected to cost $0.924 million in investment costs and $0.545 million in annual costs for these plants. The analysis of economic impact concluded that there are no potential plant closures nor job losses associated with BPT treatment option. Total loss in industry production is expected to be about 0.09 percent, with the cost of production increasing about 0.27 percent. If average compliance costs incurred by the plants in the industry were passed on to consumers, price increases would range from 0 to 0.3 percent.

*BAT:* Compliance costs and resulting impacts discussed below are based on the total effects of going from the BPT costs to the costs incurred to install BAT. Total investment costs are estimated to be $1.1 million, with annual costs of $0.60 million, including depreciation and interest. The incremental costs over BPT are estimated to be $0.20 million in investment costs and $0.05 million in annual costs. BAT would not result in any closures. If the average compliance cost incurred by the plants in the industry were passed on to consumers, price increases would range from 0 to 0.3 percent, not significantly greater than the BPT increases. Thus EPA has determined that BAT is economically achievable.

*PSES:* 134 facilities are identified as indirect dischargers that will incur costs as a result of this regulation. The pollution control technology for the pretreatment standards is identical to the BAT treatment technology. Investment costs for the 134 indirect discharge facilities are estimated to be $8.2 million and annual costs are estimated at $4.4 million. The Agency's estimate of potential plant closures indicates that there are no potential closures nor employment effects associated with PSES. Total loss in industry production is expected to be about 0.09 percent, with the cost of production increasing about 0.3 percent. Thus the Agency has determined that PSES is economically achievable.

*NSPS and PSNS:* The industry is expected to grow at a rate close to that of the long-term GNP trend. The rate will differ by subcategory and product type. We analyzed a "normal" plant in the lead subcategory comparing estimated costs for the treatment technologies to expected revenues. In the other subcategories we averaged the costs for existing plants to obtain an estimate for a new plant. The incremental costs over the cost estimates for the BAT and PSES technologies as a percent of expected revenues range from 0.0 percent for Leclanche to 1.8 percent for lithium for the new source plant. The largest subcategory, lead, has an incremental cost of 0.07 percent of expected revenues. EPA does not believe that NSPS and PSNS will constitute a barrier to entry for new sources, or prevent major modifications to existing sources, or produce other adverse economic effects.

### *B. Executive Order 12291*

Executive Order 12291 requires EPA and other agencies to perform regulatory impacts analyses of major regulations. Major rules are those which impose a cost on the economy of $100 million a year or more or have certain other economic impacts. This regulation is not a major rule because its annualized cost of $5.06 million is less than $100 million and it meets none of the other criteria specified in Section I paragraph (b) of the Executive Order. The economic impact analysis prepared for this rulemaking meets the requirements for nonmajor rules.

### *C. Regulatory Flexibility Analysis*

The Regulatory Flexibility Act; 5 U.S.C. 601 et seq. Pub. L. 96–354 requires EPA to prepare an Initial Regulatory Flexibility Analysis for all proposed regulations that have a significant impact on a substantial number of small entities. No regulatory flexibility analysis is required, however, where the head of the Agency certifies that the rule will not have a significant economic impact on a substantial number of entities. The economic impact analysis described above indicates that there will not be a significant impact on any segment of the regulated population, large or small. Accordingly, I hereby certify pursuant to 5 U.S.C. 605(b), that this regulation will not have a significant impact on a substantial number of small entities.

### *D. SBA Loans*

The Agency is continuing to encourage small plants to use Small Business Administration (SBA) financing as needed for pollution control equipment. The three basic programs are: (1) The Pollution Control Bond Program, (2) the Section 503 Program, and (3) the Regular Business Loan Program. Eligibility for SBA Programs varies by industry. Generally, a company must be independently owned, not dominant in its field, the employee size ranges from 250 to 1,500 employees (dependent upon industry) and annual sales revenue range from $275,000 to $22 million (varies by industry). The estimated economic impacts for this category do not include consideration of financing available through these programs.

For further information and specifics on the Pollution Control Bond Program contact: U.S. Small Business Administration, Office of Pollution Control Financing, 4040 North Fairfax Drive, Rosslyn, Virginia 22203, (703) 235–2902.

The Section 503 Program, as amended in July 1980 allows long-term loans to small and medium sized businesses. These loans are made by SBA approved local development companies. These companies are authorized to issue Government-based debentures that are bought by the Federal Financing Bank, an arm of the U.S. Treasury.

Through SBA's Regular Business Loan Program, loans are made available by commercial banks and are guaranteed by the SBA. This program has interest rates equivalent to market rates.

For additional information on the Regular Business Loan and Section 503 Programs contact your local SBA Office. The coordinator at EPA headquarters is Ms. Frances Desselle who may be reached at (202) 382–5373.

## VII. Nonwater Quality Environmental Impacts

Eliminating or reducing one form of pollution may cause other environmental problems. Sections 304(b) and 306 of the Act require EPA to consider the nonwater quality environmental impacts (including energy requirements) of certain regulations. In compliance with these provisions, we considered the effect of this regulation on air pollution, solid waste generation, water scarcity, and energy consumption. This regulation was circulated to and

reviewed by EPA personnel responsible for nonwater quality programs. While it is difficult to balance pollution problems against each other and against energy use, we believe that this regulation will best serve often competing national goals. In particular, the flow reduction aspects of the regulation will in many cases reduce the total discharge of toxic and other pollutants into the environment.

The following nonwater quality environmental impacts (including energy requirements) are associated with the final regulation. The Administrator has determined that the impacts identified below are justified by the benefits associated with compliance with the limitations and standards.

*A. Air Pollution*

Imposition of BPT, BAT, NSPS, PSES, and PSNS will not create any substantial air pollution problems because the wastewater treatment technologies required to meet these limitations and standards do not cause air pollution.

*B. Solid Waste*

EPA estimates that battery manufacturing plants generated 18,960 kkg (87,000 tons) of solid wastes per year from manufacturing process operations, and an indeterminate amount of solid waste from wastewater treatment because of the variable technologies currently practiced. These wastes were comprised of treatment system sludges containing toxic metals, including cadmium, chromium, copper, lead, mercury, nickel, silver, and zinc.

EPA estimates that BPT limitations will contribute an additional 8,047 kkg (9,693 tons) per year of solid wastes over the total solid waste levels currently generated. BAT and PSES will increase these wastes by approximately 63,940 kkg (69,492 tons) per year beyond BPT levels. These sludges will necessarily contain additional quantities (and concentrations) of toxic metal pollutants. A new plant with the average industry production level would at NSPS and PSNS generate an estimated 0.06 percent increase in the mass of sludges over BAT and PSES.

The Agency considered the solid wastes that would be generated at battery manufacturing plants by lime and settle treatment technologies and believes that they are not hazardous under Section 3001 of the Resource Conservation and Recovery Act (RCRA). This judgment is made based on the recommended technology of lime precipitation. By the addition of a small excess of lime during treatment, similar sludges, specifically toxic metal bearing sludges generated by other industries such as the iron and steel industry, passed the EP toxicity test. See 40 CFR 261.24 (45 FR 33084 (May 19, 1980)).

Wastes which are not hazardous must be disposed of in a manner that will not violate the open dumping prohibition of Section 4005 of RCRA. The Agency has calculated as part of the costs for wastewater treatment the cost of hauling and disposing of additional wastes generated as a result of these requirements. For more details, see Section VIII of the technical development document.

Only wastewater treatment sludge generated by sulfide precipitation technology, and wastewater treatment sludges containing mercury are likely to be hazardous under the regulations implementing subtitle C of the Resource Conservation and Recovery Act (RCRA). The costs of disposing of sulfide sludges or mercury containing sludges as hazardous were calculated for the Lechlanche and zinc subcategories. See Section VIII of the development document for details. Under those regulations, generators of these wastes must test the wastes to determine if the wastes meet any of the characteristics of hazardous waste (see 40 CFR 262.11, 45 FR 33142–33143, May 19, 1980).

*C. Consumptive Water Loss*

Treatment and control technologies that require extensive recycling and reuse of water may require cooling mechanisms. Evaporative cooling mechanisms can cause water loss and contribute to water scarcity problems—a primary concern in arid and semi-arid regions. While this regulation assumes water reuse, the overall amount of reuse through evaporative cooling mechanisms is low and the quantity of water involved is not significant. In addition, most battery manufacturing plants are located east of the Mississippi where water scarcity is not a problem. We conclude that the consumptive water loss is insignificant and that the pollution reduction benefits of recycle technologies outweigh their impact on consumptive water loss.

*D. Energy Requirements*

EPA estimates that the achievement of BPT effluent limitations will result in a net increase in electrical energy consumption of approximately 0.40 million kilowatt-hours per year. The BAT effluent technology are projected to increase electrical energy consumption by 0.34 million kilowatt hours per year. The BAT energy requirements are lower than those at BPT because reducing the flow reduces the pumping requirements, the agitation requirement for mixing wastewater, and other volume-related energy requirements. To achieve the BPT effluent limitations, a direct discharger will increase total energy consumption by less than 0.42 percent of the energy consumed for production purposes. To achieve the BAT limitations, a direct discharger will increase total energy consumption by less than 0.36 percent.

The Agency estimates that PSES will result in a net increase in electrical energy consumption of approximately 4.09 million kilowatt-hours per year. To achieve PSES, an existing indirect discharger will increase energy consumption by less than 0.42 percent of the total energy consumed for production purposes.

The energy requirements for NSPS and PSNS are estimated to be similar to energy requirements for BAT and PSES. More accurate estimates are difficult to make because projections for new plant construction are variable.

**VIII. Pollutants and Subcategories Not Regulated**

The Settlement Agreement in *NRDC* v. *Train, supra* contains provisions authorizing the exclusion from regulation in certain instances of toxic pollutants and industry subcategories. These provisions have been rewritten in a Revised Settlement Agreement in *Natural Resources Defense Council, Inc.* v. *Train*, 8 ERC 2120 (D.D.C. 1976), *modified*, 12 ERC 1833 (D.D.C. 1979), modified by orders dated October 26, 1982, August 2, 1983, and January 6, 1984.

*A. Exclusion of Pollutants*

The Agency has deleted the following three pollutants from the toxic pollutant list: (49) trichlorofluoromethane and (50) dichlorofluoromethane, 46 FR 79692 (January 8, 1981); and (17) bis(chloromethyl) ether, 46 FR 10723 (February 4, 1981).

Paragraph 8(a)(iii) of the Settlement Agreement allows the Administrator to exclude from regulation toxic pollutants not detectable by Section 304(h) analytical methods or other state-of-the-art methods. The toxic pollutants not detected and therefore, excluded from regulation are listed for each subcategory in Appendix C to this notice.

Paragraph 8(a)(iii) also allows the Administrator to exclude from regulation toxic pollutants detected in amounts too small to be effectively reduced by technologies known to the Administrator. Appendix D to this notice lists the toxic pollutants in each

subcategory which were detected in the effluent in amounts at or below the nominal limit of analytical quantification, which are too small to be effectively reduced by technologies known to the Administrator and which, therefore, are excluded from regulation.

Paragraph 8(a)(iii) also allows the Administrator to exclude from regulation toxic pollutants detectable in the effluent from only a small number of sources within the subcategory because they are uniquely related to those sources. Appendix E to this notice lists for each subcategory the toxic pollutants which were detected in the effluents of only a small number of plants, are uniquely related to those plants, and are not related to the manufacturing processes under study.

Paragraph 8(a)(iii) also allows the Administrator to exclude from regulation, toxic pollutants present in amounts too small to be effectively reduced by technologies known to the Administrator. Appendix F lists those toxic pollutants which are above the level of analytical quantification, but not treatable using technologies considered applicable to the category.

Paragraph 8(a)(iii) also allows the Administrator to exclude from regulation toxic pollutants which will be effectively controlled by the technologies upon which are based other effluent limitations and guidelines, standards of performance, or pretreatment standards. Appendix G lists those metal toxic pollutants which will be effectively controlled by other regulated pollutants in BAT and NSPS, PSES, and PSNS, even though they are not specifically regulated.

*B. Exclusion of Subcategories*

Paragraph 8(a)(iv) and 8(b)(ii) of the Settlement Agreement authorizes the exclusion of subcategories in which the amount and toxicity of each pollutant in the discharge do not justify developing national regulations. Some subcategories of the battery manufacturing category meet this provision and are excluded from some parts of this regulation. Appendix H lists the subcategories not regulated. The nuclear subcategory is excluded from all regulation since there are no currently operating plants and plans are not being made to resume production. For BPT and BAT, four subcategories are excluded. Currently there are no direct dischargers in the calcium, Leclanche, or magnesium subcategories. The amount and toxicity of direct pollutant discharges (less than 100 lb/yr of toxic pollutants) in the lithium subcategory does not justify developing national regulations. For PSES, two subcategories are excluded. Currently the amount and toxicity of pollutants discharged (less than 100 lb/yr of toxic pollutants) in the calcium and lithium subcategories do not justify developing national regulations.

## IX. Public Participation and Response to Major Comments

Industry, government, and environmental groups have participated during the development of these effluent guidelines and standards. Following the publication of the proposed rule on November 10, 1982 in the **Federal Register**, we provided the development document and the economic impact analysis supporting the proposed rule to industry, government agencies, and the public sector. The public record supporting this regulation was available for public use on November 23, 1982. The comment period ended on January 24, 1983 for all subcategories except the lead subcategory which was extended until February 7, 1983. A permit writers workshop was held on the battery manufacturing rulemaking in Atlanta on January 6, 1983. On January 17, 1983 in Washington, D.C., a public hearing was held on the proposed pretreatment standards at which people presented testimony. A notice of data availability and a request for comment on data obtained after proposal was published in the **Federal Register** on November 21, 1983 with the comment period ending on December 21, 1983.

Since proposal, 24 commenters submitted over 300 individual comments on the proposed regulation. Comments were received from Continental Battery Manufacturing Corporation; Chloride Inc.; Standard Storage Battery Company; Polaroid Corporation; Old Ironsides, Inc.; Gates Energy Products, Inc.; General Motors Corporation; Atlantic Battery Company, Inc.; Union Carbide Corporation; Battery Council International; GNB Batteries, Gould Inc.; Independent Battery Manufacturers Association Inc.; Natural Resources Defense Council, Inc.; Allied Electronic Components; New Castle Battery Manufacturing Company; EXIDE Corporation; National Electrical Manufacturers Association; General Battery Corporation; Resource Consultants; Globe Battery, Johnson Controls, Inc.; Standard Industries; American Foundry-Men's Society; White Consolidated Industries, Inc.; and the Small Business Administration.

All comments received have been carefully considered and appropriate changes in the regulation have been made whenever data and information supported those changes. Major issues raised by the comments are addressed in this section of the preamble. All comments received and our detailed responses to these comments are included in a document entitled *Response to Public Comments, Proposed Battery Manufacturing Effluent Limitations and Standards* which has been placed in the public record for this regulation.

The following is a discussion of the Agency's responses to the principal comments.

*1. Combined Metals Data Base*

Comment: Several commenters objected to the use of data from other categories to establish the treatment effectiveness of lime and settle and lime, settle and filtration in the battery manufacturing category. Commenters argued that the primary metals being treated are different and therefore, the data cannot be transferred for treatment of metals found in battery manufacturing wastewater.

Comments specifically directed to the combined metals data base (CMDB) contend that: (1) The data base is too small, (2) data were included improperly, and (3) data not representative of lime and settle technology were included.

Response: The CMDB (revised following proposal of the battery manufacturing effluent limitations and standards) is comprised of 162 data points from 18 plants in five industrial categories with similar wastewater. All of the plants in the data base have the recommended end-of-pipe treatment technology. One of the plants in the data base is a battery manufacturing plant. All of the data were evaluated and analyzed to establish treatment performance concentrations that represent proper operation and maintenance of the technology. The use of data from several comparable categories enhances the estimates of treatment effectiveness and variability over those that would be obtained from data from any one category alone. Our conclusion that the data are applicable across these categories is based on a statistical analysis demonstrating homogeneity among the raw wastewaters of the industrial categories in the CMDB. The statistical methods used to assess homogeneity among the categories in the CMDB and to determine treatment effective concentrations are appropriate and are well known to statisticians.

(1) The methods used to analyze homogeneity are known generally as ananlysis of variance. Effluent limitations were determined by fitting the data to a lognormal distribution and

using estimation techniques that possess desirable statistical properties. These methods are described in detail in the document titled, "A Statistical Analysis of the Combined Metals Industries Effluent Data."

Following proposal of the battery manufacturing effluent limitations and standards, EPA reviewed the CMDB. This resulted in minor additions, deletions and corrections to the data base. Then EPA repeated the analyses performed prior to proposal. The earlier conclusion regarding homogeneity remained unchanged. The new analysis, based on the slightly revised CMDB, did result in slight changes in the treatment effectiveness concentrations for several pollutants. The revisions to the data base and analysis are described in the report "Revisions to Data and Analyses of the Combined Metals Data Base", found in the record of this rulemaking. A separate review and analysis of the data available for the pollutant lead was conducted. This review and analysis is discussed in Comment 3, Treatment Effectiveness Concentration for Lead, found later in this section.

(2) The Agency carefully re-examined the specific data points that commenters identified as being improperly included in the CMDB. These data points fall into two categories: (a) effluent points associated with low pH readings (<7.0 standard units) and (b) influent points associated with larger effluent measurement made on the same day. A detailed analysis of each data point referred to by commenters is provided in the response to comments documents, also found in the record.

EPA generally excluded data from the CMDB in cases where the pH was below 7.0 for extended periods of time (i.e., over two hours). The rationale for this approach was that operation with a low pH over a substantial period of time often leads to an improperly functioning treatment system.

A commenter criticized EPA for retaining in the CMDB several data points for which pH was measured at or below 7.0. The time periods of low pH for these data points cannot be determined from the existing information; however, because large amounts of toxic metals were removed and low effluent concentrations were being achieved, the pH at the point of precipitation necessarily had to be well above pH 7.0. The reason for the effluent pH falling below 7.0 cannot be determined from the available data, but it is assumed to be a result of pH rebound. Rebound is often encountered when a slow reacting acidic material is neutralized or reacts late in the treatment cycle. The Agency believes that the criticized data are representative of a lime and settle treatment process which is being operated in an acceptable manner. Accordingly, the data have been retained in the CMDB. In addition, we note that any error that might be introduced if these data were improperly included in the CMDB would inure to the benefit of the regulated industry, since a low pH would result in less than optimal removal of pollutants.

Commenters also objected to the use of certain effluent data points that exceeded the paired influent data. The occurrence of an influent concentration less than an effluent concentration measured on the same day may be in indication of system malfunction or improper operation. However, such concentrations may be observed in the course of normal operation due to inherent lags in the treatment system. In general, where there was no indication of treatment system malfunction or mislabeling of the sample, the concentrations were retained in the CMDB.

(3) The Agency carefully re-examined the specific data points identified in comments as being from plants without appropriate lime and settle technology. Each plant identified was reviewed carefully to ensure that all data used came from plants with treatment that qualified as lime and settle technology. A discussion of each plant referred to in the comment is contained below in this section.

*2. Mass-Based Versus Concentration-Based Limitations and Standards*

*Comment:* Several commenters oppose mass-based limitations and standards and recommend that, as it did in a few other categories, the Agency should establish concentration-based limitations and standards instead. Commenters asserted that production normalized flows, necessary for mass-based limitations and standards, have not and cannot be properly established and that the limitations and standards should therefore be based on concentrations alone. Additionally, mass-based limitations and standards were purported to make compliance determinations unnecessarily complex, if not impossible. For pretreatment standards, commenters contend that mass-based standards are especially inappropriate as most POTW sewer ordinances are concentration-based.

*Response:* The Agency is promulgating mass-based limitations and standards because flow reduction is an important part of the model treatment technology. In developing this regulation, the Agency examined the sources and amounts of water used and discharged in various process elements. EPA found that for most process elements, a significant number of plants discharged more wastewater than required and further, that for a number of processes, water was being recycled by many plants in the category. In addition, the discharge of wastewater was eliminated in many plants by implementing in-plant controls. Accordingly, flow reduction was incorporated as a part of the model technology for this category. The total BPT discharge flow is estimated to be reduced by 80 percent at BAT, and total reduction of toxic pollutants is 3,420 kilograms (7,523 pounds) per year. Mass-based limitations are necessary in this category for both direct and indirect discharges to ensure adequate control of the total discharge of pollutants and to reflect the total pollutant removal achieved by the model technology.

The production-normalized flows used to establish BAT limitations and PSES have been based on flow and production data obtained from two sources: (a) That provided by industry and (b) that determined by EPA personnel and their representatives during engineering site visits and sampling episodes. Mass-based limitations and standards are not difficult to implement. To determine an individual plant's discharge allowances, in order to implement the mass-based standards, plant personnel will typically provide historical production information to the permitting or control authority which will then apply the mass limitations or standards presented in the regulation using the average rate of production based on consideration of the historical data.

A plant's limitations or standards may be revised if the average rate of production no longer represents a reasonable measure of actual production due to substantial changes in operation or production.

*3. Treatment Effectiveness Concentration for Lead*

*Comment:* Commenters objected to the use of the combined metals data base (CMDB) in establishing treatment effectiveness concentrations for the pollutant lead in the lead subcategory. They claimed that EPA had incorrectly classified the battery manufacturing plant that was the source of the lead values used in the determination of treatment effectiveness concentrations for lead at proposal. They contended that the plant was not representative of battery manufacturing, that it is not possible to achieve the proposed limitations and standards based on the

lead concentrations from that plant and that the average value used in the electroplating and metal finishing regulation or an even higher value should be applied to this subcategory. One commenter provided a list of a total of eight "well-operated" plants to be used by the Agency as a basis for determining treatment effectiveness concentrations in the lead subcategory.

*Response:* There were a total of 37 lead values in the CMDB at the time this regulation was proposed; however, the influent and effluent lead values from the battery plant were significantly greater than the values from the other categories. To properly represent the performance achievable by lime and settle for plants in this category, only the lead data from the battery plant were used. Thirty-four data points with lower lead concentrations were thus excluded from the calculation.

The Agency does not believe that it improperly classified the battery plant in the CMDB. EPA believes that the operations present at this plant and the wastewater characteristics are representative of battery manufacturing. This conclusion is based on a comparison of this plant with others in the subcategory, specifically with regard to process elements present, water use and discharge practices. In addition this plant is considered to be representative of a properly operated lime and settle treatment system, which is discussed in comments 5 and 6 of this section.

EPA considered including the metal finishing and electroplating data referred to by the commenter in the CMDB. A statistical analysis indicated, however, that the metal finishing and electroplating data sources were not homogeneous in general with the other industrial categories in the CMDB. The statistical results are consistent with the technical judgment that metal finishing and electroplating wastewaters tend to be different with respect to pollutant concentrations from wastewater generated in the other categories in the CMDB. Therefore, the metal finishing and electroplating data were not included in the CMDB. Consistent with this analysis, the use of the metal finishing and electroplating data are not an appropriate means of determining lime and settle treatment effectiveness concentrations for lead in this subcategory. We note that the metal finishing long term average for lead is only 0.07 mg/l higher than that used for this regulation.

After proposal, the Agency collected and analyzed additional samples from five lead battery plants. EPA also collected plant-supplied effluent data from thirteen lead battery plants, some of which were also sampled plants. One of these plants supplied over 200 days of daily lead concentrations measured in the untreated and treated wastewater for a lime and settle treatment system. Data from the remaining plants were not suitable to use as a basis for establishing lime and settle treatment effectiveness concentrations because they had filters or had anomalies in their treatment systems as discussed immediately below in comment 4.

We added the new data and re-analyzed the data set, and found that the long term mean concentration remains unchanged. The one day and ten day treatment effectiveness values do change and the limitations and standards promulgated by this rulemaking reflect the change.

*4. Consideration of Data From Eight Plants Claimed To be Exemplary*

*Comment:* In various submittals, one commenter suggested that eight plants are exemplary and should be considered in establishing treatment effectiveness concentration for lead battery manufacturing plants.

*Response:* EPA had visited one of the plants prior to proposal and visited the other seven following proposal. Two (plants A and B) were found to be exemplary L&S plants and were used to develop treatment effectiveness concentrations for lead. The others were not, as discussed below. For purposes of the following discussion, these plants are referred to as plants C–H. Detailed trip reports for each plant have been placed in the administrative record to this rulemaking. First, four plants use filters generally for the primary means of solids removal or as polishing filters. Plant C uses caustic in conjunction with filtration as the primary means of solids removal. Plant D uses lime precipitation and membrane filtration and plants E and F use lime, settle and filtration. These clearly do not represent lime and settle technology. Second, most of these plants had avoidable operational problems.

EPA personnel visited plant E on July 20, 1983. We observed a major deficiency in the operation of the treatment system. The plant had reversed the flow in the clarifier to go in at the bottom and out at the top because they did not want to remove solids from the clarifier as often as they had been. This resulted in the decrease in uniform flow control of the clarifier which decreases optimal time for precipitation and floc formation, and decreased the amount of solids removal from the filter because to varying degrees toxic metals remained in a dissolved state from the clarifier.

We visited and sampled plant F on June 10, 1983, and July 1, 1983, respectively. During the visits we observed two operational problems in the wastewater treatment system which we believe severely affected the overall performance. First, we observed large solids existing the clarifier. This is generally an indication of short circuiting or the need of a coagulant aid (such as iron salts) to enhance the settling properties of the precipitants. Second, the pH of the effluent from the clarifier was being lowered by the addition of sulfuric acid prior to being introduced into the filter. This results in redissolution of the toxic metals and does not represent exemplary operation of technology.

We visited plant D on May 17, 1983. The pH of the lime precipitation at this plant is 7.0 standard units, substantially below the 8.8 to 9.3 pH range at which the best overall removal of the toxic metals, including lead, usually occurs. This plant uses a microfilter following lime precipitation to remove solids. The filter throughput was observed to be four times the design value for the unit. This mode of operation does not represent exemplary practice.

EPA personnel visited and sampled plant G during May of 1983. We observed that the plant did not practice sludge recycle to the clarifier influent or mix tank, a practice that is widespread in this category as well as many others. Recycle of a portion of the sludge is critical in floc formation in the clarifier. This plant's failure to do so limits its ability to effectively remove toxic metals. In addition, this plant was adding polyphosphates to chelate calcium and to prevent it from precipitating in treated wastewater which was reused. The addition of this chemical or any other chelating agent impedes the precipitation and removal of metals including lead. Thus we believe that this caused the high effluent lead concentrations obtained during sampling.

EPA personnel visited and sampled plant C in June of 1983. It was observed during the site visit that the precipitation pH was 7.5 standard units; as stated above, the best overall removal of the toxic metals occurs when the precipitation pH is in the range of 8.8 to 9.3 standard units. Plant personnel have elected to operate at this pH not to optimize toxic metal removals but rather to minimize the alkaline load sent to the POTW.

EPA personnel visited plant H on July 21, 1983. We observed that the precipitation pH of 7.5, like that at plant C was below the expected range for

effective toxic metals removal. We also observed a tube settler used for primary solids removal that was laden with solids. The presence of the solids severely impeded the manner in which the tube settler removed toxic metals. We also observed that a clarifier designed to operate on a continuous basis was operated intermittently. This mode of operation clearly does not represent exemplary practice.

*5. Definition of Lime and Settle Treatment Technology*

*Comment:* Several commenters stated that the Agency's use of the phrase "lime and settle technology" implied only the use of chemical precipitation with lime followed by sedimentation. The commenters asserted that they provided additional sedimentation capacity and added flocculants (iron based). They contended that even with the addition of these items, which they believe represent a level of technology greater than lime and settle, they could not achieve the proposed limitations and standards.

*Response:* The phrase "lime and settle" is a short phrase used to describe the state of the art technology using lime (or other alkalis when appropriate) to precipitate and settle metal hydroxides in conjunction with Stokes' Law Sedimentation, and where necessary augmented by the addition of coagulants and flocculants. The model lime and settle technology includes flow equalization and multiple stage pH adjustment to ensure proper control of pH and precipitate formation. Section VII of the Development Document provides a more detailed discussion of this model technology.

As discussed in the response to the next comment, #6—Use of Multiple Settling Ponds and Lagoons—the model technology is based upon any Stokes law sedimentation while a clarifier sized to provide an adequate period of time for precipitants to settle according to Stoke's Law is used for costing.

Some plants use flocculants to enhance settling properties of the metal hydroxide precipitants. This can be achieved in a variety of ways. One unique aspect of some lead battery manufacturing plants is the distribution of iron in process wastewater. Iron was measured in process wastestreams typically at 5 mg/l. Flocculant dosages required for wastewater of this nature would generally not exceed 50 mg/l. EPA is aware of one exemplary plant that adds scrap equipment to their treatment system to provide iron as a flocculant while another adds iron from some underground drainage water that is treated with battery process wastewater.

In those instances where the addition of iron as a flocculant would be required, the increase in the capital cost would be no more than four percent with an eight percent increase in the total annual costs. These costs would not result in additional plant closures, employment impacts or foreign trade effects.

*6. Use of Multiple Settling Ponds and Lagoons*

*Comment:* Several commenters reported the use of multiple ponds and lagoons, or ponds and lagoons following mechanical clarifiers to provide sedimentation of metal hydroxide and metal salt precipitants. The commenters contend that either of these scenarios represents a level of technology greater than lime and settle.

*Response:* The model lime and settle technology is based on Stoke's Law Sedimentation. The Agency has established treatment effectiveness concentrations based on data from plants providing adequate sedimentation, generally, through the use of clarifiers which provide mechanical assistance to Stokes law settling. We believe, however, that single ponds or lagoons or any combination of multiple ponds or lagoons that are designed, operated and maintained to provide adequate settling can be used to achieve these treatment effectiveness concentrations. The number or volume of ponds, lagoons or clarifiers alone is not relevant in determining the adequacy of the settling provided by a particular system. The particle settling velocity as determined by settling tests generally conducted prior to the design of a treatment system is the determining factor when evaluating sedimentation adequacy. The settling device must provide enough time in light of the particle net settling velocity and the distance it must settle. Any additional retention time provided by increasing the settling devices size such as oversizing a clarifier, adding multiple ponds, or any other means will not result in any additional solids removal. Therefore, plants can achieve the treatment effectiveness concentrations by using adequate sedimentation techniques regardless of the number or absolute volume of ponds, lagoons or clarifiers.

*7. Consideration of Additional Wastestreams*

*Comment:* Numerous commenters stated that EPA did not account for a variety of wastewater sources at battery manufacturing plants. Specifically they are concerned about wastewaters generated as a result of complying with OSHA regulations (29 CFR 1910.1025) such as handwashing, showers, laundry, respirator wash, and floor wash. In addition, commenters believed that the Agency has overlooked other sources of wastewater such as truck wash, plate soaking, wet air scrubbers, laboratories, pallet washing, cooling tower blowdown, water softener and deionizer backflush.

*Response:* As a result of numerous comments that EPA overlooked a variety of wastewater sources at battery manufacturing plants, the Agency gathered additional information in the form of an industry survey and 17 site visits.

The OSHA regulations do not require specific water use but rather establish a lead standard that requires employers to control exposure to airborne lead within a plant based on the established lead permissible exposure limit (PEL), and to make blood sampling and analysis monitoring available for their employees. To achieve this, plants generally require handwashing, showers, wearing of work uniforms, wearing respirators, and frequent floor wash to control particulate lead. Floor wash was included as a process waste stream at proposal, but flows were reevaluated following receipt of comments. Floor wash is further discussed under comment 8 of this section.

The use of such "mechanisms" can generate wastewater. The Agency does wish to point out that there are a few plants that are clean enough to keep their lead air limits low enough so as not to need to generate wastewater in order to meet OSHA requirements.

The commenter is concerned about wastewater streams generated due to compliance with OSHA regulations. In addition to the OSHA-related activities, other sources of wastewater were addressed in the comments, such as truck wash, laboratories, plate soaking, wet air scrubbers, pallet washing, cooling tower blowdown, water softener and deionizer backflush, and other streams. Each of these potential waste streams is discussed below.

Handwash, respirator wash, laboratories and wet air scrubbers are additional streams which have been given a discharge allowance. Discharge allowances for these four streams are added to the discharge allowances for floor wash and battery repair because all of these activities occur at almost all lead plants, and by being combined into a miscellaneous group, facilitate administration. If a plant has any one of

these streams, then the plant receives the entire miscellaneous waste stream allowance. Any other streams, for which an allowance is provided, will be addressed on a stream-specific basis.

*Laundry.* Information on laundry activity was obtained for all sites visited since proposal. Most plants do not have on-site laundries. One of the on-site laundries treats water on-site; the others discharge to a sanitary sewer without treatment. Laundry discharge flows were obtained during sampling visits. These data support a discharge allowance for on-site laundering of work uniforms. A production normalized regulatory flow of 0.109 l/kg of total lead used has been established for this waste stream at BPT, BAT, PSES, NSPS, and PSNS.

*Showers.* Industry comments on the proposed regulations suggested that employee shower water is a stream which should have a discharge allowance. Plants have reported various hydraulic loadings per shower; one plant reported as high as 20 minutes water flow per person.

During plant sampling after proposal, the Agency was unable because of mechanical limitations to collect wastewater samples for chemical analysis and measure water flow from showers. However, plant practices relative to employee showering were observed and discussed with plant management. On the basis of this examination, it appears that shower water from most employee showers contains little or no lead and may therefore be discharged as sanitary wastewater. Only if employees are exposed to high lead dust levels (*i.e.*, work in areas where their airborne exposure to lead is above the PEL) and also carry this dust into the showers can this wastewater contain substantial amounts of lead. Even for the relatively few employees working in high lead dust exposure areas, the amount of lead carried into the shower is minimal when protective clothing, including hair coverings, have been used and exposed body areas such as hands and arms have been washed on leaving the production area (before entering the shower). These are standard industry practices. Therefore, shower water can be discharged to a sanitary sewer provided employees always wash their hands when leaving the production area, and employees working in high lead dust areas wear protective clothing and hair coverings (all of which have been laundered or disposed of properly).

EPA has determined that no flow allowance should be provided for showers. For these employees that are exposed to high lead dust levels, adequate means are available for assuring that substantially all lead is removed prior to showering. There is thus no need for a plant to discharge shower wastewater as process wastewater (*i.e.*, as water that has contacted and become contaminated with substantial amounts of lead). The shower wastewater can then be discharged as sanitary wastewater.

*Respirator Wash.* The new data collected since proposal support a discharge allowance for respirator wash water. Of the sites visited, about half treat wash water on-site before discharge and half discharge to the sanitary sewer without treatment. The observed methods used for respirator wash were varied. Washing techniques included rinsing in lab sinks, laundering in conventional clothes washing machines, and sanitizing in more sophisticated machinery specifically devoted to respirator washing such as "Wavicide" machines. A production normalized regulatory flow of 0.006 l/kg of total lead used has been established for this waste stream at BPT, BAT, PSES, NSPS, and PSNS.

*Hand Wash.* The sampling data collected since proposal support a discharge allowance for employee hand wash within the production area. Of the sites visited, most discharge to a sanitary sewer without treatment and some treat on-site before discharge. A production normalized regulatory flow of 0.027 l/kg of total lead used has been established for this waste stream at BPT, BAT, PSES, NSPS, and PSNS.

*Truck Wash.* The new data support a discharge allowance for truck wash wastewater in both the battery manufacturing and nonferrous metals manufacturing categories. EPA observed that trucks are used to transport used batteries in connection with battery cracking (secondary lead subcategory of the Nonferrous Metals Category) processes. Trucks are also used to transport batteries for various purposes related to battery manufacturing operations. The truck wash discharge allowance for the lead subcategory of battery manufacturing applies only to those sites without an associated on-site secondary lead smelting plant. Truck washing at sites that have battery cracking or secondary lead smelting are addressed by the Agency under the nonferrous metals manufacturing regulation. Equivalent discharge allowances for truck wash are promulgated under the two regulations.

Both sampling data collected at visited plants and flows obtained from commercial truck washing operations were averaged in calculating the normalized flow for this operation. A flow of 0.014 l/kg lead in trucked batteries has been established for this operation, and is to be used in calculating discharge allowances for existing sources. A flow of 0.004 l/kg is established for new sources based on using recycled water to wash the trucks. Trucked batteries are batteries moved into or out of the plant by truck when the truck is actually washed in the plant to remove residues left in the truck from the batteries.

*Laboratories.* The new data collected since proposal support a discharge allowance for wastewater discharged from on-site laboratory facilities. Information was obtained for all sites visited and all sites are assumed to have on-site laboratories for regulatory purposes.

The laboratory tests performed at the battery plants which generate water were found to be very similar from plant to plant. Also observed at some plants was that the lead samples taken for quality control are reclaimed for their lead value. Based on this practice, lead loadings in the discharge water to treatment should mostly be due to lab instrument washing and dumping electrolyte from battery teardown.

A production normalized regulatory flow of 0.003 l/kg of total lead used has been established for the wastewater generated by on-site laboratories. The laboratory discharge allowance has been combined with the OSHA-related process stream allowance to provide a single total allowance available to any plant performing any of these operations.

*Plate Soaking.* The Agency received comments from lead battery manufacturers which stated that the acid used for soaking thick (industrial battery) plates could be reused only for plate soaking, but eventually needed to be discharged. Plate soaking is generally done for plates that are more than 2.5 mm (0.10 in) thick. The Agency has established a flow allowance of 0.02 l/kg of lead used based on industry supplied data.

*Wet Air Scrubber.* The Agency has established an allowance for wet air pollution control scrubbing blowdown which is adequate for any wet scrubber applications mentioned by the commenter. The regulatory flow is based on a model technology typical of that used. This model incorporated production normalized flow data obtained in the industry surveys, on-site plant visits, and from vendor information for the scrubber types used. EPA observed that most plants have no more than two wet scrubber operations on-site. Therefore, an allowance of

twice the average of the wet scrubber discharge has been established as part of the miscellaneous allowance. The complete wet scrubber component of this allowance is 0.011 l/kg of total lead used.

*Pallet Washing.* The Agency recognizes that some plants find it necessary to wash pallets at battery manufacturing facilities. When this is the case, the plants can reuse treated wastewater effluent for this operation and EPA recognizes that they do so. Therefore, a regulatory flow for pallet washing is not necessary and no allowance has been made for this activity.

*Cooling Tower Blowdown.* Cooling towers have been observed to be used at lead battery plants to cool recirculating noncontact (nonprocess) cooling water. This cooling is usually performed indirectly. Therefore, any blowdown from this operation is usually as a result of non toxic salt concentration buildup. Very few plants were observed to discharge this water to on-site treatment. There is no allowance for this stream.

*Water Softener and Deionizer Backflush.* Water softeners or deionizers are used at some lead battery plants to upgrade the quality of service water or for electrolyte formulation. Concentrations of minerals contained in city or groundwater is incurred resulting in the need to backflush the filters. As this is a nonprocess stream, no allowance is promulgated.

*Other Plant Sources of Wastewater.* Leachate from an on-site inactive landfill, storm water runoff, and effluent from a sludge dewatering facility (processing sludges from other facilities) are not covered by this categorical regulation. These wastewaters are best regulated by the permit writer on a case-by-case basis.

In conclusion, the Agency firmly believes that recycle and reuse of certain wastewaters generated by manufacturing operations is feasible. When the water cycle within a plant is carefully studied and designed, significant reductions in final water discharge can be achieved. The most significant factor in this reduction can be the reuse of water which the plant has treated on-site.

*8. Adequacy of Flow Allowances*

*Comment:* Several commenters asserted that EPA had not adequately considered certain process wastewater flows for the processes considered at proposal and has therefore established inappropriate regulatory flows for certain process wastewater streams. Specifically, they are concerned about the no discharge allowance for leady oxide production, pasting, curing, formation, and floor wash. Also, the commenters submitted somewhat larger regulatory flows which they recommended be used in lieu of those established by the Agency.

*Response:* The Agency does not agree with the commenters' contention that specific regulatory flows are not adequate to address the lead battery manufacturers' needs. After proposal, flows were measured at a number of sites for all process elements using the most accurate procedures available. Flows were also characteristic of the performance within the specific elements.

The Agency does not agree with the commenters' contentions that the establishment of a no discharge allowance for certain process elements is either infeasible or would result in unacceptable process changes. The commenter's concerns in the areas of leady oxide production, pasting, plate curing, formation, and floor wash are addressed individually below.

*Leady Oxide Production.* The Agency did not base the discharge allowance for leady oxide production on any particular process, but rather upon data related to production that was submitted by industry and collected during visits to plants. The sources of discharges were from operations such as leakage and shell cooling on ball mills, cooling for oxide grinding, and wet scrubbers for air pollution control. Plants can perform such operations using only noncontact cooling water, recycle of this water, and dry bag houses for air pollution control, and therefore produce no wastewater. The Agency believes that a zero discharge allowance for this operation is appropriate.

*Pasting.* After the receipt of public comments on flows from pasting operations, the Agency gathered additional information on for pasting washdown. Washdown is a required procedure because different paste formulations may be used on any one pasting line, and the equipment must be periodically cleaned. EPA does not believe that the data collected support the claim in comments that pasting machine and pasting area washdown water cannot be recycled because it does not meet paste formulation engineering specifications.
During site visits after proposal we observed that many plants did not discharge pasting machine and pasting area washdown water. In fact, complete recycle and reuse of pasting machine and pasting area washdown water is achieved at 57 lead battery manufacturing plants. This operation is inherently a net water consumer, and as such, recycle of this water is advantageous from a water balance point of view. Many plants recycling this wastewater provide sedimentation to reduce pollutant loading in the recycle water. Typically, the settled solids are then reused in the process or sent to a lead smelter. Based on flow information reported by plants and practices observed during site visits, a discharge allowance for pasting machine and area washdown is not necessary.

*Curing.* With respect to curing, the Agency wishes to point out that by establishing a zero discharge allowance for plate curing operations, EPA is not dictating a particular technology or requiring the use of dry curing as the commenter claims. Agency personnel have observed and documented the curing of plates in curing ovens (humidity-temperature controlled rooms) and in steam chambers without generating a wastewater discharge. Hence the Agency believes that any plant may use any plate curing system under this regulation. With regard to the commenter's assertion that zero discharge from certain process elements will result in a loss of competitiveness due to product quality, the Agency points out that 87 of 97 plants reporting data for plate curing are currently achieving zero discharge from this operation and are competing successfully in the marketplace. Therefore, the Agency concludes that the establishment of a zero discharge allowance for plate curing operations will not impair product quality. Furthermore, the Agency wishes to reiterate that EPA is not dictating a process change as the basis of this zero discharge allowance.

*Formation.* Following the collection of new data, no discharge allowance is supported for single-fill, double-fill and fill and dump formation processes. Controlled charging rates preclude the necessity for cooling water in closed formation processes. Automatic fillers control overfilling spills. Dumped acid, other acid spills and battery rinse water can be reused.

Information collected supported a discharge allowance for open formation dehydrated batteries. Comments received on open formation wet batteries support a discharge allowance because all the acid used in formation cannot be used for acid cutting. The Agency has established a discharge allowance of 0.053 l/kg of lead used based on industry supplied data.

*Floor Wash.* The new data collected since proposal continue to support a discharge allowance for floor wash for

BPT, but also supports a discharge allowance at BAT, PSES, NSPS, and PSNS. This allowance is for floor wash water outside of the pasting and formation areas. Floor washing is done at many more plants than had previously reported this procedure. Usually floor washing is done to control airborne lead. Information was obtained from all sites visited. Wastewater discharges from floor wash machines contain high concentrations of lead and may need to be settled or filtered prior to treatment to recover particulate lead and reduce loadings on the treatment system.

The information supplied in the industry survey responses and data collected during sampling visits were considered in establishing the discharge allowance for this operation. A production normalized regulatory flow of 0.01 l/kg, based on the use of power scrubbers, has been established for floor washing at BAT, PSES, NSPS, and PSNS. The flow allowance at BPT is 0.13 l/kg of total lead used, based on all wash down techniques employed. The BPT allowance was based on the average of data submitted by plants in the 1976 data collection portfolio (dcp).

Plants primarily used buckets, mops, hoses, and other manual floor cleaning methods which EPA recognizes make it difficult to carefully control water use and discharge. The BAT allowance is the average production normalized flow of plants which used power floor scrubbers to clean floors outside of the pasting and formation areas.

*9. Transfer of Process Elements From Other Industrial Categories*

*Comment:* Several comments pointed out that there were processes integral to the manufacture of lead batteries that were being addressed by EPA as part of other industrial point source categories. They requested that the discharges from these operations when associated with battery manufacturing be specifically addressed in the lead battery manufacturing subcategory.

*Response:* Regulations for several unit proesses found at battery manufacturing plants are being transferred to this category from two other industrial categories. Grid casting, continuous (direct chill) casting of lead, and melting furnaces as they apply to battery manufacturing are addressed here rather than in regulations for the metal molding and casting category. The wastestreams associated with these unit processes are die casting wet air pollution control, mold release preparation, direct chill casting contact cooling water and lead melting furnace wet air pollution control.

Lead rolling performed in conjunction with direct chill casting at lead battery manufacturing plants is considered here rather than in connection with the nonferrous metals forming category. EPA is aware of five battery manufacturing plants with lead rolling; however, there is no discharge of wastewater from the lead rolling processes at these plants. Accordingly, there are no limitations and standards for this unit process promulgated today. The Agency does recognize that a discharge may be necessary for this unit process for other plants and there is guidance provided in the development document.

*10. Membrane Technology*

*Comment:* Commenters contended that reverse osmosis, which was a part of the proposed model treatment technology for NSPS in the lead subcategory, is not demonstrated in the subcategory and is not readily transferable from other categories or subcategories. Commenters also pointed out that reverse osmosis technology could not adequately treat all of the waste streams at a lead battery plant. They stated that the technology would be plagued by operational problems due to its sensitivity to temperature, pH, acidity, chloride concentrations and blinding.

*Response:* Agency personnel observed that at least two lead battery plants were experimenting with or had considered using reverse osmosis during site visits made after proposal. One plant demonstrated use of a microfiltration unit on wastewater in the lead subcategory. The plant did not experience major membrane blinding or maintenance. The technology has also been demonstrated on a full scale basis for coal mine drainage which has a high sulphuric acid content and high levels of dissolved metals.

We agree with the commenters that reverse osmosis may not adequately treat all lead battery wastewater discharges. We believe that a combination of filtration and reverse osmosis for the less concentrated waste streams can be used. The reverse osmosis brine and other more concentrated wastes could then be treated using lime, settle and filtration.

While we recognize that elevated temperature, acidity pH and chloride concentrations can adversely affect the performance of reverse osmosis technology, all of these operational problems can be avoided through waste stream segregation.

*11. Consideration of Sulfide Precipitation for NSPS in the Lead Subcategory*

*Comment:* Several commenters asserted that sulfide precipitation proposed as a part of NSPS for the lead subcategory was not demonstrated in the subcategory.

*Response:* Sulfide precipitation was considered for NSPS in the lead subcategory during this rulemaking but was ultimately rejected because the incremental removal brought about by the addition of sulfide precipitation to lime, settle and filtration would be insignificant. However, in the zinc subcategory we have based NSPS on sulfide precipitation as discussed above in Section V.

*12. Classification of Solid Waste and Disposal Costs*

*Comment:* Commenters in the lead subcategory asserted that sludges emanating from lime and settle treatment systems were sometimes determined to be hazardous and should be classified as hazardous for the purposes of cost estimation. One commenter submitted extraction procedure results showing a portion (six of 36) of the sludges tested to be hazardous. The commenter concluded that the results provided sufficient proof that the sludges were hazardous and should be considered as such for estimating the cost of the regulation.

*Response:* EPA personnel visited this plant after proposal and confirmed through analysis of sludges and conversations with plant personnel that excess lime was not added to the treatment system. In the proposed regulation, the Agency stated that when 10 percent (or more) excess lime is used in a wastewater treatment system it has been observed that the sludges have not been found to be hazardous. Our cost estimates included costs for a ten percent excess of lime. We reviewed the delisting petitions that formed the basis of our original judgments and reconfirmed our judgments. The marginal nature of the EP test failures and the absence of excess lime in the treated sludge did in no way refute the conclusion used at proposal. Accordingly, lime and settle sludges were considered as nonhazardous for estimating compliance costs.

The Agency also performed an economic analysis using the normal plant and ten representative plants and assuming hazardous waste costs for the wastewater treatment sludges. No closures would result if all wastewater

treatment sludges were assumed hazardous.

*13. Compliance Cost Estimates*

*Comment:* Many commenters stated the Agency had substantially underestimated the costs of achieving the proposed BAT and PSES in the lead subcategory. They asserted that the Agency failed to account adequately for costs associated with wastewater flow reductions and end-of-pipe treatment.

*Response:* The Agency carefully considered these comments and in some instances has modified the methods used to estimate in-plant and end-of-pipe treatment costs. As such, EPA has recalculated the cost of compliance with the regulation for the lead subcategory. This was deemed necessary due to:

(1) Changes in discharge allowances, and consequently treatment system size,

(2) Changes in in-plant flow reduction costing procedures due to practices observed in plants since proposal, and

(3) Revisions in the capital recovery factor to reflect a current interest rate.

The model wastewater treatment technology options used are the same as those considered at proposal (except for new sources—see preamble discussion of NSPS in Section V.C. above.

A new computer model for estimating end-of-pipe wastewater treatment systems costs for the lead subcategory was used. The model uses standard engineering costing procedures and generates treatment system costs that are similar to those used at proposal. The model generates costs based on June 1983 dollars. Capital and annual compliance costs were calculated for each plant within the subcategory known to discharge wastewater. Production, actual plant flows, and treatment-in-place were determined from the dcp, a site visit, or the post-proposal survey (whichever was the most recent and accurate information). At BPT, the BPT regulatory flow or the actual flow for a waste stream was used, whichever was the lesser. The same was true for choosing the BAT and PSES flows for each plant. The methodology for costing is described in detail in Section VIII of the development document. In general, the Agency believes that this costing methodology provides a much more accurate, though generally comparable, estimate of plant-by-plant compliance cost.

The major change in the costing methodology pertains to in-plant process costs. In-plant costs included in the compliance cost calculation include:

- Paste machine and area washdown water recycle
- Steam and humidity curing water recirculation
- Slow formation
- Product rinse water reuse
- Power floor scrubber water settling
- Countercurrent rinsing
- Pump seal water recycle
- Hose washdown water recycle
- Segregation of nonprocess water streams
- Formation area wet air pollution control water recycle
- Pasting area wet air pollution control water neutralization

This list is much more inclusive than that used at proposal and provides for the cost of more specific pieces of equipment. These include more complete costs of equipment necessary to perform recycle than included at proposal.

In addition, EPA determined that the costs for slow formation of batteries were over-stated because additional building space was unnecessarily included. EPA observed that batteries can be stacked in charging racks and slow-formed using existing floor space. We observed batteries stacked in racks as high as 15 batteries high, and at all the visited sites we observed sufficient vertical height in the building to provide the necessary stacking for slow formation in a six high stack. Because batteries can be successfully formed when stacked in racks, the claimed need for additional floor space in the formation area appears to be unsupported. Therefore, the in-plant costs were revised to eliminate new building costs for slow formation, but maintain a suitable cost for retrofit of racks.

Some commenters claimed that charging in racks might pose a fire or electrical shock hazard. This potential hazard appears to be adequately controllable, as indicated by the fact that other plants were observed using racked charging without apparent difficulty.

In addition to these observations, the Agency examined all available information on formation procedures. EPA is aware of controlled-amperage formation procedures that can charge batteries in less than a day, and, in some cases, in less than one shift. These formation operations can use air cooling and do not require any additional floor area or extensive equipment costs, such as for additional rectification. Additional circuits in parallel do not require increased voltage and consequently more rectifiers.

EPA has revised its cost estimation to include costs for recycle systems for the following operations:

- Paste mixing and application area wash water recycle,
- Humidity curing water recycle,
- Sealant water recycle, and
- Formation area wet air pollution control water recycle.

As discussed in the response to comment 7 (above) the Agency has maintained a regulatory flow of zero for plant curing for BPT and BAT. Costs have been included to install equipment to provide a zero discharge design for plants which specify steam curing and a discharge to treatment. These costs include pressure relief valves to divert superheated steam flow above the water seal level to prevent any significant condensation.

The Agency believes that the cost of compliance with this regulation for the lead subcategory is an accurate representation of the actual compliance costs that will be incurred by the industry.

*14. Discharge of Wastewater From the Manufacturing of Foliar Batteries in the Leclanche Subcategory*

*Comment:* One commenter contended that a wastewater discharge was required from the manufacturing of foliar-type Leclanche batteries.

*Response:* EPA personnel visited the plant operated by the commenter in addition to two others manufacturing this type of battery to obtain additional information and data. We saw examples and heard explanations of how impurities impair the quality of the product. Plant personnel also provided information which demonstrated that the unique physical dimensions of their product, compared to other Leclanche cells, made them particularly susceptible to failure. After consideration of this new information, we concluded that a wastewater discharge was required in this application. Accordingly, the Leclanche subcategory standards have been revised to account for such a discharge.

## X. Best Management Practices

Section 304(e) of the Clean Water Act gives the Administrator authority to prescribe "best management practices" (BMP). EPA is not promulgating BMP specific to battery manufacturing.

## XI. Upset and Bypass Provisions

A recurring issue of concern has been whether industry guidelines should include provisions authorizing noncompliance with effluent limitations during periods of "upset" or "bypass." An upset, sometimes called an "excursion," is an unintentional noncompliance occurring for reasons beyond the reasonable control of the permittee. It has been argued that an

upset provision in EPA's effluent limitations is necessary because such upsets will inevitably occur even in properly operated control equipment. Because technology-based limitations require only what technology can achieve, it is claimed that liability for such situations is improper. When confronted with this issue, courts have disagreed on whether an explicit upset or excursion exemption is necessary, or whether upset or excursion incidents may be handled through exercise of EPA's enforcement discretion. Compare *Marathon Oil Co.* v. *EPA*, 564 F.2d 1253 (9th Cir. 1977) with *Weyerhaeuser Co.* v. *Costle, supra*, and *Corn Refiners Association, et. al.* v. *Costle*, No. 78–1069 (8th Cir., April 2, 1979). See also *American Petroleum Institute* v. *EPA*, 540 F.2d 1023 (10th Cir. 1976); *CPC International, Inc.* v. *Train*, 540 F.2d 1320 (8th Cir. 1976); *FMC Corp.* v. *Train*, 539 F.2d 973 (4th Cir. 1976).

An upset is an unintentional episode during which effluent limits are exceeded; a bypass, however, is an act of intentional noncompliance during which waste treatment facilities are circumvented in emergency situations. We have, in the past, included bypass provisions in NPDES permits.

We determined that both upset and bypass provisions should be included in NPDES permits and have promulgated permit regulations that include upset and bypass permit provisions. See 40 CFR 122.41. The upset provision establishes an upset as an affirmative defense to prosecution for violation of technology-based effluent limitations. The bypass provision authorizes bypassing to prevent loss of life, personal injury, or severe property damage. Consequently, although permittes in the battery manufacturing industry will be entitled to upset and bypass provisions in NPDES permits, this final regulation does not address these issues.

## XII. Variances and Modifications

Upon the promulgation of this regulation, the appropriate effluent limitations must be applied in all Federal and State NPDES permits thereafter issued to direct dischargers in the battery manufacturing industry. In addition, on promulgation, the pretreatment limitations are directly applicable to any indirect dischargers.

For the BPT effluent limitations, the only exception to the binding limitations is EPA's "fundamentally different factors" variance. See *E. I. duPont deNemours & Co.* v. *Train*, 430 U.S. 112 (1977); *Weyerhaeuser Co.* v. *Costle, supra*. This variance recognizes factors concerning a particular discharger that are fundamentally different from the factors considered in this rulemaking. However, the economic ability of the individual operator to meet the compliance cost for BPT standards is not a consideration for granting a variance. See *National Crushed Stone Association* v. *EPA*, 449 U.S. 64 (1980). Although this variance clause was set forth in EPA's 1973 to 1976 industry regulations, it is now included in the NPDES regulations and will not be included in the battery manufacturing or other industry regulations. See the NPDES regulations at 40 CFR Part 125, Subparts A and D, 45 FR 14166 et seq. (April 1, 1983) for the text and explanation of "fundamentally different factors" variance.

The BAT limitations in this regulation also are subject to EPA's "fundamentally different factors" variance. In addition, BAT limitations for nonconventional pollutants are subject to modifications under Sections 301(c) and 301(g) of the Act. These statutory modifications do not apply to toxic or conventional pollutants. According to Section 301(j)(1)(B), applications for these modifications must be filed within 270 days after publication of final effluent limitations guidelines. (See 43 FR 40859 (September 13, 1978).)

The economic modification section of the Act (Section 301(c)) gives the Administrator authority to modify BAT requirements for nonconventional pollutants [1] for dischargers who file a permit application after July 1, 1978, upon a showing that such modified requirements will (1) represent the maximum use of technology within the economic capability of the owner or operator and (2) result in reasonable further progress toward the elimination of the discharge of pollutants. The environmental modification section (301(g)) allows the Administrator, with the concurrence of the State, to modify BAT limitations for nonconventional pollutants from any point source upon a showing by the owner or operator of such point source satisfactory to the Administrator that:

(a) Such modified requirements will result at a minimum in compliance with BPT limitations or any more stringent limitations necessary to meet water quality standards;

(b) Such modified requirements will not result in any additional requirements on any other point or nonpoint source; and

(c) Such modification will not interfere with the attainment or maintenance of that water quality which shall assure protection of public water supplies, and the protection and propagation of a balanced population of shellfish, fish, and wildlife, and allow recreational activities, in and on the water and such modification will not result in the discharge of pollutants in quantities which may reasonably be anticipated to pose an unacceptable risk to human health or the environment because of bioaccumulation, persistency in the environment, acute toxicity, chronic toxicity (including carinogenicity, mutagenicity or teratogenicity), or synergistic propensities.

Section 301(j)(1)(B) of the act requires that application for modifications under Section 301 (c) or (g) must be filed within 270 days after the promulgation of an applicable effluent guideline. Initial applications must be filed with the Regional Administrator and, in those States that participate in the NPDES Program, a copy must be sent to the Director of the State program. Initial applications to comply with 301(j) must include the name of the permittee, the permit and outfall number, the applicable effluent guideline, and whether the permittee is applying for a 301(c) or 301(g) modification or both.

Indirect dischargers subject to PSES and PSNS are eligible for credits for toxic pollutants removed by POTW. See 40 CFR 403.7 48 FR 9404 (January 28, 1981). New sources subject to NSPS are not eligible for any other statutory or regulatory modifications. See, *E. I. duPont de Nemours & Co.* v. *Train*, supra.

Indirect dischargers subject to PSES have, in the past, been eligible for the "fundamentally different factors" variance. See 40 CFR 403.13. However, on September 20, 1983, the United States Court of Appeals for the Third Circuit held that "FDF variances for toxic pollutants are forbidden by the Act," and remanded 403.13 to EPA. *NAMF et al.* v. *EPA*, Nos. 79–2256 et al. (3rd Cir., September 20, 1983). EPA is considering the effect of that decision. Since the opinion addressed only the availability of FDF variances for PSES toxic pollutants, however, "fundamentally different factors" variances for nonconventional pollutants remain available to indirect dischargers. The Agency will soon amend 40 CFR 403.13 in accordance with the court's opinion.

In a few cases, information which would affect these PSES may not have been available to EPA or affected parties in the course of this rulemaking. As a result it may be appropriate to

[1] Section 301(e) precludes the Administrator from modifying BAT requirements for any pollutants which are on the toxic pollutant list under Section 307(1)(1) of the Act.

issue specific categorical standards for such facilities, treating them as a separate subcategory with more, or less, stringent standards as appropriate. This will only be done if a different standard is appropriate because of unique aspects of the factors listed in Section 304(b)(2)(B) of the Act: the age of equipment and facilities involved, the process employed, the engineering aspects of applying control techniques, nonwater quality environmental impacts (including energy requirements) or the cost of required effluent reductions (but not of ability to pay that cost).

Indirect dischargers and other affected parties may petition the Administrator to examine those factors and determine whether these PSES are properly applicable in specific cases or should be revised. Such petitions *must* contain specific and detailed support data, documentation, and evidence indicating why the relevant factors justify a more, or less, stringent standard, and must also indicate why those factors could not have been brought to the attention of the Agency in the course of this rulemaking. The Administrator will consider such rulemaking petitions and determine whether a rulemaking should be initiated.

## XIII. Implementation of Limitations and Standards

### *A. Relationship to NPDES Permits*

The BPT and BAT limitations and NSPS in this regulation will be applied to individual battery manufacturing plants through NPDES permits issued by EPA or approved state agencies, under Section 402 of the Act. As discussed in the preceding section of this preamble, these limitations must be applied in all Federal and State NPDES permits except to the extent that variances and modifications are expressly authorized. Other aspects of the interaction between these limitations and NPDES permits are discussed below.

One issue that warrants consideration is the effect of this regulation on the powers of NPDES permit-issuing authorities. The promulgation of this regulation does not restrict the power of any permitting authority to act in any manner consistent with law or these or any other EPA regulations, guidelines, or policy. For example, even if this regulation does not control a particular pollutant, the permit issuer may still limit such pollutant on a case-by-case basis when limitations are necessary to carry out the purposes of the Act. In addition, to the extent that state water quality standards or other provisions of State or Federal law require limitation of pollutants not covered by this regulation (or require more stringent limitations on covered pollutants), such limitations must be applied by the permit issuing authority.

A second topic that warrants discussion is the operation of EPA's NPDES enforcement program, many aspects of which were considered in developing this regulation. We emphasize that although the Clean Water Act is a strict liability statute, the initiation of enforcement proceedings by EPA is discretionary. We have exercised and intend to exercise that discretion in a manner that recognizes and promotes good-faith compliance efforts.

### *B. Indirect Dischargers*

For indirect dischargers, PSES and PSNS are implemented under National Pretreatment Program procedures outlined in 40 CFR Part 403. The table below may be of assistance in resolving questions about the operation of that program. A brief explanation of some of the submissions indicated on the table follows:

A "request for category determination" is a written request, submitted by an indirect discharger or its POTW, for a determination of which categorical pretreatment standard applies to the indirect discharger. This assists the indirect discharger in knowing which PSES or PSNS limits it will be required to meet. See 40 CFR 403.6(a).

A "baseline monitoring report" is the first report an indirect discharger must file following promulgation of an applicable standard. The baseline report includes: an identification of the indirect discharger; a description of its operations; a report on the flows of regulated streams and the results of sampling analyses to determine levels of regulated pollutants in those streams; a statement of the discharger's compliance or noncompliance with the standard; and a description of any additional steps required to achieve compliance. See 40 CFR 403.12(b).

A "report on compliance" is required of each indirect discharger within 90 days following the date for compliance with an applicable categorical pretreatment standard. The report must indicate the concentration of all regulated pollutants in the facility's regulated process wastestreams; the average and maximum daily flows of the regulated streams; and a statement of whether compliance is consistently being achieved, and if not, what additional operation and maintenance or pretreatment is necessary to achieve compliance. See 40 CFR 403.12(d).

A "periodic compliance report" is a report on continuing compliance with all applicable categorical pretreatment standards. It is submitted twice per year (June and December) by indirect dischargers subject to the standards. The report shall provide the concentrations of the regulated pollutants in its discharge to the POTW; the average and maximum daily flow rates of the facility; the methods used by the indirect discharger to sample and analyze the data, and a certification that these methods conform to the methods outlined in the regulations. See 40 CFR 403.12(e).

Indirect dischargers subject to PSES may obtain "fundamentally different factors" variances for nonconventional pollutants. See Section XII of this preamble.

INDIRECT DISCHARGERS SCHEDULE FOR SUBMITTAL AND COMPLIANCE

| Item | Applicable sources | Date or time period | Measured from— | Submitted to— |
|---|---|---|---|---|
| Request for Category Determination | Existing | 60 days or | From effective date of standard | Director.[1] |
| | | 60 days | From Federal Register Development Document Availability | Do.[1] |
| | New | Prior to commencement of discharge to POTW. | | |
| Baseline Monitoring | All | 180 days | From effective date of standard or final decision on category determination. | Control Authority.[2] |
| Report on Compliance | Existing | 90 days | From date for final compliance | Do.[2] |
| | New | do | From commencement of discharge to POTW | |
| Periodic Compliance Reports | All | June and December | | Do.[2] |

[1] Director = (a) Chief Administrative Officer of a state water pollution control agency with an approved pretreatment program, or (b) EPA Regional Water Division Director, if state does not have an approved pretreatment program.

[2] Control Authority = (a) POTW if its pretreatment program has been approved, or (b) Director of state water pollution control agency with an approved pretreatment program, or (c) EPA Regional Administrator, if state does not have an approved pretreatment program.

## XIV. Availability of Technical Information

The basis for this regulation is detailed in four major documents. Analytical methods are discussed in "Sampling and Analysis Procedures for Screening of Industrial Effluents for Priority Pollutants." EPA's technical conclusions are detailed in the "Development Document for Effluent Guidelines, New Source Performance Standards and Pretreatment Standards for the Battery Manufacturing Point Source Category." Volume I includes the cadmium, calcium, Leclanche, lithium, magnesium, and zinc subcategories, and Volume II includes the lead subcategory. The Agency's economic analysis is presented in "Economic Impact Analysis of Effluent Limitations and Standards for the Battery Manufacturing Industry." A summary of the public comments received on the proposed regulation is presented in a report "Responses to Public Comments, Proposed Battery Manufacturing Effluent Limitations Guidelines and Standards," which is a part of the public record for this regulation. Copies of the technical and economic documents may be obtained from the National Technical Information Service, Springfield, Virginia 22161, (703) 487–4600. Additional information concerning the economic impact analysis may be obtained from Ms. Ellen Warhit, Economic Analysis Staff (WH–586), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460 or by calling (202) 382–5381. Technical information may be obtained by writing to Ms. Mary Belefski, Effluent Guidelines Division (WH–552), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460 or by calling (202) 382–7153.

This regulation was submitted to the Office of Management and Budget for review as required by Executive Order 12291. This rule does not contain any information collection requirements subject to OMB review under the Paperwork Reduction Act of 1980 44 U.S.C. 3501 *et seq.*

## XXIV. List of Subjects in 40 CFR Part 461

Primary batteries, dry and wet, Storage batteries, Battery manufacturing, Water pollution control, Waste treatment and disposal.

Dated: February 27, 1984.

William D. Ruckelshaus,

*Administrator.*

## XVI. Appendices

*Appendix A—Abbreviations, Acronyms, and Other Terms Used in this Preamble*

*Act*—The Clean Water Act.

*Agency*—The U.S. Environmental Protection Agency.

*BAT*—The best available technology economically achievable under Section 304(b)(2)(B) of the Act.

*BCT*—The best conventional pollutant control technology under Section 304(b)(4) of the Act.

*BMPs*—Best management practices under Section 304(e) of the Act.

*BPT*—The best practicable control technology currently available under Section 304(b)(1) of the Act.

*Clean Water Act*—The Federal Water Pollution Control Act Amendments of 1972 (33 U.S.C. 1251 et seq.), as amended by the Clean Water Act of 1977 (Pub. L. 95–217).

*Dcp*—Data collection portfolio.

*Direct discharger*—A facility which discharges or may discharge pollutants into waters of the United States.

*Indirect discharger*—A facility which discharges or may discharge pollutants into a publicly owned treatment works.

*NPDES permit*—A National Pollutant Discharge Elimination System permit issued under Section 402 of the Act.

*NSPS*—New source performance standards under Section 306 of the Act.

*POTW*—Publicly owned treatment works.

*PSES*—Pretreatment standards for existing sources of indirect discharges under Section 307 (b) and (c) of the Act.

*RCRA*—Resource Conservation and Recovery Act (Pub. L. 94–580) of 1976, Amendments to Solid Waste Disposal Act.

### Appendix B—Toxic Pollutants Limited by This Regulation

A. Subpart A—Cadmium Subcategory

118 Cadmium
124 Nickel
126 Silver
128 Zinc

B. Subpart B—Calcium Subcategory

116 Asbestos
119 Chromium

C. Subpart C—Lead Subcategory

120 Copper
122 Lead

D. Subpart D—Leclanche Subcategory

123 Mercury
128 Zinc

E. Subpart E—Lithium Subcategory

119 Chromium
122 Lead

F. Subpart F—Magnesium Subcategory

119 Chromium
122 Lead
126 Silver

G. Subpart G—Zinc Subcategory

119 Chromium
121 Cyanide
123 Mercury
124 Nickel
126 Silver
128 Zinc

### Appendix C—Toxic Pollutants Not Detected

(a) Subpart A—Cadmium Subcategory

001 Acenaphthene
002 Acrolein
003 Acrylonitrile
004 Benzene
005 Benzidine
006 Carbon tetrachloride (tetrachloromethane)
007 Chlorobenzene
008 1,2,4-trichlorobenzene
009 Hexachlorobenzene
010 1,2-dichloroethane
011 1,1,1-trichloroethane
012 Hexachloroethane
013 1,1-dichloroethane
014 1,1,2-trichloroethane
015 1,1,2,2-tetrachloroethane
016 Chloroethane
017 Bis (chloromethyl) ether
018 Bis (2-chloroethyl) ether
019 2-chloroethyl vinyl ether (mixed)
020 2-chloronaphthalene
021 2,4,6-trichlorophenol
022 Parachlorometa cresol
024 2-chlorophenol
025 1,2-dichlorobenzene
026 1,3-dichlorobenzene
027 1,4-dichlorobenzene
028 3,3-dichlorobenzidine
029 1,1-dichloroethylene
030 1,2-trans-dichloroethylene
031 2,4-dichlorophenol
032 1,2-dichloropropane
033 1,2-dischloropropylene (1,3-dichloropropene)
034 2,4-dimethylphenol
035 2,4-dinitrotoluene
036 2,6-dinitrotoluene
037 1,2-diphenylhydrazine
038 Ethylbenzene
039 Fluoranthene
040 4-chlorophenyl phenyl ether
041 4-bromophenyl phenyl ether
042 Bis(2-chloroisopropyl) ether
043 Bis(2-chloroethoxy) methane
045 Methyl chloride (dichloromethane)
046 Methyl bromide (bromomethane)
047 Bromoform (tribromomethane)
049 Trichlorofluoromethane
050 Dichlorodifluoromethane
051 Chlorodibromomethane
052 Hexachlorobutadiene
053 Hexachlorocyclopentadiene

054 Isophorone
055 Naphthalene
056 Nitrobenzene
057 2-nitrophenol
058 4-nitrophenol
059 2,4-dinitrophenol
060 4,6-dinitro-o-cresol
061 N-nitrosodimethylamine
062 N-nitrosodiphenylamine
063 N-nitrosodi-n-propylamine
064 Pentachlorophenol
065 Phenol
067 Butyl benzyl phthalate
068 Di-n-butyl phthalate
069 Di-n-octyl phthalate
070 Diethyl phthalate
071 Dimethyl phthalate
072 1,2-benzanthracene (benzo(a)anthracene)
073 Benzo(a)pyrene (3,4-benzopyrene)
074 3,4-Benzofluoranthene (benzo(b)fluoranthene)
075 11,12-benzofluoranthene (benzo(b)fluoranthene)
076 Chrysene
077 Acenaphthylene
078 Anthracene
079 1,12-benzoperylene (benzo(ghi)perylene)
080 Fluorene
081 Phenanthrene
082 1,2,5,6-dibenzanthracene dibenzo(,h)anthracene
083 Indeno(1,2,3-cd) pyrene (2,3-o-phenylene pyrene)
084 Pyrene
085 Tetrachloroethylene
088 Vinyl chloride (chloroethylene)
089 Aldrin
090 Dieldrin
091 Chlordane (technical mixture and metabolites)
092 4,4-DDT
093 4,4-DDE (p,p-DDX)
094 4,4-DDD (p,p-TDE)
095 Alpha-endosulfan
096 Beta-endosulfan
097 Endosulfan sulfate
098 Endrin
099 Endrin aldehyde
100 Heptachlor
101 Heptachlor epoxide (BHC-hexachlorocyclohexane)
102 Alpha-BHC
103 Beta-BHC
104 Gamma-BHC (lindane)
105 Delta-BHC (PCB-polychlorinated biphenyls)
106 PCB–1242 (Arochlor 1242)
107 PCB–1254 (Arochlor 1254)
108 PCB–1221 (Arochlor 1221)
109 PCB–1232 (Arochlor 1232)
110 PCB–1248 (Arochlor 1248)
111 PCB–1260 (Arochlor 1260)
112 PCB–1016 (Arochlor 1016)
113 Toxaphene
114 Antimony
115 Arsenic
125 Selenium
127 Thallium
129 2,3,7,8-tetrachloro-dibenzo-p-dioxin (TCDD)

(b) Subpart B—Calcium Subcategory

001 Acenaphthene
002 Acrolein
003 Acrylonitrile
004 Benzene
005 Benzidine
006 Carbon tetrachloride (tetrachloromethane)
007 Chlorobenzene
008 1,2,4-trichlorobenzene
009 Hexachlorobenzene
010 1,2-dichloroethane
011 1,1,1-trichloroethane
012 Hexachloroethane
013 1,1-dichloroethane
015 1,1,2,2-tetrachloroethane
016 Chloroethane
017 Bis (chloromethyl) ether
018 Bis (2-chloroethyl) ether
019 2-chloroethyl vinyl ether (mixed)
020 2-chloronaphthalene
021 2,4,6-trichlorophenol
022 Parachlorometa cresol
024 2-chlorophenol
025 1,2-dichlorobenzene
026 1,3-dichlorobenzene
027 1,4-dichlorobenzene
028 3,3-dichlorobenzidine
029 1,1-dichloroethylene
030 1,2-trans-dichloroethylene
031 2,4-dichlorophenol
032 1,2-dichloropropane
033 1,2-dichloropropylene (1,3-dichloropropene)
034 2,4-dimethylphenol
035 2,4-dinitrotoluene
036 2,6-dinitrotoluene
037 1,2-diphenylhydrazine
038 Ethylbenzene
039 Fluoranthene
040 4-chlorophenyl phenyl ether
041 4-bromophenyl phenyl ether
042 Bis(2-chloroisopropyl) ether
043 Bis(2-chloroethoxy) methane
045 Methyl chloride (dichloromethane)
046 Methyl bromide (bromomethane)
047 Bromoform (tribromomethane)
048 Dichlorobromomethane
049 Trichlorofluoromethane
050 Dichlorodifluoromethane
051 Chlorodibromomethane
052 Hexachlorobutadiene
053 Hexachlorocyclopentadiene
054 Isophorone
055 Naphthalene
056 Nitrobenzene
057 2-nitrophenol
058 4-nitrophenol
059 2,4-dinitrophenol
060 4,6-dinitro-o-cresol
061 N-nitrosodimethylamine
062 N-nitrosodiphenylamine
063 N-nitrosodi-n-propylamine
065 Phenol
067 Butyl benzyl phthalate
069 Di-n-octyl phthalate
070 Diethyl phthalate
071 Dimethyl phthalate
072 1,2-benzanthracene (benzo(a)anthracene)
073 Benzo(a)pyrene (3,4-benzopyrene)
074 3,4-Benzofluoranthene (benzo(b)fluoranthene)
075 11,12-benzofluoranthene (benzo(b)fluoranthene)
076 Chrysene
077 Acenaphthylene
078 Anthracene
079 1,12-benzoperylene (benzo(ghi)perylene)
080 Fluorene
081 Phenanthrene
082 1,2,5,6-dibenzanthracene dibenzo(,h)anthracene
083 Ideno (1,2,3-cd) pyrene (2,3-o-pheynylene pyrene)
084 Pyrene
085 Tetrachloroethylene
087 Trichloroethylene
088 Vinyl chloride (chloroethylene)
089 Aldrin
090 Dieldrin
091 Chlordane (technical mixture and metabolites)
092 4,4-DDT
093 4,4-DDE (p,p-DDX)
094 4,4-DDD (p,p-TDE)
095 Alpha-endosulfan
096 Beta-endosulfan
097 Endosulfan sulfate
098 Endrin
099 Endrin aldehyde
100 Heptachlor
101 Heptachlor epoxide (BHC-hexachlorocyclohexane)
102 Alpha-BHC
103 Beta-BHC
104 Gamma-BHC (lindane)
105 Delta-BHC (PCB-polychlorinated biphenyls)
106 PCB–1242 (Arochlor 1242)
107 PCB–1254 (Arochlor 1254)
108 PCB–1221 (Arochlor 1221)
109 PCB–1232 (Arochlor 1232)
110 PCB–1248 (Arochlor 1248)
111 PCB–1260 (Arochlor 1260)
112 PCB–1016 (Arochlor 1016)
113 Toxaphene
121 Cyanide, Total
129 2,3,7,8-tetrachloro-dibenzo-p-dioxin (TCDD)

(c) Subpart C—Lead Subcategory

002 Acrolein
003 Acrylonitrile
005 Benzidine
006 Carbon tetrachloride (tetrachloromethane)
007 Chlorobenzene
008 1,2,4-trichlorobenzene
009 Hexachlorobenzene
010 1,2-dichloroethane
012 Hexachloroethane
013 1,1-dichloroethane
014 1,1,2-trichloroethane
015 1,1,2,2-tetrachloroethane
016 Chloroethane
017 Bis(2-chloromethyl) ehter
018 Bis(2.chloroethyl) ether
019 2-chloroethyl vinyl ether (mixed)
020 2-chloronaphthalene
022 Parachlorometa cresol
025 1,2-dichlorobenzene
027 1,4-dichlorobenzene
028 3,3-dichlorobenzidine
029 1,1-dichloroethylene
030 1,2,-trans-dichloroethylene
032 1,2-dichloropropane
033 1,2-dichloropropylene (1,3,-dichloropropene)
034 2,4-dimethylphenol
035 2,4-dinitrotoluene
036 2,6-dinitrotoluene
037 1,2-diphenylhydrazine
040 4-chlorophenyl phenyl ether
041 4-bromophenyl phenyl ether

042 Bis(2-chloroisopropyl) ether
043 Bis(2-chloroethoxy) methane
045 Methyl chloride (dichloromethane)
046 Methyl bromide (bromomethane)
047 Bromoform (tribromomethane)
049 Trichlorofluoromethane
050 Dichlorodifluoromethane
052 Hexachlorobutadeine
053 Hexachlorocyclopentadiene
054 Isophorone
056 Nitrobenzene
057 2-nitrophenol
058 4-nitrophenol
059 2,4-dinitrophenol
060 4,6-dinitro-o-cresol
061 N-nitrosodimethylamine
062 N-nitrosodiphenylamine
063 N-nitrosodi-n-propylamine
064 Pentachlorophenol
070 Diethyl phthalate
071 Dimethyl phthalate
077 Acenaphthylene
079 1,12-benzoperylene (benzo(ghi)perylene)
082 1,2,5,6-dibenzanthracene dibenzo(,h)anthracene
083 Indeno(1,2,3-cd) pyrene (2,3-o-phenylene pyrene)
085 Tetrachloroethylene
088 Vinyl chloride (chloroethylene)
089 Aldrin
090 Dieldrin
091 Chlordane (technical mixture and metabolites)
092 4,4-DDT
093 4,4-DDE (p,p-DDX)
094 4,4-DDD (p,p-TDE)
095 Alpha-endosulfan
096 Beta-endosulfan
097 Endosulfan sulfate
098 Endrin
099 Endrin aldehyde
100 Heptachlor
102 Alpha-BHC
103 Beta-BHC
104 Gamma-BHC (lindane)
105 Delta-BHC (PCB-polychlorinated biphenyls)
106 PCB–1242 (Arochlor 1242)
107 PCB–1254 (Arochlor 1254)
108 PCB–1221 (Arochlor 1221)
109 PCB–1232 (Arochlor 1232)
110 PCB–1248 (Arochlor 1248)
111 PCB–1260 (Arochlor 1260)
112 PCB–1016 (Arochlor 1016)
113 Toxaphene
116 Asbestos
125 Selenium
127 Thallium
129 2,3,7,8-tetrachloro-dibenzo-p-dioxin (TCDD)

(d) Subpart D—Leclanche Subcategory

001 Acenaphthene
002 Acrolein
003 Acrylonitrile
004 Benzene
005 Benzidine
006 Carbon tetrachloride (tetrachloromethane)
007 Chlorobenzene
008 1,2,4-trichlorobenzene
009 Hexachlorobenzene
010 1,2-dichloroethane
012 Hexachloroethane
013 1,1-dichloroethane
014 1,1,2-trichloroethane
016 Chloroethane
017 Bis (chloromethyl) ether
018 Bis (2-chloroethyl) ether
019 2-chloroethyl vinyl ether (mixed)
020 2-chloronaphthalene
021 2,4,6-trichlorophenol
022 Parachlorometa cresol
024 2-chlorophenol
025 1,2-dichlorobenzene
026 1,3-dichlorobenzene
027 1,4-dichlorobenzene
028 3,3-dichlorobenzidine
029 1,1-dichloroethylene
030 1,2-trans-dichloroethylene
031 2,4-dichlorophenol
032 1,2-dichloropropane
033 1,2-dichloropropylene (1,3-dichloropropene)
034 2,4-dimethylphenol
035 2,4-dinitrotoluene
036 2,6-dinitrotoluene
037 1,2-diphenylhydrazine
038 Ethylbenzene
039 Fluoranthene
040 4-chlorophenyl phenyl ether
041 4-bromophenyl phenyl ether
042 Bis(2-chloroisopropyl) ether
043 Bis(2-chloroethoxy) methane
045 Methyl chloride (dichloromethane)
046 Methyl bromide (bromomethane)
047 Bromoform (tribromomethane)
049 Trichlorofluoromethane
050 Dichlorodifluoromethane
052 Hexachlorobutadiene
053 Hexachlorocyclopentadiene
054 Isophorone
055 Naphthalene
056 Nitrobenzene
057 2-nitrophenol
058 4-nitrophenol
059 2,4-dinitrophenol
060 4,6-dinitro-o-cresol
061 N-nitrosodimethylamine
062 N-nitrosodiphenylamine
063 N-nitrosodi-n-propylamine
064 Pentachlorophenol
068 Di-n-butyl phthalate
072 1,2-benzanthracene (benzo(a)anthracene)
073 Benzo(a)pyrene (3,4-benzopyrene)
074 3,4-Benzofluoranthene (benzo(b)fluoranthene)
075 11,12-benzofluoranthene (benzo(b)fluoranthene)
076 Chrysene
077 Acenaphthylene
078 Anthracene
079 1,12-benzoperylene (benzo(ghi)perylene)
080 Fluorene
081 Phenanthrene
082 1,2,5,6-dibenzanthracene dibenzo(,h)anthracene
083 Indeno(1,2,3-cd) pyrene (2,3-o-phenylene pyrene)
084 Pyrene
085 Tetrachloroethylene
087 Trichloroethylene
088 Vinyl chloride (chloroethylene)
089 Aldrin
090 Dieldrin
091 Chlordane (technical mixture and metabolites)
092 4,4-DDT
093 4,4-DDE (p,p-DDX)
094 4,4-DDD (p,p-TDE)
095 Alpha-endosulfan
096 Beta-endosulfan
097 Endosulfan sulfate
098 Endrin
099 Endrin aldehyde
100 Heptachlor
101 Heptachlor epoxide (BHC-hexachlorocyclohexane)
102 Alpha-BHC
103 Beta-BHC
104 Gamma-BHC (lindane)
105 Delta-BHC (PCB-polychlorinated biphenyls)
106 PCB–1242 (Arochlor 1242)
107 PCB–1254 (Arochlor 1254)
108 PCB–1221 (Arochlor 1221)
109 PCB–1232 (Arochlor 1232)
110 PCB–1248 (Arochlor 1248)
111 PCB–1260 (Arochlor 1260)
112 PCB–1016 (Arochlor 1016)
113 Toxaphene
116 Asbestos
127 Thallium

(e) Subpart E—Lithium Subcategory

001 Acenaphthene
002 Acrolein
003 Acrylonitrile
004 Benzene
005 Benzidine
006 Carbon tetrachloride (tetrachloromethane)
007 Chlorobenzene
008 1,2,4-trichlorobenzene
009 Hexachlorobenzene
010 1,2-dichloroethane
012 Hexachloroethane
013 1,1-dichloroethane
015 1,1,2,2-tetrachloroethane
016 Chloroethane
017 Bis (chloromethyl) ether
018 Bis (2-chloroethyl) ether
019 2-chloroethyl vinyl ether (mixed)
020 2-chloronaphthalene
021 2,4,6-trichlorophenol
022 Parachlorometacresol
024 2-chlorophenol
025 1,2-dichlorobenzene
026 1,3-dichlorobenzene
027 1,4-dichlorobenzene
028 3,3-dichlorobenzidine
029 1,1-dichloroethylene
030 1,2-trans-dichloroethylene
031 2,4-dichlorophenol
032 1,2-dichloropropane
033 1,2-dichloropropylene (1,3-dichloropropene)
034 2,4-dimethylphenol
035 2,4-dinitrotoluene
036 2,6-dinitrotoluene
037 1,2-diphenylhydrazine
038 Ethylbenzene
039 Fluoranthene
040 4-chlorophenyl phenyl ether
041 4-bromophenyl phenyl ether
042 Bis(2-chloroisopropyl) ether
043 Bis(2-chloroethoxyl) methane
045 Methyl chloride (dichloromethane)
046 Methyl bromide (bromomethane)
047 Bromoform (tribromomethane)
049 Trichlorofluoromethane
050 Dichlorodifluoromethane
051 Chlorodibromomethane
052 Hexachlorobutadiene
053 Hexachlorocyclopentadiene
054 Isophorone

055 Naphthalene
056 Nitrobenzene
057 2-nitrophenol
058 4-nitrophenol
059 2,4-dinitrophenol
060 4,6-dinitro-o-cresol
061 N-nitrosodimethylamine
062 N-nitrosodiphenylamine
063 N-nitrosodi-n-propylamine
065 Phenol
069 Di-n-octyl phthalate
070 Diethyl phthalate
071 Dimethyl phthalate
072 1,2-benzanthracene (benzo(a)anthracene)
073 Benzo(a)pyrene (3,4-benzopyrene)
074 3,4-Benzofluoranthene (benzo(b)fluoranthene)
075 11,12-benzofluoranthene (benzo(b)fluoranthene)
076 Chrysene
077 Acenaphthylene
078 Anthracene
079 1,12-benzoperylene (benzo(ghi)perylene)
080 Fluorene
081 Phenanthrene
082 1,2,5,6-dibenzanthracene dibenzo(,h)anthracene
083 Ideno(1,2,3-cd) pyrene (2,3-o-pheynylene pyrene)
084 Pyrene
085 Tetrachloroethylene
087 Trichloroethylene
088 Vinyl chloride (chloroethylene)
089 Aldrin
090 Dieldrin
091 Chlordane (technical mixture and metabolites)
092 4,4-DDT
093 4,4-DDE (p,p-DDX)
094 4,4-DDD (p,p-TDE)
095 Alpha-endosulfan
096 Beta-endosulfan
097 Endosulfan sulfate
098 Endrin
099 Endrin aldehyde
100 Heptachlor
101 Heptachlor epoxide (BHC-hexachlorocyclohexane)
102 Alpha-BHC
103 Beta-BHC
104 Gamma-BHC (lindane)
105 Delta-BHC (PCB-polychlorinated biphenyls)
106 PCB–1242 (Arochlor 1242)
107 PCB–1254 (Arochlor 1254)
108 PCB–1221 (Arochlor 1221)
109 PCB–1232 (Arochlor 1232)
110 PCB–1248 (Arochlor 1248)
111 PCB–1260 (Arochlor 1260)
112 PCB–1016 (Arochlor 1016)
113 Toxaphene
129 2,3,7,8-tetrachlorodibenzo-p-dioxin (TCDD)

(f) Subpart F—Magnesium Subcategory

001 Acenaphthene
002 Acrolein
003 Acrylonitrile
004 Benzene
005 Benzidine
006 Carbon tetrachloride (tetrachloromethane)
007 Chlorobenzene
008 1,2,4-trichlorobenzene
009 Hexachlorobenzene
010 1,2-dichloroethane
011 1,1,1-trichloroethane
012 Hexachloroethane
013 1,1-dichloroethane
015 1,1,2,2-tetrachloroethane
016 Chloroethane
017 Bis(chloromethyl) ether
018 Bis(2-chloroethyl) ether
019 2-chloroethyl vinyl ether (mixed)
020 2-chloronaphthalene
021 2,4,6-trichlorophenol
022 Parachlorometa cresol
024 2-chlorophenol
025 1,2-dichlorobenzene
026 1,3-dichlorobenzene
027 1,4-dichlorobenzene
028 3,3-dichlorobenzidine
029 1,1-dichloroethylene
030 1,2-trans-dichloroethylene
031 2,4-dichlorophenol
032 1,2-dichloropropane
033 1,2-dichloropropylene (1,3-dichloropropene)
034 2,4-dimethylphenol
035 2,4-dinitrotoluene
036 2,6-dinitrotoluene
037 1,2-diphenylhydrazine
038 Ethylbenzene
039 Fluoranthene
040 4-chlorophenyl phenyl ether
041 4-bromophenyl phenyl ether
042 Bis(2-chloroisopropyl) ether
043 Bis(2-chloroethoxy) methane
045 Methyl chloride (dichloromethane)
046 Methyl bromide (bromomethane)
047 Bromoform (tribromomethane)
049 Trichlorofluoromethane
050 Dichlorodifluoromethane
051 Chlorodibromomethane
052 Hexachlorobutadiene
053 Hexachlorocyclopentadiene
054 Isophorone
055 Naphthalene
056 Nitrobenzene
057 2-nitrophenol
058 4-nitrophenol
059 2,4-dinitrophenol
060 4,6-dinitro-o-cresol
061 N-nitrosodimethylamine
062 N-nitrosodiphenylamine
063 N-nitrosodi-n-propylamine
065 Phenol
067 Butyl benzyl phthalate
070 Diethyl phthalate
071 Dimethyl phthalate
072 1,2-benzanthracene (benzo(a)anthracene)
073 Benzo(a)pyrene (3,4-benzopyrene)
074 3,4-Benzofluoranthene (benzo(b)fluoranthene)
075 11,12-benzofluoranthene (benzo(b)fluoranthene)
076 Chrysene
077 Acenaphthylene
078 Anthracene
079 1,12-benzoperylene (benzo(ghi)perylene)
080 Fluorene
081 Phenanthrene
082 1,2,5,6-dibenzanthracene dibenzo(,h) anthracene
083 Ideno(1,2,3-cd)pyrene (2,3-o-phenylene pyrene)
084 Pyrene
085 Tetrachloroethylene
088 Vinyl chloride (chloroethylene)
089 Aldrin
090 Dieldrin
091 Chlordane (technical mixture and metabolites)
092 4,4-DDT
093 4,4-DDE (p,p-DDX)
094 4,4-DDD (p,p-TDE)
095 Alpha-endosulfan
096 Beta-endosulfan
097 Endosulfan sulfate
098 Endrin
099 Endrin aldehyde
100 Heptachlor
101 Heptachlor epoxide (BHC-hexachlorocyclohexane)
102 Alpha-BHC
103 Beta-BHC
104 Gamma-BHC (lindane)
105 Delta-BHC (PCB-polychlorinated biphenyls)
106 PCB–1242 (Arochlor 1242)
107 PCB–1254 (Arochlor 1254)
108 PCB–1221 (Arochlor 1221)
109 PCB–1232 (Arochlor 1232)
110 PCB–1248 (Arochlor 1248)
111 PCB–1260 (Arochlor 1260)
112 PCB–1016 (Arochlor 1016)
113 Toxaphene
121 Cyanide, Total
129 2,3,7,8-tetrachlorodibenzo-p-dioxin (TCDD)

(g) Subpart G—Zinc Subcategory

001 Acenaphthene
002 Acrolein
003 Acrylonitrile
005 Benzidine
006 Carbon tetrachloride (tetrachloromethane)
007 Chlorobenzene
008 1,2,4-trichlorobenzene
009 Hexachlorobenzene
010 1,2-dichloroethane
012 Hexachloroethane
015 1,1,2,2-tetrachloroethane
016 Chloroethane
017 Bis (chloromethyl) ether
018 Bis (2-chloroethyl) ether
019 2-chloroethyl vinyl ether (mixed)
020 2-chloronaphthalene
022 Parachlorometa cresol
025 1,2-dichlorobenzene
026 1,3-dichlorobenzene
027 1,4-dichlorobenzene
028 3,3-dichlorobenzidine
031 2,4-dichlorphenol
032 1,2-dichloropropane
033 1,2-dichloropropylene (1,3-dichloropropene)
034 2,4-dimethylphenol
035 2,4-dinitrotoluene
036 2,6-dinitrotoluene
037 1,2-diphenylhydrazine
039 Fluoranthene
040 4-chlorophenyl phenyl ether
041 4-bromophenyl phenyl ether
042 Bis(2-chloroisopropyl) ether
043 Bis(2-chloroethoxy) methane
045 Methyl chloride (dichloromethane)
046 Methyl bromide (bromomethane)
047 Bromoform (tribromomethane)
049 Trichlorofluoromethane
050 Dichlorodifluoromethane
052 Hexachlorobutadiene
053 Hewachlorocyclopentadiene
054 Isophorone

056 Nitrobenzene
057 2-nitrophenol
058 4-nitrophenol
059 2,4-dinitrophenol
060 4,6-dinitro-o-cresol
061 N-nitrosodimethylamine
062 N-nitrosodiphenylamine
063 N-nitrosodi-n-propylamine
069 Di-n-octyl phthalate
071 Dimethyl phthalate
072 1,2-benzanthracene (benzo(a)anthracene)
073 Benzo(a)pyrene (3,4-benzopyrene)
074 3,4-Benzofluoranthene (benzo (b) fluoranthene)
075 11,12-benzofluoranthene (benzo(b)fluoranthene)
076 Chrysene
079 1,12-benzoperylene (benzo(ghi)perylene)
082 1,2,5,6-dibenzanthracene dibenzo(,h)anthracene
083 Indeno(1,2,3-cd) pyrene (2,3-o-phenylene pyrene)
088 Vinyl chloride (chloroethylene)
089 Aldrin
090 Dieldrin
091 Chlordane (technical mixture and metabolites)
092 4,4-DDT
093 4,4-DDE (p,p-DDX)
094 4,4-DDD (p,p-TDE)
095 Alpha-endosulfan
096 Beta-endosulfan
097 Endosulfan sulfate
098 Endrin
099 Endrin aldehyde
100 Heptachlor
101 Heptachlor epoxide (BHC-hexachlorocyclohexane)
102 Alpha-BHC
103 Beta-BHC
104 Gamma-BHC (lindane)
105 Delta-BHC (PCB-polychlorinated biphenyls)
106 PCB-1242 (Arochlor 1242)
107 PCB-1254 (Arochlor 1254)
108 PCB-1221 (Arochlor 1221)
109 PCB-1232 (Arochlor 1232)
110 PCB-1248 (Arochlor 1248)
111 PCB-1260 (Arochlor 1260)
112 PCB-1016 (Arochlor 1016)
113 Toxaphene
116 Asbestos
127 Thallium
129 2,3,7,8-tetrachlorodibenzo-p-dioxin (TCDD)

## Appendix D—Toxic Pollutants Detected Below the Nominal Quantification Limit

(a) Subpart A—Cadmium Subcategory

044 Methylene chloride (dichloromethane)
048 Dichlorobromo methane
066 Bis(2-ethylhexyl) phthalate
087 Trichloroethylene
117 Beryllium

(b) Subpart B—Calcium Subcategory

064 Pentachlorophenol
068 Di-n-butyl phthalate
086 Toluene
114 Antimony
115 Arsenic
117 Beryllium
123 Mercury
125 Selenium
127 Thallium

(c) Subpart C—Lead subcategory

001 Acenapthene
004 Benzene
021 2,4,6-trichlorophenol
024 2-chlorophenol
026 1,3-dichlorobenzene
031 2,4-dichlorophenol
038 Ethylbenzene
039 Fluoranthene
044 Methylene chloride (dichloromethane)
048 Dichlorobromethane
051 Chlorodibromomethane
065 Phenol
072 1,2-benzanthracene (benzo(a)anthracene)
073 Benzo(a)pyrene (3,4-benzopyrene)
074 3,4-Benzofluoranthene (benzo(b)fluoranthene)
075 11,12-benzofluoranthene (benzo(b)fluoranthene)
076 Chrysene
080 Fluorene
084 Pyrene
087 Trichloroethylene
101 Heptachlor epoxide (BHC-hexachlorocyclohexane)
117 Beryllium
121 Cyanide, Total

(d) Subpart D—Leclanche Subcategory

011 1,1,1-trichloroethane
015 1,1,2,2-tetrachloroethane
044 Methylene chloride (dichloromethane)
048 Dichlorobromomethane
051 Chlorodibromomethane
065 Phenol
067 Butyl benzyl phthalate
068 Di-n-butyl phthalate
069 Di-n-octyl phthalate
071 Dimethyl phthalate
086 Toluene
117 Beryllium
126 Silver

(e) subpart E—Lithium Subcategory

011 1,1,1-trichloroethane
064 Pentachlorophenol
067 Butyl benzyl-phthalate
068 Di-n-butyl phthalate
086 Toluene
114 Antimony
115 Arsenic
117 Beryllium
123 Mercury
125 Selenium
127 Thallium

(f) Subpart F—Magnesium Subcategory

064 Pentachlorophenol
068 Di-n-butyl phthalate
086 Toluene
087 Trichloroethylene
114 Antimony
115 Arsenic
117 Beryllium
125 Selenium
127 Thallium

(g) Subpart G—Zinc Subcategory

004 Benzene
014 1,1,2-trichloroethane
021 2,4,6-trichlorophenol
024 2-chlorophenol
029 1,1-cichloroethylene
030 1,2-trans-dichloroethylene
038 Ethylbenzene
067 Butyl benzyl phthalate
068 Di-n-butyl phthalate
070 Diethyl phthalate
077 Acenaphthylene
078 Anthracene
080 Fluorene
081 Phenanthrene
084 Pyrene
085 Tetrachloroethylene
086 Toluene
087 Trichloroethylene
114 Antimony
117 Beryllium

## Appendix E—Toxic Pollutants Detected From a Small Number of Sources

(a) Subpart A—Cadmium Subcategory

023 Chloroform (Trichloromethane)
086 Toluene
116 Asbestos
120 Copper

(b) Subpart B—Calcium Subcategory

066 Bis(2-ethylhexyl) phthalate

(c) Subpart C—Lead Subcategory

066 Bis(2-ethylhexyl) phthalate
067 Butyl benzylphthalate
068 Di-n-butyl phthalate
069 Di-n-octyl phthalate
078 Anthracene
081 Phenanthrene
086 Toluene

(d) Subpart D—Leclanche Subcategory

023 Chloroform (trichloromethane)
114 Antimony
121 Cyanide, Total

(e) Subpart E—Lithium Subcategory

066 Bis(2-ethylhexyl) phthalate

(f) Subpart F—Magnesium Subcategory

023 Chloroform (trichloromethane)
066 Bis(2-ethylhexyl) phthalate
069 Di-n-octyl phthalate

(g) Subpart G—Zinc Subcategory

023 Chloroform (trichloromethane)
064 Pentachlorophenol
065 Phenol
066 Bis(2-ethylhexyl) phthalate

## Appendix F—Toxic Pollutants Detected in Small Amounts

(a) Subpart A—Cadmium Subcategory

None

(b) Subpart B—Calcium Subcategory

014 1,1, 2-trichloromethane
023 Chloroform (trichloromethane)
044 Methylene chloride (dichloromethane)
118 Cadmium
120 Copper
122 Lead
124 Nickel
126 Silver
128 Zinc

(c) Subpart C—Lead Subcategory

011 1,1, 1-trichloroethane
115 Arsenic
023 Chloroform (trichloromethane)
055 Naphthalene

(d) Subpart D—Leclanche Subcategory

070 Diethyl phthalate

(e) Subpart E—Lithium Subcategory

014 1,1, 2-trichloroethane
023 Chloroform (trichloromethane)
044 Methylene chloride (dichloromethane)
118 Cadmium
120 Copper
121 Cyanide, Total
124 Nickel
126 Silver

(f) Subpart F—Magnesium Subcategory

014 1,1, 2-trichloroethane
044 Methylene chloride (dichloromethane)
048 Dichlorobromomethane
118 Cadmium
120 Copper
123 Mercury
124 Nickel
128 Zinc

(g) Subpart G—Zinc Subcategory

011 1,1, 1-trichloroethane
013 1, 1-dichloroethane
044 Methylene chloride (dichloromethane)
055 Naphthalene

### Appendix G—Toxic Pollutants Controlled But Not Specifically Regulated

(a) Subpart A—Cadmium Subcategory

119 Chromium
121 Cyanide
122 Lead
123 Mercury

(b) Subpart B—Calcium Subcategory

None

(c) Subpart C—Lead Subcategory

114 Antimony
118 Cadmium
119 Chromium
123 Mercury
124 Nickel
125 Silver
128 Zinc

(d) Subpart D—Leclanche Subcategory

115 Arsenic
118 Cadmium
119 Chromium
120 Copper
122 Lead
124 Nickel
125 Selenium

(e) Subpart E—Lithium Subcategory

116 Asbestos
128 Zinc

(f) Subpart F—Magnesium Subcategory

116 Asbestos

(g) Subpart G—Zinc Subcategory

115 Arsenic
118 Cadmium
120 Copper
122 Lead
125 Selenium

### Appendix H—Subcategories Not Regulated

(a) Subcategories Not Regulated at BPT

Calcium
Leclanche
Lithium
Magnesium
Nuclear

(b) Subcategories Not Regulated at BAT

Calcium
Leclanche
Lithium
Magnesium
Nuclear

(c) Subcategories Not Regulated at PSES

Calcium
Lithium
Nuclear

(d) Subcategories Not Regulated at NSPS or PSNS

Nuclear

A new part 461 is added to 40 CFR Chapter I to read as follows:

## PART 461—BATTERY MANUFACTURING POINT SOURCE CATEGORY

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461.75 Pretreatment standards for new sources (PSNS).
461.76 [Reserved]

**Authority:** Sec. 301, 304 (b), (c), (e), and (g), 306 (b) and (c), 307 (b) and (c), 308 and 501 of the Clean Water Act (the Federal Water Pollution Control Act Amendments of 1972, as amended by the Clean Water Act of 1977) (the "Act"); 33 U.S.C. 1311, 1314 (b), (c), (e), and (g), 1316 (b) and (c), 1317 (b) and (c), and 1361; 86 Stat. 816, Pub. L. 92–500; 91 Stat. 1567, Pub. L. 95–217.

General Provisions

**§ 461.1 Applicability.**

This part applies to any battery manufacturing plant that discharges or may discharge a pollutant to waters of the United States or that introduces pollutants to a publicly owned treatment works. Battery manufacturing operations subject to regulation under this part shall not be subject to regulation under Part 413 or 433.

**§ 461.2 General definitions.**

In addition to the definitions set forth in 40 CFR Part 401, the following definitions apply to this part:

(a) "Battery" means a modular electric power source where part or all of the fuel is contained within the unit and electric power is generated directly from a chemical reaction rather than indirectly through a heat cycle engine. In this regulation there is no differentiation between a single cell and a battery.

(b) "Battery manufacturing operations" means all of the specific processes used to produce a battery including the manufacture of anodes and cathodes and associated ancillary operations. These manufacturing operations are excluded from regulation under any other point source category.

(c) "Ancillary operations" means all of the operations specific to battery manufacturing and not included specifically within anode or cathode manufacture (ancillary operations are primarily associated with battery assembly and chemical production of anode or cathode active materials).

(d) "Plate soak" shall mean the process operation of soaking or reacting lead subcategory battery plates, that are more than 2.5 mm (0.100 in) thick, in sulfuric acid.

(e) "Discharge allowance" means the amount of pollutant (mg per kg of production unit) that a plant will be permitted to discharge. For this category the allowances are specific to battery manufacturing operations.

(f) "Miscellaneous wastewater streams" shall mean the combined wastewater streams from the process operations listed below for each subcategory. If a plant has one of these streams then the plant receives the entire miscellaneous waste stream allowance.

(1) Cadmium Subcategory—cell wash, electrolyte preparation, floor and equipment wash, and employee wash.

(2) Lead Subcategory—floor wash, wet air pollution control, battery repair, laboratory, hand wash, and respirator wash.

(3) Lithium Subcategory—floor and equipment wash, cell testing, and lithium scrap disposal.

(4) Zinc Subcategory—cell wash, electrolyte preparation, employee wash, reject cell handling, floor and equipment wash.

(g) "Trucked batteries" shall mean batteries moved into or out of the plant by truck when the truck is actually washed in the plant to remove residues left in the truck from the batteries.

**§ 461.3 Monitoring and reporting requirements**

The "monthly average" regulatory values shall be the basis for the monthly average discharge in direct discharge permits and for pretreatment standards. Compliance with the monthly discharge limit is required regardless of the number of samples analyzed and averaged.

**§ 461.4 Compliance date for PSES.**

The compliance date for pretreatment standards for existing sources is March 9, 1987.

## Subpart A—Cadmium Subcategory

**§ 461.10 Applicability; description of the cadmium subcategory.**

This subpart applies to discharges to waters of the United States, and introductions of pollutants into publicly owned treatment works from the manufacturing of cadmium anode batteries.

**§ 461.11 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).**

(a) Except as provided in 40 CFR 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available:

(1) Subpart A—Pasted and Pressed Powder Anodes.

BPT Effluent Limitations

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of cadmium | |
| | English units—pounds per 1,000,000 pounds of cadmium | |
| Cadmium | 0.92 | 0.41 |
| Nickel | 5.18 | 3.43 |
| Zinc | 3.94 | 1.65 |
| Cobalt | 0.57 | 0.24 |
| Oil and grease | 54.00 | 32.40 |
| TSS | 111.00 | 52.65 |
| pH | (1) | (1) |

(1) Within the range of 7.5 to 10.0 at all times.

(2) Subpart A—Electrodeposited Anodes.

BPT Effluent Limitations

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of cadmium | |
| | English units—pounds per 1,000,000 pounds of cadmium | |
| Cadmium | 237.0 | 104.6 |
| Nickel | 1,338.2 | 885.2 |
| Zinc | 1,017.6 | 425.2 |
| Cobalt | 146.4 | 62.7 |
| Oil and grease | 13,940.0 | 8,364.0 |
| TSS | 28,577.0 | 13,592.0 |
| pH | (1) | (1) |

(1) Within the range of 7.5 to 10.0 at all times.

(3) Subpart A—Impregnated Anodes.

BPT Effluent Limitations

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of cadmium | |
| | English units—pounds per 1,000,000 pounds of cadmium | |
| Cadmium | 339.3 | 149.7 |
| Nickel | 1,916.2 | 1,267.5 |
| Zinc | 1,457.1 | 608.8 |
| Cobalt | 209.6 | 89.8 |
| Oil and grease | 19,960.0 | 11,976.0 |
| TSS | 40,918.0 | 19,461.0 |
| pH | (1) | (1) |

(1) Within the range of 7.5 to 10.0 at all times.

(4) Subpart A—Nickel Electrodeposited Cathodes.

BPT Effluent Limitations

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of nickel applied | |
| | English units—pounds per 1,000,000 pounds of nickel applied | |
| Cadmium | 193.5 | 85.4 |
| Nickel | 1,092.5 | 722.6 |
| Zinc | 830.7 | 347.1 |
| Cobalt | 119.5 | 51.2 |
| Oil and grease | 11,380.0 | 6,828.0 |
| TSS | 23,329.0 | 11,095.5 |
| pH | (1) | (1) |

(1) Within the range of 7.5 to 10.0 at all times.

(5) Subpart A—Nickel Impregnated Cathodes.

BPT EFFLUENT LIMITATIONS

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of nickel applied | |
| | English units—pounds per 1,000,000 pounds of nickel applied | |
| Cadmium | 557.6 | 246.0 |
| Nickel | 3,148.8 | 2,082.8 |
| Zinc | 2,394.4 | 1,000.4 |
| Cobalt | 344.4 | 147.6 |
| Oil and grease | 32,800.0 | 19,680.0 |
| TSS | 67,240.0 | 31,980.0 |
| pH | (1) | (1) |

[1] Within the range of 7.5 to 10.0 at all times.

(6) Subpart A—Miscellaneous Wastewater Streams.

BPT EFFLUENT LIMITATIONS

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of cells produced | |
| | English units—pounds per 1,000,000 pounds of cells produced | |
| Cadmium | 6.29 | 2.77 |
| Nickel | 35.54 | 23.50 |
| Zinc | 27.02 | 11.29 |
| Cobalt | 3.89 | 1.66 |
| Oil and grease | 370.20 | 222.12 |
| TSS | 758.91 | 360.94 |
| pH | (1) | (1) |

[1] Within the range of 7.5 to 10.0 at all times.

(7) Subpart A—Cadmium Powder Production.

BPT EFFLUENT LIMITATIONS

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of cadmium powder produced | |
| | English units—pounds per 1,000,000 pounds of cadmium powder produced | |
| Cadmium | 22.34 | 9.86 |
| Nickel | 126.14 | 83.44 |
| Zinc | 95.92 | 40.08 |
| Cobalt | 13.80 | 5.91 |
| Oil and grease | 1,314.00 | 788.40 |
| TSS | 2,693.00 | 1,281.20 |
| pH | (1) | (1) |

[1] Within the range of 7.5 to 10.0 at all times.

(8) Subpart A—Silver Powder Production.

BPT EFFLUENT LIMITATIONS

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of silver powder produced | |
| | English units—pounds per 1,000,000 pounds of silver powder produced | |
| Cadmium | 7.21 | 3.18 |

BPT EFFLUENT LIMITATIONS—Continued

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| Nickel | 40.70 | 26.92 |
| Silver | 8.69 | 3.61 |
| Zinc | 30.95 | 12.93 |
| Cobalt | 4.45 | 1.91 |
| Oil and grease | 424.00 | 254.40 |
| TSS | 869.20 | 413.40 |
| pH | (1) | (1) |

[1] Within the range of 7.5 to 10.0 at all times.

(9) Subpart A—Cadmium Hydroxide Production.

BPT EFFLUENT LIMITATIONS

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of cadmium used | |
| | English units—pounds per 1,000,000 pounds of cadmium used | |
| Cadmium | 0.31 | 0.14 |
| Nickel | 1.73 | 1.14 |
| Zinc | 1.31 | 0.55 |
| Cobalt | 0.19 | 0.08 |
| Oil and grease | 18.00 | 10.80 |
| TSS | 36.90 | 17.60 |
| pH | (1) | (1) |

[1] Within the range of 7.5 to 10.0 at all times.

(10) Subpart A—Nickel Hydroxide Production.

BPT EFFLUENT LIMITATIONS

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of nickel used | |
| | English units—pounds per 1,000,000 pounds of nickel used | |
| Cadmium | 37.4 | 16.5 |
| Nickel | 211.2 | 139.7 |
| Zinc | 160.6 | 67.1 |
| Cobalt | 23.1 | 9.9 |
| Oil and grease | 2,200.0 | 1,320.0 |
| TSS | 4,510.0 | 2,145.0 |
| pH | (1) | (1) |

[1] Within the range of 7.5 to 10.0 at all times.

(b) There shall be no discharge allowance for process wastewater pollutants from any battery manufacturing operation other than those battery manufacturing operations listed above.

**§ 461.12 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).**

(a) Except as provided in 40 CFR 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable:

(1) Subpart A—Electrodeposited Anodes.

BAT EFFLUENT LIMITATIONS

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of cadmium | |
| | English units—pounds per 1,000,000 pounds of cadmium | |
| Cadmium | 11.95 | 5.27 |
| Nickel | 67.49 | 44.64 |
| Zinc | 51.32 | 21.44 |
| Cobalt | 7.38 | 3.16 |

(2) Subpart A—Impregnated Anodes.

BAT EFFLUENT LIMITATIONS

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of cadmium | |
| | English units—pounds per 1,000,000 pounds of cadmium | |
| Cadmium | 68.0 | 30.0 |
| Nickel | 384.0 | 254.0 |
| Zinc | 292.0 | 122.0 |
| Cobalt | 42.0 | 18.0 |

(3) Subpart A—Nickel Electrodeposited Cathodes.

BAT EFFLUENT LIMITATIONS

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of nickel applied | |
| | English units—pounds per 1,000,000 lb of nickel applied | |
| Cadmium | 11.22 | 4.95 |
| Nickel | 63.36 | 41.91 |
| Zinc | 48.18 | 20.13 |
| Cobalt | 6.93 | 2.97 |

(4) Subpart A—Nickel Impregnated Cathodes.

BAT EFFLUENT LIMITATIONS

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of nickel applied | |
| | English units—pounds per 1,000,000 lb of nickel applied | |
| Cadmium | 68.0 | 30.0 |
| Nickel | 384.0 | 254.0 |
| Zinc | 292.0 | 122.0 |
| Cobalt | 42.0 | 18.0 |

(5) Subpart A—Miscellaneous Wastewater Streams.

BAT Effluent Limitations

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of cells produced | |
| | English units—pounds per 1,000,000 lb of cells produced | |
| Cadmium | 0.79 | 0.35 |
| Nickel | 4.47 | 2.96 |
| Zinc | 3.40 | 1.42 |
| Cobalt | 0.49 | 0.21 |

(6) Subpart A—Cadmium Powder Production.

BAT Effluent Limitations

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of cadmium powder produced | |
| | English units—pounds per 1,000,000 lb of cadmium powder produced | |
| Cadmium | 2.23 | 0.99 |
| Nickel | 12.61 | 8.34 |
| Zinc | 9.59 | 4.01 |
| Cobalt | 1.38 | 0.59 |

(7) Subpart A—Silver Powder Production.

BAT Effluent Limitations

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of silver powder produced | |
| | English units—pounds per 1,000,000 lb of silver powder produced | |
| Cadmium | 1.09 | 0.48 |
| Nickel | 6.16 | 4.08 |
| Silver | 1.32 | 0.55 |
| Zinc | 4.69 | 1.96 |
| Cobalt | 0.67 | 0.29 |

(8) Subpart A—Cadmium Hydroxide Production.

BAT Effluent Limitations

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric Units—mg/kg of cadmium used | |
| | English Units—pounds per 1,000,000 pounds of cadmium used | |
| Cadmium | 0.05 | 0.02 |
| Nickel | 0.27 | 0.18 |
| Zinc | 0.20 | 0.09 |
| Cobalt | 0.03 | 0.01 |

(9) Subpart A—Nickel Hydroxide Production.

BAT Effluent Limitations

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric Units—mg/kg of nickel used | |
| | English Units—pounds per 1,000,000 pounds of nickel used | |
| Cadmium | 5.61 | 2.48 |
| Nickel | 31.58 | 20.96 |
| Zinc | 24.09 | 10.07 |
| Cobalt | 3.47 | 1.49 |

(b) There shall be no discharge allowance for process wastewater pollutants from any battery manufacturing operation other than those battery manufacturing operations listed above.

**§ 461.13 New source performance standards (NSPS).**

(a) The discharge of wastewater pollutants from any new source subject to this subpart shall not exceed the standards set forth below:

(1) Subpart A—Electrodeposited Anodes—NSPS.

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric Units—mg/kg of cadmium | |
| | English Units—pounds per 1,000,000 pounds of cadmium | |
| Cadmium | 7.03 | 2.81 |
| Nickel | 19.33 | 13.01 |
| Zinc | 35.85 | 14.76 |
| Cobalt | 4.92 | 2.46 |
| Oil and Grease | 351.5 | 351.5 |
| TSS | 527.3 | 421.8 |
| pH | (1) | (1) |

(2) Subpart A—Impregnated Anodes—NSPS.

[1] Within the range of 7.5–10.0 at all times.

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric Units—mg/kg of cadmium | |
| | English Units—pounds per 1,000,000 pounds of cadmium | |
| Cadmium | 40.0 | 16.0 |
| Nickel | 110.0 | 74.0 |
| Zinc | 204.0 | 84.0 |
| Cobalt | 28.0 | 14.0 |
| Oil and Grease | 2,000.0 | 2,000.0 |
| TSS | 3,000.0 | 2,400.0 |
| pH | (1) | (1) |

[1] Within the range of 7.5–10.0 at all times.

(3) Subpart A—Nickel Electrodeposited Cathodes—NSPS.

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of nickel applied | |
| | English units—pounds per 1,000,000 pounds of nickel applied | |
| Cadmium | 6.60 | 2.64 |
| Nickel | 18.15 | 12.21 |
| Zinc | 33.66 | 13.86 |
| Cobalt | 4.62 | 2.31 |
| Oil and Grease | 330.0 | 330.0 |
| TSS | 495.0 | 396.0 |
| pH | (1) | (1) |

[1] Within the range of 7.5–10.0 at all times.

(4) Subpart A—Nickel Impregnated Cathodes—NSPS.

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of nickel applied | |
| | English units—pounds per 1,000,000 pounds of nickel applied | |
| Cadmium | 40.0 | 16.0 |
| Nickel | 110.0 | 74.0 |
| Zinc | 204.0 | 84.0 |
| Cobalt | 28.0 | 14.0 |
| Oil and Grease | 2,000.0 | 2,000.0 |
| TSS | 3,000.0 | 2,400.0 |
| pH | (1) | (1) |

[1] Within the range of 7.5–10.0 at all times.

(5) Subpart A—Miscellaneous Wastewater Streams—NSPS.

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of cell producted | |
| | English units—pounds per 1,000,000 pounds of cells produced | |
| Cadmium | 0.47 | 0.19 |
| Nickel | 1.28 | 0.86 |
| Zinc | 2.38 | 0.98 |
| Cobalt | 0.33 | 0.16 |
| Oil and Grease | 23.3 | 23.3 |
| TSS | 35.0 | 28.0 |
| pH | (1) | (1) |

[1] Within the range of 7.5–10.0 at all times.

(6) Subpart A—Cadmium Powder Production—NSPS.

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of cadmium powder produced | |
| | English units—pounds per 1,000,000 pounds of cadmium powder produced | |
| Cadmium | 1.31 | 0.53 |
| Nickel | 3.61 | 2.43 |
| Zinc | 6.70 | 2.76 |
| Cobalt | 0.92 | 0.46 |
| Oil and Grease | 65.70 | 65.70 |
| TSS | 98.55 | 78.84 |
| pH | (1) | (1) |

[1] Within the range of 7.5–10.0 at all times.

(7) Subpart A—Silver Powder Production—NSPS.

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of silver powder produced | |
| | English units—pounds per 1,000,000 pounds of silver powder produced | |
| Cadmium | 0.64 | 0.26 |
| Nickel | 1.77 | 1.19 |
| Silver | 0.93 | 0.39 |
| Zinc | 3.27 | 1.35 |
| Cobalt | 0.45 | 0.22 |
| Oil and Grease | 32.10 | 32.10 |
| TSS | 48.15 | 38.52 |
| pH | (1) | (1) |

[1] Within the range of 7.5–10.0 at all times.

(8) Subpart A—Cadmium Hydroxide Production—NSPS.

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of cadmium used | |
| | English units—pounds per 1,000,000 pounds of cadmium used | |
| Cadmium | 0.028 | 0.011 |
| Nickel | 0.077 | 0.051 |
| Zinc | 0.142 | 0.058 |
| Cobalt | 0.019 | 0.009 |
| Oil and Grease | 1.40 | 1.40 |
| TSS | 2.10 | 1.68 |
| pH | (1) | (1) |

[1] Within the range of 7.5–10.0 at all times.

(9) Subpart A—Nickel Hydroxide Production—NSPS.

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of nickel used | |
| | English units—pounds per 1,000,000 pounds of nickel used | |
| Cadmium | 3.30 | 1.32 |
| Nickel | 9.08 | 6.11 |
| Zinc | 16.83 | 6.93 |
| Cobalt | 2.31 | 1.16 |
| Oil and grease | 165.0 | 165.0 |
| TSS | 247.5 | 198.0 |
| pH | (1) | (1) |

[1] Within the range of 7.5–10.0 at all times.

(b) There shall be no discharge allowance for process wastewater pollutants from any battery manufacturing operation other than those battery manufacturing operations listed above.

**§ 461.14 Pretreatment standards for existing sources. (PSES).**

(a) Except as provided in 40 CFR 403.7 and § 403.13, any existing source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the pretreatment standards for existing sources listed below:

(1) Subpart A—Electrodeposited Anodes.

PSES

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of cadmium | |
| | English units—pounds per 1,000,000 pounds of cadmium | |
| Cadmium | 11.95 | 5.27 |
| Nickel | 67.49 | 44.64 |
| Zinc | 51.32 | 21.44 |
| Cobalt | 7.38 | 3.16 |

(2) Subpart A—Impregnated Anodes.

PSES

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of cadmium | |
| | English units—pounds per 1,000,000 pounds of cadmium | |
| Cadmium | 68.0 | 30.0 |
| Nickel | 384.0 | 254.0 |
| Zinc | 292.0 | 122.0 |
| Cobalt | 42.0 | 18.0 |

(3) Subpart A—Nickel Electrodeposited Cathodes.

PSES

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of nickel applied | |
| | English units—pounds per 1,000,000 pounds of nickel applied | |
| Cadmium | 11.22 | 4.95 |
| Nickel | 63.36 | 41.91 |
| Zinc | 48.18 | 20.13 |
| Cobalt | 6.93 | 2.97 |

(4) Subpart A—Nickel Impregnated Cathodes—PSES.

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of nickel applied | |
| | English Units—pounds per 1,000,000 lb of nickel applied | |
| Cadmium | 68.0 | 30.0 |
| Nickel | 384.0 | 254.0 |
| Zinc | 292.0 | 122.0 |
| Cobalt | 42.0 | 18.0 |

(5) Subpart A—Miscellaneous Wastewater Streams—PSES.

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of cells produced | |
| | English Units—pounds per 1,000,000 lb of cells produced | |
| Cadmium | 0.79 | 0.35 |
| Nickel | 4.47 | 2.96 |
| Zinc | 3.40 | 1.42 |
| Cobalt | 0.49 | 0.21 |

(6) Subpart A—Cadmium Powder Production—PSES.

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of cadmium powder produced | |
| | English Units—pounds per 1,000,000 lb of cadmium powder produced | |
| Cadmium | 2.23 | 0.99 |
| Nickel | 12.61 | 8.34 |
| Zinc | 9.59 | 4.01 |
| Cobalt | 1.38 | 0.59 |

(7) Subpart A—Silver Powder Production—PSES.

| pollutant or Pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric Units—mg/kg of silver powder produced | |
| | English Units—pounds per 1,000,000 lb of silver powder produced | |
| Cadmium | 1.09 | 0.48 |
| Nickel | 6.16 | 4.08 |
| Silver | 1.32 | 0.55 |
| Zinc | 4.69 | 1.96 |
| Cobalt | 0.67 | 0.29 |

(8) Subpart A—Cadmium Hydroxide Production—PSES.

| pollutant or Pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric Units—mg/kg of cadmium used | |
| | English Units—pounds per 1,000,000 lb of cadmium used | |
| Cadmium | 0.05 | 0.02 |
| Nickel | 0.27 | 0.18 |
| Zinc | 0.20 | 0.09 |
| Cobalt | 0.03 | 0.012 |

(9) Subpart A—Nickel Hydroxide Production—PSES.

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric Units—mg/kg of nickel used | |
| | English Units—pounds per 1,000,000 lb of nickel used | |
| Cadmium | 5.61 | 2.48 |

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| Nickel | 31.68 | 20.96 |
| Zinc | 24.09 | 10.07 |
| Cobalt | 3.47 | 1.49 |

(b) There shall be no discharge allowance for process wastewater pollutants from any battery manufacturing operation other than those battery manufacturing operations listed above.

**§ 461.15 Pretreatment standards for new sources (PSNS).**

(a) Except as provided in 40 CFR 403.7 any new source subject to this subpart that introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the pretreatment standards for new sources listed below:

(1) Subpart A—Electrodeposited Anodes—PSNS.

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of cadmium | |
| | English units—pounds per 1,000,000 pounds of cadmium | |
| Cadmium | 7.03 | 2.81 |
| Nickel | 19.33 | 13.01 |
| Zinc | 35.85 | 14.76 |
| Cobalt | 4.92 | 2.46 |

(2) Subpart A—Impregnated Anodes—PSNS.

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of cadmium | |
| | English units—pounds per 1,000,000 pounds of cadmium | |
| Cadmium | 40.0 | 16.0 |
| Nickel | 110.0 | 74.0 |
| Zinc | 204.0 | 84.0 |
| Cobalt | 28.0 | 14.0 |

(3) Subpart A—Nickel Electrodeposited Cathodes—PSNS.

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of nickel applied | |
| | English units—pounds per 1,000,000 pounds of nickel applied | |
| Cadmium | 6.60 | 2.64 |

—Continued

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| Nickel | 18.15 | 12.21 |
| Zinc | 33.66 | 13.86 |
| Cobalt | 4.62 | 2.31 |

(4) Subpart A—Nickel Impregnated Cathodes—PSNS.

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of nickel applied | |
| | English units—pounds per 1,000,000 pounds of nickel applied | |
| Cadmium | 40.0 | 16.0 |
| Nickel | 110.0 | 74.0 |
| Zinc | 204.0 | 84.0 |
| Cobalt | 28.0 | 14.0 |

(5) Subpart A—Miscellaneous Wastewater Streams—PSNS.

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of cells produced | |
| | English units—pounds per 1,000,000 pounds of cells produced | |
| Cadmium | 0.47 | 0.19 |
| Nickel | 1.28 | 0.86 |
| Zinc | 2.38 | 0.98 |
| Cobalt | 0.33 | 0.16 |

(6) Subpart A—Cadmium Powder Production—PSNS.

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average. |
|---|---|---|
| | Metric units—mg/kg of cadmium powder produced | |
| | English units—pounds per 1,000,000 pounds of cadmium powder produced | |
| Cadmium | 1.31 | 0.53 |
| Nickel | 3.61 | 2.43 |
| Zinc | 6.70 | 2.76 |
| Cobalt | 0.92 | 0.46 |

(7) Subpart A—Silver Powder Production—PSNS.

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average. |
|---|---|---|
| | Metric units—mg/kg of silver powder produced | |
| | English units—pounds per 1,000,000 pounds of silver powder produced | |
| Cadmium | 0.64 | 0.26 |
| Nickel | 1.77 | 1.19 |
| Silver | 0.93 | 0.39 |
| Zinc | 3.27 | 1.35 |
| Cobalt | 0.45 | 0.22 |

(8) Subpart A—Cadmium Hydroxide Production—PSNS.

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of cadmium used | |
| | English units—pounds per 1,000,000 pounds of cadmium used | |
| Cadmium | 0.028 | 0.011 |
| Nickel | 0.077 | 0.051 |
| Zinc | 0.142 | 0.058 |
| Cobalt | 0.019 | 0.009 |

(9) Subpart A—Nickel Hydroxide Production—PSNS.

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of nickel used | |
| | English units—pounds per 1,000,000 pounds of nickel used | |
| Cadmium | 3.30 | 1.32 |
| Nickel | 9.08 | 6.11 |
| Zinc | 16.83 | 6.93 |
| Cobalt | 2.31 | 1.16 |

(b) There shall be no discharge allowance for process wastewater pollutants from any battery manufacturing operation other than those battery manufacturing operations listed above.

**§ 461.16 [Reserved]**

## Subpart B—Calcium Subcategory

**§ 461.20 Applicability; description of the calcium subcategory.**

This subpart applies to discharges to waters of the United States and introductions of pollutants into publicly owned treatment works from manufacturing calcium anode batteries.

**§§ 461.21–461.22 [Reserved]**

**§ 461.23 New source performance standards (NSPS).**

(a) The discharge of wastewater pollutants from any new source subject to this subpart shall not exceed the standards set forth below:

(b) There shall be no discharge for process wastewater pollutants from any battery manufacturing operations.

§ 461.24 [Reserved]

**§ 461.25 Pretreatment standards for new sources (PSNS).**

(a) Except as provided in § 403.7 any new source subject to this subpart that introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the pretreatment standards for new sources listed below:

(b) There shall be no discharge for process wastewater pollutants from any battery manufacturing operations.

§ 461.26 [Reserved]

## Subpart C—Lead Subcategory

**§ 461.30 Applicability; description of the lead subcategory.**

This subpart applies to discharges to waters of the United States and introduction of pollutants into publicly owned treatment works from the manufacturing of lead anode batteries.

**§ 461.31 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).**

(a) Except as provided in 40 CFR 125.30–32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available:

(1) Subpart C—Closed Formation—Double Fill, or Fill and Dump.

BPT Effluent Limitations

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of lead used | |
| | English units—pounds per 1,000,000 pounds of lead used | |
| Copper | 0.86 | 0.45 |
| Lead | 0.19 | 0.090 |
| Iron | 0.54 | 0.27 |
| Oil and grease | 9.00 | 5.40 |
| TSS | 18.45 | 8.78 |
| pH | (1) | (1) |

[1] Within the range of 7.5 to 10.0 at all times.

(2) Subpart C—Open Formation—Dehydrated.

BPT Effluent Limitations

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of lead used | |
| | English units—pounds per 1,000,000 pounds of lead used | |
| Copper | 20.99 | 11.05 |
| Lead | 4.64 | 2.21 |
| Iron | 16.13 | 6.74 |
| Oil and grease | 221.00 | 132.60 |
| TSS | 453.05 | 215.47 |
| pH | (1) | (1) |

[1] Within the range of 7.5 to 10.0 at all times.

(3) Subpart C—Open Formation—Wet.

BPT Effluent Limitations

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of lead used | |
| | English units—pounds per 1,000,000 pounds of lead used | |
| Copper | 0.10 | 0.05 |
| Lead | 0.02 | 0.01 |
| Iron | 0.06 | 0.03 |
| Oil and grease | 1.06 | 0.64 |
| TSS | 2.17 | 1.03 |
| pH | (1) | (1) |

[1] Within the range of 7.5 to 10.0 at all times.

(4) Subpart C—Plate Soak.

BPT Effluent Limitations

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of lead used | |
| | English units—pounds per 1,000,000 pounds of lead used | |
| Copper | 0.040 | 0.020 |
| Lead | 0.009 | 0.004 |
| Iron | 0.030 | 0.010 |
| Oil and grease | 0.420 | 0.250 |
| TSS | 0.860 | 0.410 |
| pH | (1) | (1) |

[1] Within the range of 7.5 to 10.0 at all times.

(5) Subpart C—Battery Wash (with Detergent).

BPT Effluent Limitations

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of lead used | |
| | English units—pounds per 1,000,000 pounds of lead used | |
| Copper | 1.71 | 0.90 |
| Lead | 0.38 | 0.18 |
| Iron | 1.08 | 0.55 |
| Oil and grease | 18.00 | 10.80 |
| TSS | 36.90 | 17.55 |
| pH | (1) | (1) |

[1] Within the range of 7.5 to 10.0 at all times.

(6) Subpart C—Battery Wash (Water Only).

BPT Effluent Limitations

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of lead used | |
| | English units—pounds per 1,000,000 pounds of lead used | |
| Copper | 1.12 | 0.59 |
| Lead | 0.25 | 0.12 |
| Iron | 0.71 | 0.36 |
| Oil and grease | 11.80 | 7.08 |
| TSS | 24.19 | 11.51 |
| pH | (1) | (1) |

[1] Within the range of 7.5 to 10.0 at all times.

(7) Subpart C—Direct Chill Lead Casting.

BPT Effluent Limitations

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of lead used | |
| | English units—pounds per 1,000,000 pounds of lead used | |
| Copper | 0.00040 | 0.00020 |
| Lead | 0.00008 | 0.00004 |
| Iron | 0.00020 | 0.00010 |
| Oil and grease | 0.00400 | 0.00200 |
| TSS | 0.00800 | 0.00300 |
| pH | (1) | (1) |

[1] Within the range of 7.5 to 10.0 at all times.

(8) Subpart C—Mold Release Formulation.

BPT Effluent Limitations

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of lead used | |
| | English units—pounds per 1,000,000 pounds of lead used | |
| Copper | 0.011 | 0.006 |
| Lead | 0.002 | 0.001 |
| Iron | 0.007 | 0.004 |
| Oil and grease | 0.120 | 0.072 |
| TSS | 0.246 | 0.117 |
| pH | (1) | (1) |

[1] Within the range of 7.5 to 10.0 at all times.

(9) Subpart C—Truck Wash.

BPT Effluent Limitations

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of lead in trucked batteries | |
| | English units—pounds per 1,000,000 pounds of lead in trucked batteries | |
| Copper | 0.026 | 0.014 |
| Lead | 0.005 | 0.002 |
| Iron | 0.016 | 0.008 |
| Oil and grease | 0.260 | 0.168 |
| TSS | 0.574 | 0.273 |
| pH | (1) | (1) |

[1] Within the range of 7.5 to 10.0 at all times.

(10) Subpart C—Laundry.

BPT Effluent Limitations

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of lead used | |
| | English units—pounds per 1,000,000 pounds of lead used | |
| Copper | 0.21 | 0.11 |
| Lead | 0.05 | 0.02 |
| Iron | 0.13 | 0.07 |
| Oil and grease | 2.18 | 1.31 |
| TSS | 4.47 | 2.13 |
| pH | (1) | (1) |

[1] Within the range of 7.5 to 10.0 at all times.

(11) Subpart C—Miscellaneous Wastewater Streams.

BPT Effluent Limitations

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of lead used | |
| | English units—pounds per 1,000,000 pounds of lead used | |
| Copper | 0.81 | 0.43 |
| Lead | 0.18 | 0.09 |
| Iron | 0.51 | 0.26 |
| Oil and grease | 8.54 | 5.12 |
| TSS | 17.51 | 8.33 |
| pH | (1) | (1) |

[1] Within the range of 7.5 to 10.0 at all times.

(b) There shall be no discharge allowance for process wastewater pollutants from any battery manufacturing operation other than those battery manufacturing operations listed above.

**§ 461.32 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).**

(a) Except as provided in 40 CFR 125.30–32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable:

(1) Subpart C—Open Formation—Dehydrated.

BAT Effluent Limitations

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of lead used | |
| | English units—pounds per 1,000,000 lb of lead used | |
| Copper | 3.19 | 1.68 |
| Lead | 0.71 | 0.34 |

BAT Effluent Limitations—Continued

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| Iron | 2.02 | 1.02 |

(2) Subpart C—Open Formation—Wet.

BAT Effluent Limitations

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of lead used | |
| | English units—pounds per 1,000,000 lb of lead used | |
| Copper | 0.100 | 0.053 |
| Lead | 0.022 | 0.010 |
| Iron | 0.06 | 0.03 |

(3) Subpart C—Plate Soak.

BAT Effluent Limitations

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of lead used | |
| | English units—pounds per 1,000,000 lb of lead used | |
| Copper | 0.039 | 0.021 |
| Lead | 0.008 | 0.004 |
| Iron | 0.030 | 0.010 |

(4) Subpart C—Battery Wash (Detergent).

BAT Effluent Limitations

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of lead used | |
| | English units—pounds per 1,000,000 lb of lead used | |
| Copper | 0.86 | 0.45 |
| Lead | 0.19 | 0.09 |
| Iron | 0.54 | 0.27 |

(5) Subpart C—Direct Chill Lead Casting.

BAT Effluent Limitations

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of lead used | |
| | English units—pounds per 1,000,000 lb of lead used | |
| Copper | 0.0004 | 0.0002 |
| Lead | 0.00008 | 0.00004 |
| Iron | 0.0002 | 0.0001 |

(6) Subpart C—Mold Release Formulation.

BAT Effluent Limitations

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of lead used | |
| | English units—pounds per 1,000,000 lb of lead used | |
| Copper | 0.011 | 0.006 |
| Lead | 0.002 | 0.001 |
| Iron | 0.007 | 0.003 |

(7) Subpart C—Truck Wash.

BAT Effluent Limitations

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of lead in trucked batteries | |
| | English units—pounds per 1,000,000 lb of lead in trucked batteries | |
| Copper | 0.026 | 0.014 |
| Lead | 0.005 | 0.002 |
| Iron | 0.016 | 0.008 |

(8) Subpart C—Laundry.

BAT Effluent Limitations

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of lead used | |
| | English units—pounds per 1,000,000 pounds of lead used | |
| Copper | 0.21 | 0.11 |
| Lead | 0.05 | 0.02 |
| Iron | 0.13 | 0.07 |

(9) Subpart C—Miscellaneous Wastewater Streams.

BAT Effluent Limitations

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of lead used | |
| | English units—pounds per 1,000,000 pounds of lead used | |
| Copper | 0.58 | 0.31 |
| Lead | 0.13 | 0.06 |
| Iron | 0.37 | 0.19 |

(b) There shall be no discharge allowance for process wastewater pollutants from any battery manufacturing operation other than those battery manufacturing operations listed above.

**§ 461.33 New source performance standards (NSPS).**

(a) The discharge of wastewater pollutants from any new source subject

to this subpart shall not exceed the standards set forth below:

(1) Subpart C—Open Formation—Dehydrated—NSPS.

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of lead used | |
| | English units—pounds per 1,000,000 lb of lead used | |
| Copper | 2.15 | 1.02 |
| Lead | 0.47 | 0.21 |
| Iron | 2.01 | 1.02 |
| Oil and grease | 16.80 | 16.80 |
| TSS | 25.20 | 20.16 |
| pH | (1) | (1) |

[1] Within the limits of 7.5 to 10.0 at all times.

(2) Subpart C—Open Formation—Wet—NSPS.

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of lead used | |
| | English units—pounds per 1,000,000 lb of lead used | |
| Copper | 0.067 | 0.032 |
| Lead | 0.014 | 0.006 |
| Iron | 0.063 | 0.032 |
| Oil and grease | 0.53 | 0.53 |
| TSS | 0.80 | 0.64 |
| pH | (1) | (1) |

[1] Within the limits of 7.5 to 10.0 at all times.

(3) Subpart C—Plate Soak—NSPS.

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of lead used | |
| | English units—pounds per 1,000,000 pounds of lead used | |
| Copper | 0.026 | 0.012 |
| Lead | 0.005 | 0.002 |
| Iron | 0.025 | 0.012 |
| Oil and grease | 0.21 | 0.21 |
| TSS | 0.32 | 0.25 |
| pH | (1) | (1) |

[1] Within the limits of 7.5 to 10.0 at all times.

(4) Subpart C—Battery Wash (Detergent)—NSPS.

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of lead used | |
| | English units—pounds per 1,000,000 pounds of lead used | |
| Copper | 0.576 | 0.274 |
| Lead | 0.126 | 0.058 |
| Iron | 0.540 | 0.274 |
| Oil and grease | 4.50 | 4.50 |
| TSS | 6.75 | 5.40 |
| pH | (1) | (1) |

[1] Within the limits of 7.5 to 10.0 at all times.

(5) Subpart C—Direct Chill Lead Casting—NSPS.

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of lead used | |
| | English units—pounds per 1,000,000 pounds of lead used | |
| Copper | 0.000256 | 0.000122 |
| Lead | 0.000056 | 0.000026 |
| Iron | 0.000240 | 0.000122 |
| Oil and grease | 0.0020 | 0.0020 |
| TSS | 0.0030 | 0.0024 |
| pH | (1) | (1) |

[1] Within the limits of 7.5 to 10.0 at all times.

(6) Subpart C—Mold Release Formulation—NSPS.

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of lead used | |
| | English units—pounds per 1,000,000 pounds of lead used | |
| Copper | 0.0077 | 0.0037 |
| Lead | 0.0017 | 0.0008 |
| Iron | 0.0072 | 0.0037 |
| Oil and grease | 0.060 | 0.060 |
| TSS | 0.090 | 0.072 |
| pH | (1) | (1) |

[1] Within the limits of 7.5 to 10.0 at all times.

(7) Subpart C—Truck Wash—NSPS.

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of lead in trucked batteries | |
| | English units—pounds per 1,000,000 lb of lead in trucked batteries | |
| Copper | 0.006 | 0.003 |
| Lead | 0.001 | 0.0007 |
| Iron | 0.006 | 0.003 |
| Oil and grease | 0.050 | 0.050 |
| TSS | 0.075 | 0.060 |
| pH | (1) | (1) |

[1] Within the limits of 7.5 to 10.0 at all times.

(8) Subpart C—Laundry—NSPS.

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of lead used | |
| | English units—pounds per 1,000,000 lb of lead used | |
| Copper | 0.14 | 0.07 |
| Lead | 0.03 | 0.01 |
| Iron | 0.13 | 0.07 |
| Oil and grease | 1.09 | 1.09 |
| TSS | 1.64 | 1.31 |
| pH | (1) | (1) |

[1] Within the limits of 7.5 to 10.0 at all times.

(9) Subpart C—Miscellaneous Wastewater Streams—NSPS.

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of lead used | |
| | English units—pounds per 1,000,000 lb of lead used | |
| Copper | 0.39 | 0.19 |
| Lead | 0.085 | 0.039 |
| Iron | 0.37 | 0.19 |
| Oil and grease | 3.07 | 3.07 |
| TSS | 4.61 | 3.69 |
| pH | (1) | (1) |

[1] Within the limits of 7.5 to 10.0 at all times.

(b) There shall be no discharge allowance for process wastewater pollutants from any battery manufacturing operation other than those battery manufacturing operations listed above.

**§ 461.34 Pretreatment standards for existing sources (PSES).**

(a) Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart that introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the pretreatment standards for existing sources listed below:

(1) Subpart C—Open Formation—Dehydrated—PSES.

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of lead used | |
| | English units—pounds per 1,000,000 lb of lead used | |
| Copper | 3.19 | 1.68 |
| Lead | 0.71 | 0.34 |

(2) Subpart C—Open Formation—Wet—PSES.

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of lead used | |
| | English units—pounds per 1,000,000 lb of lead used | |
| Copper | 0.100 | 0.053 |
| Lead | 0.022 | 0.010 |

(3) Subpart C—Plate Soak—PSES.

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of lead used | |
| | English units—pounds per 1,000,000 lb of lead used | |
| Copper | 0.039 | 0.021 |
| Lead | 0.008 | 0.004 |

(4) Subpart C—Battery Wash—Detergent—PSES.

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of lead used | |
| | English units—pounds per 1,000,000 lb of lead used | |
| Copper | 0.86 | 0.45 |
| Lead | 0.19 | 0.09 |

(5) Subpart C—Direct Chill Lead Casting—PSES.

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of lead used | |
| | English units—pounds per 1,000,000 lb of lead used | |
| Copper | 0.0004 | 0.0002 |
| Lead | 0.00008 | 0.00004 |

(6) Subpart C—Mold Release Formulation—PSES.

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of lead used | |
| | English units—pounds per 1,000,000 lb of lead used | |
| Copper | 0.011 | 0.006 |
| Lead | 0.002 | 0.001 |

(7) Subpart C—Truck Wash—PSES.

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of lead in trucked batteries | |
| | English units—pounds per 1,000,000 pounds of lead in trucked batteries | |
| Copper | 0.026 | 0.014 |
| Lead | 0.005 | 0.002 |

(8) Subpart C—Laundry—PSES.

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of lead used | |
| | English units—pounds per 1,000,000 pounds of lead used | |
| Copper | 0.21 | 0.11 |
| Lead | 0.05 | 0.02 |

(9) Subpart C—Miscellaneous Wastewater Streams—PSES.

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of lead used | |
| | English units—pounds per 1,000,000 pounds of lead used | |
| Copper | 0.58 | 0.31 |
| Lead | 0.13 | 0.06 |

(b) There shall be no discharge allowance for process wastewater pollutants from any battery manufacturing operation other than those battery manufacturing operations listed above.

**§ 461.35 Pretreatment standards for new sources (PSNS).**

(a) Except as provided in § 403.7, any new source subject to this subpart that introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources:

(1) Subpart C—Open Formation—Dehydrated—PSNS.

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of lead used | |
| | English units—pounds per 1,000,000 pounds of lead used | |
| Copper | 2.15 | 1.02 |
| Lead | 0.47 | 0.21 |

(2) Subpart C—Open Formation—Wet—PSNS.

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of lead used | |
| | English units—pounds per 1,000,000 pounds of lead used | |
| Copper | 0.067 | 0.032 |
| Lead | 0.014 | 0.006 |

(3) Subpart C—Plate Soak—PSNS.

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of lead used | |
| | English units—pounds per 1,000,000 pounds of lead used | |
| Copper | 0.026 | 0.012 |
| Lead | 0.005 | 0.002 |

(4) Subpart C—Battery Wash—Detergent—PSNS.

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of lead used | |
| | English units—pounds per 1,000,000 lb of lead used | |
| Copper | 0.576 | 0.274 |
| Lead | 0.126 | 0.058 |

(5) Subpart C—Direct Chill Lead Casting—PSNS.

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of lead used | |
| | English units—pounds per 1,000,000 lb of lead used | |
| Copper | 0.000256 | 0.000122 |
| Lead | 0.000056 | 0.000026 |

(6) Subpart C—Mold Release Formulation—PSNS.

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of lead used | |
| | English units—pounds per 1,000,000 lb of lead used | |
| Copper | 0.007 | 0.0037 |
| Lead | 0.0017 | 0.0008 |

(7) Subpart C—Truck Wash—PSNS.

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of lead in trucked batteries | |
| | English units—pounds per 1,000,000 pounds of lead in trucked batteries | |
| Copper | 0.006 | 0.003 |
| Lead | 0.001 | 0.0007 |

(8) Subpart C—Laundry—PSNS.

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of lead used | |
| | English units—pounds per 1,000,000 pounds of lead used | |
| Copper | 0.14 | 0.07 |
| Lead | 0.03 | 0.01 |

(9) Subpart C—Miscellaneous Wastewater Streams—PSNS.

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of lead used | |
| | English units—pounds per 1,000,000 pounds of lead used | |
| Copper | 0.39 | 0.19 |
| Lead | 0.085 | 0.039 |

(b) There shall be no discharge allowance for process wastewater pollutants from any battery manufacturing operations other than those battery manufacturing operations listed above.

**§ 461.36 [Reserved]**

## Subpart D—Leclanche Subcategory

**§ 461.40 Applicability; description of the Leclanche subcategory.**

This subpart applies to discharges to waters of the United States, and introductions of pollutants into publicly owned treatment works from manufacturing Leclanche type batteries (zinc anode batteries with acid electrolyte).

**§ 461.41–461.42 [Reserved]**

**§ 461.43 New source performance standards (NSPS).**

(a) The discharge of wastewater pollutants from any new source subject to this subpart shall not exceed the standards set forth below:

(1) Subpart D—Foliar Battery Miscellaneous Wash—NSPS.

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of cells produced | |
| | English units—pounds per 1,000,000 lb of cells produced | |
| Mercury | 0.010 | 0.004 |
| Zinc | 0.067 | 0.030 |
| Manganese | 0.019 | 0.015 |
| Oil and grease | 0.66 | 0.66 |
| TSS | 0.99 | 0.79 |
| pH | (1) | (1) |

[1] Within the range of 7.5 to 10.0 at all times.

(b) There shall be no discharge allowance for process wastewater pollutants from any battery manufacturing operation other than those battery manufacturing operations listed above.

**§ 461.44 Pretreatment standards for existing sources (PSES).**

(a) Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart that introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for existing sources listed below:

(1) Subpart D—Foliar Battery Miscellaneous Wash—PSES.

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of cells p:oduced | |
| | English units—pounds per 1,000,000 pounds of cells produced | |
| Mercury | 0.10 | 0.004 |
| Zinc | 0.067 | 0.030 |
| Manganese | 0.019 | 0.015 |

(b) There shall be no discharge allowance for process wastewater pollutants from any battery manufacturing operation other than those battery manufacturing operations listed above.

**§ 461.45 Pretreatment standards for new sources (PSNS).**

(a) Except as provided in § 403.7 any new source subject to this subpart that introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources listed below.

(1) Subpart D—Foliar Battery Miscellaneous Wash—PSNS.

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of cells produced | |
| | English units—pounds per 1,000,000 pounds of cells produced | |
| Mercury | 0.010 | 0.004 |
| Zinc | 0.067 | 0.030 |
| Manganese | 0.019 | 0.015 |

(b) There shall be no discharge allowance for process wastewater pollutants from any battery manufacturing operation other than those battery manufacturing operations listed above.

**§ 461.46 [Reserved]**

## Subpart E—Lithium Subcategory

**§ 461.50 Applicability; description of the lithium subcategory.**

This subpart applies to discharges to waters of the United States and introduction of pollutants into publicly owned treatment works from the manufacturing of lithium anode batteries.

**§§ 461.51–461.52 [Reserved]**

**§ 461.53 New Source performance standards (NSPS).**

(a) The discharge of wastewater pollutants from any new source subject to this subpart shall not exceed the standards set forth below:

(1) Subpart E—Lead Iodide Cathodes—NSPS.

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of lead | |
| | English units—pounds per 1,000,000 pounds of lead | |
| Chromium | 23.34 | 9.46 |
| Lead | 17.66 | 8.20 |
| Iron | 75.70 | 38.48 |
| TSS | 946.2 | 756.96 |
| pH | (1) | (1) |

[1] Within the range of 7.5–10.0 at all times.

(2) Subpart E—Iron Disulfide Cathodes—NSPS.

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of iron disulfide | |
| | English units—pounds per 1,000,000 pounds of iron disulfide | |
| Chromium | 2.79 | 1.13 |
| Lead | 2.11 | 0.98 |
| Iron | 9.05 | 4.60 |
| TSS | 113.1 | 90.5 |
| pH | (1) | (1) |

[1] Within the range of 7.5–10.0 at all times.

(3) Subpart E—Miscellaneous Wastewater Streams—NSPS.

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of cells produced | |
| | English units—pounds per 1,000,000 pounds of cells produced | |
| Chromium | 0.039 | 0.016 |
| Lead | 0.030 | 0.014 |
| Iron | 0.129 | 0.066 |
| TSS | 1.62 | 1.30 |
| pH | (1) | (1) |

[1] Within the range of 7.5–10.0 at all times.

(4) Subpart E—Air Scrubbers—NSPS.

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of cells produced | |
| | English units—pounds per 1,000,000 pounds of cells produced | |
| TSS | 434.0 | 207.0 |
| pH | (1) | (1) |

[1] Within the range of 7.5–10.0 at all times.

(b) There shall be no discharge allowance for process wastewater pollutants from any battery manufacturing operation other than those battery manufacturing operations listed above.

**§ 461.54 [Reserved]**

**§ 461.55 Pretreatment standards for new sources (PSNS).**

(a) Except as provided in § 403.7 any new source subject to this subpart that introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources listed below:

(1) Subpart E—Lead Iodide Cathodes—PSNS.

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of lead | |
| | English units—pounds per 1,000,000 pounds of lead | |
| Chromium | 23.34 | 9.46 |
| Lead | 17.66 | 8.20 |

(2) Subpart E—Iron Disulfide Cathodes—PSNS.

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of iron disulfide | |
| | English units—pounds per 1,000,000 pounds of iron disulfide | |
| Chromium | 2.79 | 1.13 |
| Lead | 2.11 | 0.98 |

(3) Subpart E—Miscellaneous Wastewater Streams—PSNS.

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of cells produced | |
| | English units—pounds per 1,000,000 pounds of cells produced | |
| Chromium | 0.039 | 0.016 |
| Lead | 0.030 | 0.014 |

(b) There shall be no discharge allowance for process wastewater pollutants from any battery manufacturing operation other than those battery manufacturing operations listed above.

**§ 461.56 [Reserved]**

## Subpart F—Magnesium Subcategory

**§ 461.60 Applicability; description of the magnesium subcategory.**

This subpart applies to discharges to waters of the United States and introduction of pollutants into publicly owned treatment works from the manufacturing of magnesium anode batteries.

**§ 461.61–461.62 [Reserved]**

**§ 461.63 New source performance standards (NSPS).**

(a) The discharge of wastewater pollutants from any new source subject to this subpart shall not exceed the standards set forth below:

(1) Subpart F—Silver Chloride Cathodes—Chemically Reduced—NSPS.

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of silver processed | |
| | English units—pounds per 1,000,000 lb of silver processed | |
| Lead | 22.93 | 10.65 |
| Silver | 23.75 | 9.83 |
| Iron | 98.28 | 49.96 |
| TSS | 1,228.5 | 982.8 |
| COD | 4,095.0 | 1,999.0 |
| pH | (1) | (1) |

[1] Within the range of 7.5–10.0 at all times.

(2) Subpart F—Silver Chloride Cathodes—Electrolytic—NSPS.

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of silver processed | |
| | English units—pounds per 1,000,000 lb of silver processed | |
| Lead | 40.6 | 18.9 |
| Silver | 42.1 | 17.4 |
| Iron | 174.0 | 88.5 |
| TSS | 2,175.0 | 1,740.0 |
| COD | 7,250.0 | 3,540.0 |
| pH | (1) | (1) |

[1] Within the range of 7.5–10.0 at all times.

(3) Subpart F—Cell Testing—NSPS.

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of cells produced | |
| | English units—pounds per 1,000,000 lb of cells produced | |
| Lead | 19.5 | 7.89 |
| Silver | 15.3 | 6.31 |

—Continued

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| Iron | 63.1 | 32.1 |
| TSS | 789.0 | 631.2 |
| COD | 2,630.0 | 1,290.0 |
| pH | (1) | (1) |

[1] Within the range of 7.5–10.0 at all times.

(4) Subpart F—Floor and Equipment Wash—NSPS.

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of cells produced | |
| | English units—pounds per 1,000,000 lb of cells produced | |
| Lead | 0.026 | 0.012 |
| Silver | 0.027 | 0.011 |
| Iron | 0.112 | 0.057 |
| COD | 4.70 | 2.30 |
| TSS | 1.41 | 1.13 |
| pH | (1) | (1) |

[1] Within the range of 7.5–10.0 at all times.

(5) Subpart F—Air Scrubber—NSPS.

BAT Effluent Limitations

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of cells produced | |
| | English units—pounds per 1,000,000 lb of cells produced | |
| TSS | 8,467.0 | 4,030.0 |
| pH | (1) | (1) |

[1] Within the range of 7.5–10.0 at all times.

(b) There shall be no discharge allowance for process wastewater pollutants from any battery manufacturing operation other than those battery manufacturing operations listed above.

**§ 461.64 Pretreatment standards for existing sources (PSES).**

(a) Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart that introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for existing sources listed below:

(1) Subpart F—Silver Chloride Cathodes—Chemically Reduced—PSES.

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of silver processed | |
| | English units—pounds per 1,000,000 pounds of silver processed | |
| Lead | 1,032.36 | 491.60 |
| Silver | 1,007.78 | 417.86 |

(2) Subpart F—Silver Chloride Cathodes—Electrolytic—PSES.

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of silver processed | |
| | English units—pounds per 1,000,000 pounds of silver processed | |
| Lead | 60.9 | 29.0 |
| Silver | 59.5 | 24.7 |

(3) Subpart F—Cell Testing—PSES.

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of cells produced | |
| | English units—pounds per 1,000,000 pounds of cells produced | |
| Lead | 22.1 | 10.5 |
| Silver | 21.6 | 8.9 |

(4) Subpart F—Floor and Equipment Wash—PSES.

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of cells produced | |
| | English units—pounds per 1,000,000 pounds of cells produced | |
| Lead | 0.039 | 0.018 |
| Silver | 0.038 | 0.015 |

(b) There shall be no discharge allowance for process wastewater pollutants from any battery manufacturing operation other than those battery manufacturing operations listed above.

**§ 461.65 Pretreatment standards for new sources (PSNS).**

(a) Except as provided in § 403.7 any new source subject to this subpart that introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources listed below:

(1) Subpart F—Silver Chloride Cathodes—Chemically Reduced—PSNS.

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of silver processed | |
| | English units—pounds per 1,000,000 pounds of silver processed | |
| Lead | 22.93 | 10.65 |
| Silver | 23.75 | 9.83 |

(2) Subpart F—Silver Chloride Cathodes—Electrolytic PSNS.

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of silver processed | |
| | English units—pounds per 1,000,000 pounds of silver processed | |
| Lead | 40.6 | 18.9 |
| Silver | 42.1 | 17.4 |

(3) Subpart F—Cell Testing—PSNS.

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of cells produced | |
| | English units—pounds per 1,000,000 pounds of cells produced | |
| Lead | 19.5 | 7.89 |
| Silver | 15.3 | 6.31 |

(4) Subpart F—Floor and Equipment Wash—PSNS.

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of cells produced | |
| | English units—pounds per 1,000,000 pounds of cells produced | |
| Lead | 0.026 | 0.012 |
| Silver | 0.027 | 0.011 |

(b) There shall be no discharge allowance for process wastewater pollutants from any battery manufacturing operation other than those battery manufacturing operations listed above.

**§ 461.66 [Reserved]**

## Subpart G—Zinc Subcategory

**§ 461.70 Applicability; description of the zinc subcategory.**

This subpart applies to discharges to waters of the United States, and introductions of pollutants into publicly owned treatment works from the manufacturing of zinc anode batteries.

**§ 461.71 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).**

(a) Except as provided in 40 CFR 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available:

(1) Subpart G—Wet Amalgamated Powder Anodes.

BPT Effluent Limitations

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of zinc | |
| | English units—pounds per 1,000,000 lb of zinc | |
| Chromium | 1.67 | 0.68 |
| Mercury | 0.95 | 0.38 |
| Silver | 1.56 | 0.65 |
| Zinc | 5.55 | 2.32 |
| Manganese | 2.58 | 1.10 |
| Oil and grease | 76.0 | 45.6 |
| TSS | 155.8 | 74.1 |
| pH | (1) | (1) |

Within the range of 7.5—10.0 at all times.

(2) Subpart G—Gelled Amalgam Anodes.

BPT Effluent Limitations

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of zinc | |
| | English units—pounds per 1,000,000 lb of zinc | |
| Chromium | 0.30 | 0.12 |
| Mercury | 0.17 | 0.07 |
| Silver | 0.28 | 0.12 |
| Zinc | 0.99 | 0.42 |
| Manganese | 0.46 | 0.20 |
| Oil and grease | 13.6 | 8.16 |
| TSS | 27.9 | 13.26 |
| pH | (1) | (1) |

Within the range of 7.5—10.0 at all times.

(3) Subpart G—Zinc Oxide, Formed Anodes.

BPT Effluent Limitations

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of zinc | |
| | English units—pounds per 1,000,000 pounds of zinc | |
| Chromium | 62.9 | 25.7 |
| Mercury | 35.8 | 14.3 |
| Silver | 58.7 | 24.3 |
| Zinc | 208.8 | 87.2 |
| Manganese | 97.2 | 41.5 |
| Oil and grease | 2,860.0 | 1,716.0 |
| TSS | 5,863.0 | 2,789.0 |
| pH | (1) | (1) |

[1] Within the range of 7.5–10.0 at all times.

(4) Subpart G—Electrodeposited Anodes.

BPT Effluent Limitations

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of zinc deposited | |
| | English units—pounds per 1,000,000 pounds of zinc deposited | |
| Chromium | 1,404.0 | 574.0 |
| Mercury | 798.0 | 319.0 |
| Silver | 1,308.0 | 543.0 |
| Zinc | 4,657.0 | 1,946.0 |
| Manganese | 2,169.0 | 925.0 |
| Oil and grease | 63,800.0 | 38,280.0 |
| TSS | 130,700.0 | 62,210.0 |
| pH | (1) | (1) |

[1] Within the range of 7.5–10.0 at all times.

(5) Subpart G—Silver Powder, Formed Cathodes.

BPT Effluent Limitations

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of silver applied | |
| | English units—pounds per 1,000,000 pounds of silver applied | |
| Chromium | 86.2 | 35.3 |
| Mercury | 49.0 | 19.6 |
| Silver | 80.4 | 33.3 |
| Zinc | 286.2 | 119.6 |
| Manganese | 133.3 | 56.8 |
| Oil and grease | 3,920.0 | 2,350.0 |
| TSS | 8,036.0 | 3,822.0 |
| pH | (1) | (1) |

[1] Within the range of 7.5–10.0 at all times.

(6) Subpart G—Silver Oxide Powder, Formed Cathodes.

BPT Effluent Limitations

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of silver applied | |
| | English units—pounds per 1,000,000 pounds of silver applied | |
| Chromium | 57.7 | 23.6 |
| Mercury | 32.8 | 13.1 |
| Silver | 53.7 | 22.3 |
| Zinc | 191.3 | 79.9 |
| Manganese | 89.1 | 38.0 |
| Oil and grease | 2,620.0 | 1,570.0 |
| TSS | 5,370.0 | 2,554.0 |
| pH | (1) | (1) |

[1] Within the range of 7.5–10.0 at all times.

(7) Subpart G—Silver Peroxide Cathodes.

BPT Effluent Limitations

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of silver applied | |
| | English units—pounds per 1,000,000 pounds of silver applied | |
| Chromium | 13.8 | 5.65 |
| Mercury | 7.85 | 3.14 |
| Silver | 12.9 | 5.34 |
| Zinc | 45.8 | 19.2 |
| Manganese | 21.4 | 9.11 |
| Oil and Grease | 626.0 | 377.0 |
| TSS | 1,287.0 | 612.0 |
| pH | (1) | (1) |

[1] Within the range of 7.5–10.0 at all times.

(8) Subpart G—Nickel Impregnated Cathodes.

BPT Effluent Limitations

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of nickel applied | |
| | English units—pounds per 1,000,000 pounds of nickel applied | |
| Chromium | 721.6 | 295.2 |
| Mercury | 410.0 | 164.0 |
| Nickel | 3,149.0 | 2,083.0 |
| Silver | 672.4 | 279.0 |
| Zinc | 2,394.4 | 1,000.4 |
| Manganese | 1,115.2 | 475.6 |
| Oil and Grease | 32,800.0 | 19,680.0 |
| TSS | 67,240.0 | 31,980.0 |
| pH | (1) | (1) |

[1] Within the range of 7.5–10.0 at all times.

(9) Subpart G—Miscellaneous Wastewater Streams.

BPT Limitations

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of cells produced | |
| | English units—pounds per 1,000,000 pounds of cells produced | |
| Chromium | 3.85 | 1.58 |
| Cyanide | 2.54 | 1.05 |
| Mercury | 2.19 | 0.88 |
| Nickel | 16.82 | 11.12 |
| Silver | 3.59 | 1.49 |
| Zinc | 12.79 | 5.34 |
| Manganese | 5.96 | 2.54 |
| Oil and Grease | 175.20 | 105.12 |
| TSS | 359.16 | 170.82 |
| pH | (1) | (1) |

[1] Within the range of 7.5–10.0 at all times.

(10) Subpart G—Silver Etch.

BPT Effluent Limitations

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of silver processed | |
| | English units—pounds per 1,000,000 pounds of silver processed | |
| Chromium | 21.6 | 8.84 |
| Mercury | 12.3 | 4.91 |
| Silver | 20.2 | 8.35 |
| Zinc | 71.7 | 30.0 |
| Manganese | 33.4 | 14.3 |
| Oil and Grease | 962.0 | 589.2 |
| TSS | 2,013.1 | 957.5 |
| pH | (1) | (1) |

[1] Within the range of 7.5–10.0 at all times.

(11) Subpart G—Silver Peroxide Production.

BPT Effluent Limitations

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of silver peroxide produced | |
| | English units—pounds per 1,000,000 pounds of silver in silver peroxide produced | |
| Chromium | 23.0 | 9.40 |
| Mercury | 13.1 | 5.22 |
| Silver | 21.4 | 8.88 |
| Zinc | 76.2 | 31.80 |
| Manganese | 35.5 | 15.10 |
| Oil and grease | 1,044.0 | 627.00 |
| TSS | 2,140.0 | 1,018.00 |
| pH | (1) | (1) |

[1] Within the range of 7.5–10.0 at all times.

(12) Subpart G—Silver Powder Production.

BPT Effluent Limitations

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of silver powder produced | |
| | English units—pounds per 1,000,000 pounds of silver powder produced | |
| Chromium | 9.33 | 3.82 |
| Mercury | 5.30 | 2.12 |
| Silver | 8.69 | 3.61 |
| Zinc | 30.95 | 12.93 |
| Manganese | 14.42 | 6.15 |
| Oil and grease | 424.0 | 254.40 |
| TSS | 869.0 | 413.40 |
| pH | (1) | (1) |

[1] Within the range of 7.5–10.0 at all times.

(b) There shall be no discharge allowance for process wastewater pollutants from any battery manufacturing operation other than those battery manufacturing operations listed above.

**§ 461.72 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).**

(a) Except as provided in 40 CFR 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable:

(1) Subpart G—Wet Amalgamated Powder Anodes.

BAT Effluent Limitations

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of zinc | |
| | English units—pounds per 1,000,000 pounds of zinc | |
| Chromium | 0.24 | 0.099 |
| Mercury | 0.14 | 0.055 |
| Silver | 0.23 | 0.093 |
| Zinc | 0.80 | 0.34 |
| Manganese | 0.37 | 0.16 |

(2) Subpart G—Gelled Amalgam Anodes.

BAT Effluent Limitations

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of zinc | |
| | English units—pounds per 1,000,000 pounds of zinc | |
| Chromium | 0.030 | 0.012 |
| Mercury | 0.017 | 0.007 |
| Silver | 0.028 | 0.012 |
| Zinc | 0.099 | 0.042 |
| Manganese | 0.046 | 0.020 |

(3) Subpart G—Zinc Oxide Formed Anodes.

BAT Effluent Limitations

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of zinc | |
| | English units—pounds per 1,000,000 pounds of zinc | |
| Chromium | 9.53 | 3.90 |
| Mercury | 5.42 | 2.17 |
| Silver | 8.89 | 3.68 |
| Zinc | 31.64 | 13.22 |
| Manganese | 14.74 | 6.28 |

(4) Subpart G—Electrodeposited Anodes.

BAT Effluent Limitations

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of Zinc deposited | |
| | English units—pounds per 1,000,000 pounds of zinc deposited | |
| Chromium | 94.47 | 38.65 |
| Mercury | 53.68 | 21.47 |
| Silver | 88.03 | 36.50 |
| Zinc | 313.46 | 130.97 |
| Manganese | 146.00 | 62.26 |

(5) Subpart G—Silver Powder Formed Cathodes.

BAT Effluent Limitations

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of silver applied | |
| | English units—pounds per 1,000,000 pounds of silver applied | |
| Chromium | 13.07 | 5.35 |
| Mercury | 7.43 | 2.97 |
| Silver | 12.18 | 5.05 |
| Zinc | 43.36 | 18.12 |
| Manganese | 20.20 | 8.61 |

(6) Subpart G—Silver Oxide Powder Formed Cathodes.

BAT Effluent Limitations

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of silver applied | |
| | English units—pounds per 1,000,000 pounds of silver applied | |
| Chromium | 8.73 | 3.57 |
| Mercury | 4.96 | 1.99 |
| Silver | 8.14 | 3.37 |
| Zinc | 28.98 | 12.11 |
| Manganese | 13.50 | 5.76 |

(7) Subpart G—Silver Peroxide Cathodes.

BAT Effluent Limitations

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of silver applied | |
| | English units—pounds per 1,000,000 pounds of silver applied | |
| Chromium | 2.09 | 0.87 |
| Mercury | 1.19 | 0.48 |
| Silver | 1.95 | 0.81 |
| Zinc | 6.95 | 2.90 |
| Manganese | 3.24 | 1.38 |

(8) Subpart G—Nickel Impregnated Cathodes.

BAT Effluent Limitations

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of nickel applied | |
| | English units—pounds per 1,000,000 pounds of nickel applied | |
| Chromium | 88.0 | 36.0 |
| Mercury | 50.0 | 20.0 |
| Nickel | 384.0 | 254.0 |
| Silver | 82.0 | 34.0 |
| Zinc | 292.0 | 122.0 |
| Manganese | 136.0 | 58.0 |

(9) Subpart G—Miscellaneous Wastewater Streams.

BAT Effluent Limitations

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of cells produced | |
| | English units—pounds per 1,000,000 pounds of cells produced | |
| Chromium | 0.57 | 0.23 |
| Cyanide | 0.38 | 0.16 |
| Mercury | 0.32 | 0.13 |
| Nickel | 2.48 | 1.64 |
| Silver | 0.53 | 0.22 |
| Zinc | 1.88 | 0.79 |
| Manganese | 0.88 | 0.37 |

(10) Subpart G—Silver Etch.

BAT Effluent Limitations

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of silver processed | |
| | English units—pounds per 1,000,000 pounds of silver processed | |
| Chromium | 3.27 | 1.34 |
| Mercury | 1.86 | 0.74 |
| Silver | 3.05 | 1.26 |
| Zinc | 10.86 | 4.54 |
| Manganese | 5.06 | 2.16 |

(11) Subpart G—Silver Peroxide Production.

BAT Effluent Limitations

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of silver peroxide produced | |
| | English units—pounds per 1,000,000 pounds of silver in silver peroxide produced | |
| Chromium | 3.48 | 1.42 |
| Mercury | 1.98 | 0.79 |
| Silver | 3.24 | 1.34 |
| Zinc | 11.55 | 4.83 |
| Manganese | 5.38 | 2.29 |

(12) Subpart G—Silver Powder Production.

BAT Effluent Limitations

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of silver powder produced | |
| | English units—pounds per 1,000,000 pounds of silver powder produced | |
| Chromium | 1.41 | 0.58 |
| Mercury | 0.80 | 0.32 |
| Silver | 1.32 | 0.55 |
| Zinc | 4.69 | 1.96 |
| Manganese | 2.18 | 0.93 |

(b) There shall be no discharge allowance for process wastewater pollutants from any battery manufacturing operation other than those battery manufacturing operations listed above.

**§ 461.73 New source performance standards. (NSPS).**

(a) The discharge of wastewater pollutants from any new source subject to this subpart shall not exceed the standards set forth below:

(1) Subpart G—Zinc Oxide Formed Anodes—NSPS.

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of zinc | |
| | English units—pounds per 1,000,000 pounds of zinc | |
| Chromium | 4.55 | 1.97 |
| Mercury | 2.82 | 1.19 |
| Silver | 4.55 | 1.97 |
| Zinc | 0.87 | 0.39 |
| Manganese | 6.50 | 4.98 |
| Oil and grease | 216.7 | 216.7 |
| TSS | 325.0 | 260.0 |
| pH | (1) | (1) |

[1] Within the limits of 7.5–10.0 at all times.

(2) Subpart G—Electrodeposited Anodes—NSPS.

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of zinc deposited | |
| | English units—pounds per 1,000,000 pounds of zinc deposited | |
| Chromium | 45.09 | 19.54 |
| Mercury | 27.91 | 11.81 |
| Silver | 45.09 | 19.54 |
| Zinc | 8.59 | 3.86 |
| Manganese | 64.41 | 49.38 |
| Oil and grease | 2,147.00 | 2,147.00 |
| TSS | 3,220.50 | 2,576.40 |
| pH | (1) | (1) |

[1] Within the limits of 7.5–10.0 at all times.

(3) Subpart G—Silver Powder Formed Cathodes—NSPS.

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of silver applied | |
| | English units—pounds per 1,000,000 pounds of silver applied | |
| Chromium | 6.24 | 2.70 |
| Mercury | 3.86 | 1.63 |
| Silver | 6.24 | 2.70 |
| Zinc | 1.19 | 0.53 |
| Manganese | 8.91 | 6.83 |
| Oil & Grease | 297.00 | 297.00 |
| TSS | 445.5 | 356.40 |
| pH | (1) | (1) |

[1] Within the limits of 7.5–10.0 at all times.

(4) Subpart G—Silver Oxide Powder Formed Cathodes—NSPS.

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of silver applied | |
| | English units—pounds per 1,000,000 pounds of silver applied | |
| Chromium | 4.17 | 1.81 |
| Mercury | 2.58 | 1.09 |
| Silver | 4.17 | 1.81 |
| Zinc | 0.79 | 0.36 |
| Manganese | 5.96 | 4.57 |
| Oil & Grease | 198.5 | 198.5 |
| TSS | 297.8 | 238.2 |
| pH | (1) | (1) |

[1] Within the limits of 7.5–10.0 at all times.

(5) Subpart G—Silver Peroxide Cathodes—NSPS.

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of silver applied | |
| | English units—pounds per 1,000,000 pounds of silver applied | |
| Chromium | 1.00 | 0.43 |
| Mercury | 0.62 | 0.26 |
| Silver | 1.00 | 0.43 |
| Zinc | 0.19 | 0.09 |
| Manganese | 1.43 | 1.09 |
| Oil & Grease | 47.6 | 47.6 |
| TSS | 71.4 | 57.1 |
| pH | (1) | (1) |

[1] Within the limits of 7.5–10.0 at all times.

(6) Subpart G—Nickel Impregnated Cathodes—NSPS.

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of nickel applied | |
| | English units—pounds per 1,000,000 pounds of nickel applied | |
| Chromium | 42.0 | 18.2 |
| Mercury | 26.0 | 11.0 |
| Nickel | 42.0 | 18.2 |
| Silver | 42.0 | 18.2 |
| Zinc | 8.0 | 3.6 |
| Manganese | 60.0 | 46.0 |
| Oil & Grease | 2,000.0 | 2,000.0 |
| TSS | 3,000.0 | 2,400.00 |
| pH | (1) | (1) |

[1] Within the limits of 7.5–10.0 at all times.

(7) Subpart G—Miscellaneous Wastewater Streams—NSPS.

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of cells produced | |
| | English units—pounds per 1,000,000 pounds of cells produced | |
| Chromium | 0.27 | 0.12 |
| Cyanide | 0.039 | 0.016 |
| Mercury | 0.17 | 0.07 |
| Nickel | 0.27 | 0.12 |
| Silver | 0.27 | 0.12 |
| Zinc | 0.05 | 0.02 |
| Manganese | 0.39 | 0.30 |
| Oil & Grease | 12.90 | 12.90 |
| TSS | 19.35 | 15.48 |
| pH | (1) | (1) |

[1] Within the limits of 7.5–10.0 at all times.

(8) Subpart G—Silver Etch—NSPS.

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of silver processed | |
| | English units—pounds per 1,000,000 pounds of silver processed | |
| Chromium | 1.56 | 0.68 |
| Mercury | 0.97 | 0.41 |
| Silver | 1.56 | 0.68 |
| Zinc | 0.30 | 0.13 |
| Manganese | 2.23 | 1.71 |
| Oil & Grease | 74.40 | 74.40 |
| TSS | 111.60 | 89.28 |
| pH | (1) | (1) |

[1] Within the limits of 7.5–10.0 at all times.

(9) Subpart G—Silver Peroxide Production—NSPS.

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of silver in silver peroxide produced | |
| | English units—pounds per 1,000,000 pounds of silver in silver peroxide produced | |
| Chromium | 1.66 | 0.72 |
| Mercury | 1.03 | 0.44 |
| Silver | 1.66 | 0.72 |
| Zinc | 0.32 | 0.14 |
| Manganese | 2.37 | 1.62 |
| Oil and grease | 79.10 | 79.10 |
| TSS | 118.65 | 84.92 |
| pH | (1) | (1) |

[1] Within the limits of 7.5–10.0 at all times.

(10) Subpart G—Silver Powder Production—NSPS.

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| pH | (1) | (1) |

[1] Within the limits of 7.5–10.0 at all times.

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of silver powder produced | |
| | English unites—pounds per 1,000,000 pounds of silver powder produced | |
| Chromium | 0.67 | 0.29 |
| Mercury | 0.42 | 0.18 |
| Silver | 0.67 | 0.29 |
| Zinc | 0.13 | 0.06 |
| Manganese | 0.96 | 0.74 |
| Oil and grease | 32.10 | 32.10 |
| TSS | 48.15 | 38.52 |
| pH | (1) | (1) |

(1) Within the limits of 7.5–10.0 at all times.

(b) There shall be no discharge allowance for process wastewater pollutants from any battery manufacturing operation other than those battery manufacturing operations listed above.

**§ 461.74 Pretreatment standards for existing sources (PSES).**

(a) Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart that introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for existing sources:

(1) Subpart G—Wet Amalgamated Powder Anode—PSES.

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of zinc | |
| | English units—pounds per 1,000,000 pounds of zinc | |
| Chromium | 0.24 | 0.099 |
| Mercury | 0.14 | 0.055 |
| Silver | 0.23 | 0.093 |
| Zinc | 0.80 | 0.34 |
| Manganese | 0.37 | 0.16 |

(2) Subpart G—Gelled Amalgam Anodes—PSES.

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of zinc | |
| | English units—pounds per 1,000,000 pounds of zinc | |
| Chromium | 0.030 | 0.12 |
| Mercury | 0.017 | 0.006 |
| Silver | 0.028 | 0.012 |
| Zinc | 0.099 | 0.042 |
| Manganese | 0.046 | 0.020 |

(3) Subpart G—Zinc Oxide Formed Anodes—PSES.

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of zinc | |
| | English units—pounds per 1,000,000 pounds of zinc | |
| Chromium | 9.53 | 3.90 |
| Mercury | 5.42 | 2.17 |
| Silver | 8.89 | 3.68 |
| Zinc | 31.64 | 13.22 |
| Manganese | 14.74 | 6.28 |

(4) Subpart G—Electrodeposited Anodes—PSES.

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of zinc deposited | |
| | English units—pounds per 1,000,000 pounds of zinc deposited | |
| Chromium | 94.47 | 38.65 |
| Mercury | 53.68 | 21.47 |
| Silver | 88.03 | 36.50 |
| Zinc | 313.46 | 130.97 |
| Manganese | 146.00 | 62.26 |

(5) Subpart G—Silver Powder Formed Cathodes—PSES.

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of silver applied | |
| | English units—pounds per 1,000,000 pounds of silver applied | |
| Chromium | 13.07 | 5.35 |
| Mercury | 7.43 | 2.97 |
| Silver | 12.18 | 5.05 |
| Zinc | 43.36 | 18.12 |
| Maganese | 20.20 | 8.61 |

(6) Subpart G—Silver Oxide Powder Formed Cathodes—PSES.

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of silver applied | |
| | English units—pounds per 1,000,000 pounds of silver applied | |
| Chromium | 8.73 | 3.57 |
| Mercury | 4.96 | 1.99 |
| Silver | 8.14 | 3.37 |
| Zinc | 28.98 | 12.11 |
| Manganese | 13.50 | 5.76 |

(7) Subpart G—Silver Peroxide Cathodes—PSES.

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of silver applied | |
| | English units—pounds per 1,000,000 pounds of silver applied | |
| Chromium | 2.09 | 0.87 |
| Mercury | 1.19 | 0.48 |
| Silver | 1.95 | 0.81 |
| Zinc | 6.95 | 2.90 |
| Manganese | 3.24 | 1.38 |

(8) Subpart G—Nickel Impregnated Cathodes—PSES.

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of nickel applied | |
| | English units—pounds per 1,000,000 pounds of nickel applied | |
| Chromium | 86.0 | 36.0 |
| Mercury | 50.0 | 20.0 |
| Nickel | 384.0 | 254.0 |
| Silver | 82.0 | 34.0 |
| Zinc | 292.0 | 122.0 |
| Manganese | 136.0 | 58.0 |

(9) Subpart G—Miscellaneous Wastewater Streams—PSES.

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of cells produced | |
| | English units—pounds per 1,000,000 pounds of cells produced | |
| Chromium | 0.57 | 0.23 |
| Cyanide | 0.38 | 0.16 |
| Mercury | 0.32 | 0.13 |
| Nickel | 2.48 | 1.64 |
| Silver | 0.53 | 0.22 |
| Zinc | 1.88 | 0.79 |
| Manganese | 0.88 | 0.37 |

(10) Subpart G—Silver Etch—PSES.

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of silver processed | |
| | English units—pounds per 1,000,000 pounds of silver processed | |
| Chromium | 3.27 | 1.34 |
| Mercury | 1.86 | 0.74 |
| Silver | 3.05 | 1.26 |
| Zinc | 10.86 | 4.54 |
| Manganese | 5.06 | 2.16 |

(11) Subpart G—Silver Peroxide Production—PSES.

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of silver in silver peroxide produced | |
| | English units—pounds per 1,000,000 pounds of silver in silver peroxide produced | |
| Chromium | 3.48 | 1.42 |
| Mercury | 1.98 | 0.79 |
| Silver | 3.24 | 1.34 |
| Zinc | 11.55 | 4.83 |
| Manganese | 5.38 | 2.29 |

(12) Subpart G—Silver Powder Production—PSES.

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of silver powder produced | |
| | English units—pounds per 1,000,000 pounds of silver powder produced | |
| Chromium | 1.41 | 0.58 |
| Mercury | 0.80 | 0.32 |
| Silver | 1.32 | 0.55 |
| Zinc | 4.69 | 1.96 |
| Manganese | 2.18 | 0.93 |

(b) There shall be no discharge allowance for process wastewater pollutants from any battery manufacturing operation other than those battery manufacturing operations listed above.

**§ 461.75 Pretreatment standards for new sources (PSNS).**

(a) Except as provided in § 403.7 any new source subject to this subpart that introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources listed below:

(1) Subpart G—Zinc Oxide Formed Anodes—PSNS.

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of zinc | |
| | English units—pounds per 1,000,000 pounds of zinc | |
| Chromium | 4.55 | 1.97 |
| Mercury | 2.82 | 1.19 |
| Silver | 4.55 | 1.97 |
| Zinc | 0.87 | 0.39 |
| Manganese | 6.50 | 4.98 |

(2) Subpart G—Electrodeposited Anodes—PSNS.

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of zinc deposited | |
| | English units—pounds per 1,000,000 pounds of zinc deposited | |
| Chromium | 45.09 | 19.54 |
| Mercury | 27.91 | 11.81 |
| Silver | 45.09 | 19.54 |
| Zinc | 8.59 | 3.86 |
| Manganese | 64.41 | 49.38 |

(3) Subpart G—Silver Powder Formed Cathodes—PSNS.

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of silver applied | |
| | English units—pounds per 1,000,000 pounds of silver applied | |
| Chromium | 6.24 | 2.70 |
| Mercury | 3.86 | 1.63 |
| Silver | 6.24 | 2.70 |
| Zinc | 1.19 | 0.53 |
| Manganese | 8.91 | 6.83 |

(4) Subpart G—Silver Oxide Powder Formed Cathodes—PSNS.

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of silver applied | |
| | English units—pounds per 1,000,000 pounds of silver applied | |
| Chromium | 4.17 | 1.81 |
| Mercury | 2.58 | 1.09 |
| Silver | 4.17 | 1.81 |
| Zinc | 0.79 | 0.36 |
| Manganese | 5.96 | 4.57 |

(5) Subpart G—Silver Peroxide Cathodes—PSNS.

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of silver applied | |
| | English units—pounds per 1,000,000 pounds of silver applied | |
| Chromium | 1.00 | 0.43 |
| Mercury | 0.62 | 0.26 |
| Silver | 1.00 | 0.43 |
| Zinc | 0.19 | 0.09 |
| Manganese | 1.43 | 1.09 |

(6) Subpart G—Nickel Impregnated Cathodes —PSNS.

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of nickel applied | |
| | English units—pounds per 1,000,000 pounds of nickel applied | |
| Chromium | 42.0 | 18.2 |
| Mercury | 26.0 | 11.0 |
| Nickel | 42.0 | 18.2 |
| Silver | 42.0 | 18.2 |
| Zinc | 8.0 | 3.6 |
| Manganese | 60.0 | 46.0 |

(7) Subpart G—Miscellaneous Wastewater Streams—PSNS.

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of cells produced | |
| | English units—pounds per 1,000,000 pounds of cell produced | |
| Chromium | 0.27 | 0.12 |
| Cyanide | 0.039 | 0.016 |
| Mercury | 0.17 | 0.07 |
| Nickel | 0.27 | 0.12 |
| Silver | 0.27 | 0.12 |
| Zinc | 0.05 | 0.02 |
| Manganese | 0.39 | 0.30 |

(8) Subpart G—Silver Etch—PSNS.

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of silver processed | |
| | English units—pounds per 1,000,000 pounds of silver processed | |
| Chromium | 1.56 | 0.68 |
| Mercury | 0.97 | 0.41 |
| Silver | 1.56 | 0.68 |
| Zinc | 0.30 | 0.13 |
| Manganese | 2.23 | 1.71 |

(9) Subpart G—Silver Peroxide Production—PSNS.

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of silver peroxide produced | |
| | English units—pounds per 1,000,000 pounds of silver in silver peroxide produced | |
| Chromium | 1.66 | 0.72 |
| Mercury | 1.03 | 0.44 |
| Silver | 1.66 | 0.72 |
| Zinc | 0.32 | 0.14 |
| Manganese | 2.37 | 1.82 |

(10) Subpart G—Silver Powder Production—PSNS.

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | Metric units—mg/kg of silver powder produced | |
| | English units—pounds per 1,000,000 pounds of silver powder produced | |
| Chromium | 0.67 | 0.29 |
| Mercury | 0.42 | 0.18 |
| Silver | 0.67 | 0.29 |
| Zinc | 0.13 | 0.06 |
| Manganese | 0.96 | 0.74 |

(b) There shall be no discharge allowance for process wastewater pollutants from any battery manufacturing operation other than those battery manufacturing operations listed above.

**§ 461.76 [Reserved]**

[FR Doc. 84-6236 Filed 3-8-84; 8:45 am]
BILLING CODE 6560-50-M

federal register

Friday
March 9, 1984

Part V

# Department of Energy

## Federal Energy Regulatory Commission

**Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978; Notice**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Vol. 1079]

### Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: March 5, 1984.

The following notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF).

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the **Federal Register.**

Source data from the Form 121 for this and all previous notices is available on magnetic tape from the National Technical Information Service (NTIS). For information, contact Stuart Weisman (NTIS) at (703) 487–4808, 5285 Port Royal Rd., Springfield, Va 22161.

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.5 Mile rule)
102–3: New well (1000 Ft rule)
102–4: New onshore reservoir
102–5: New reservoir on old OCS lease
Section 107–DP: 15,000 feet or deeper
107–GB: Geopressured brine
107–CS: Coal Seams
107–DV: Devonian Shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation
Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

**Kenneth F. Plumb,**
*Secretary.*

NOTICE OF DETERMINATIONS — VOLUME 1079

March 5, 1984

| JD NO | JA DKT | API NO | D | SEC(1) | SEC(2) | WELL NAME | FIELD NAME | PROD | PURCHASER |
|---|---|---|---|---|---|---|---|---|---|
| COLORADO OIL & GAS COMMISSION | | | | | | | | | |
| -ALTA ENERGY CORP | | | | RECEIVED: | 02/13/84 | JA: CO | | | |
| 8420532 | 83-731 | 0507708532 | | 107-TF | | ALTA DOLLEY #1 | WILDCAT | 60.0 | NORTHWEST PIPELIN |
| -AMOCO PRODUCTION CO | | | | RECEIVED: | 02/13/84 | JA: CO | | | |
| 8420488 | 83-769 | 0500108065 | | 103 | | CHAMPLIN 100 AMOCO "A" #6 | ARROYO | 4.0 | AMOCO PRODUCTION |
| 8420489 | 83-800 | 0501706358 | | 103 | | CHAMPLIN 558 AMOCO "A" #1 | WILDCAT | 367.0 | |
| -BARRETT ENERGY CO | | | | RECEIVED: | 02/13/84 | JA: CO | | | |
| 8420513 | 83-773 | 0512310828 | | 107-TF | | FORT SAINT VRAIN #10 | WATTENBERG | 0.0 | PANHANDLE EASTERN |
| 8420515 | 83-772 | 0512301087 | | 107-TF | | FORT SAINT VRAIN #17 | WATTENBERG | 0.0 | PANHANDLE EASTERN |
| 8420514 | 83-692 | 0512310722 | | 107-TF | | FORT ST VRAIN #14 | WATTENBERG | 0.0 | PANHANDLE EASTERN |
| 8420516 | 83-796 | 0512310941 | | 107-TF | | HIGHLAND #1 | WATTENBERG | 0.0 | PANHANDLE EASTERN |
| 8420517 | 83-691 | 0512310806 | | 107-TF | | KRAUSE #1 | WATTENBERG | 0.0 | PANHANDLE EASTERN |
| 8420518 | 83-693 | 0512310457 | | 107-TF | | M L SWANK #1 | WATTENBERG | 0.0 | PANHANDLE EASTERN |
| -CHAMPLIN PETROLEUM COMPANY | | | | RECEIVED: | 02/13/84 | JA: CO | | | |
| 8420477 | 83-768 | 0501706378 | | 102-2 | | BLEDSOE 14-30 #1 | UNNAMED | 165.0 | |
| 8420490 | 83-764 | 0501706378 | | 103 | | BLEDSOE 14-30 #1 | UNNAMED | 165.0 | |
| 8420491 | 83-802 | 0500108288 | | 103 | | DANFORD 13-31 #1 | HAWKEYE | 1.1 | |
| 8420492 | 83-750 | 0503906248 | | 103 | | J R JOHNSON 31-1 #1 | SONGBIRD | 3.0 | |
| 8420493 | 83-730 | 0500108290 | | 103 | | VETTER 21-2 #2 | CHIEFTAIN | 44.0 | |
| -CITIES SERVICE OIL & GAS CORP | | | | RECEIVED: | 02/13/84 | JA: CO | | | |
| 8420470 | 83-658 | 0512109701 | | 102-2 | | AUSTIN "A" #1 | | 110.0 | NATURAL GAS PIPEL |
| 8420471 | 83-657 | 0512109742 | | 102-2 | | AXSOM "C" #1 | | 73.0 | NATURAL GAS PIPEL |
| 8420472 | 83-656 | 0512109847 | | 102-2 | | MAGGARD "A" #1 | WHITE EAGLE | 30.0 | NATURAL GAS PIPEL |
| 8420473 | 83-655 | 0512109849 | | 102-2 | | MAGGARD "A" #2 | WHITE EAGLE | 15.0 | NATURAL GAS PIPEL |
| 8420474 | 83-654 | 0512109846 | | 102-2 | | MATHIES "A" #2 | DENVER | 60.0 | NATURAL GAS PIPEL |
| 8420475 | 83-654 | 0512109876 | | 102-2 | | MCCREATH "C" #1 | WHITE EAGLE | 28.6 | NATURAL GAS PIPEL |
| 8420476 | 83-652 | 0512109848 | | 102-2 | | SNYDER "A" #1 | WILDCAT | 30.0 | NATURAL GAS PIPEL |
| -CODY NORDELL EXPLORATION INC | | | | RECEIVED: | 02/13/84 | JA: CO | | | |
| 8420529 | 83-481 | 0512310929 | | 107-TF | | BATES #1 | WILDCAT | 0.0 | ASSOCIATED NATURA |
| -COSEKA RESOURCES (USA) LIMITED | | | | RECEIVED: | 02/13/84 | JA: CO | | | |
| 8420478 | 83-727 | 0510309022 | | 102-2 | | COSEKA #3-20-1N-103 | WILDCAT | 219.7 | NORTHWEST PIPELIN |
| -DAMSON OIL CORPORATION | | | | RECEIVED: | 02/13/84 | JA: CO | | | |
| 8420494 | 83-625 | 0503360710 | | 103 | | FEDERAL #2-19 | PAPOOSE CANYON | 200.0 | |
| -DOME PETROLEUM CORP | | | | RECEIVED: | 02/13/84 | JA: CO | | | |
| 8420495 | 83-747 | 0512310899 | | 103 | | DINNER 1-1 | WATTENBERG | 148.9 | PANHANDLE EASTERN |
| 8420496 | 83-746 | 0512310898 | | 103 | | DINNER 6-1 | WATTENBERG | 182.5 | PANHANDLE EASTERN |
| 8420497 | 83-748 | 0512310900 | | 103 | | SCHISSLER 1-1 | WATTENBERG | 174.5 | PANHANDLE EASTERN |
| 8420498 | 83-745 | 0512310888 | | 103 | | WEIDENKELLER 1-1 | WATTENBERG | 309.2 | PANHANDLE EASTERN |
| -ENERGY MINERALS CORPORATION | | | | RECEIVED: | 02/13/84 | JA: CO | | | |
| 8420479 | 83-767 | 0503906443 | | 102-2 | | RUNNING CREEK STATE #1 | CALEDONIA | 22.0 | BUCKEYE NATURAL G |
| -ENSTAR PETROLEUM INC | | | | RECEIVED: | 02/13/84 | JA: CO | | | |
| 8420499 | 83-797 | 0512311034 | | 103 | | HENDERSHOT ET AL 13-11 | GREASEWOOD FLATS | 400.0 | DAMSON GAS PROCES |
| 8420500 | 83-798 | 0512311194 | | 103 | | WILDFONG 9-10 | GREASEWOOD FLATS | 212.0 | DAMSON GAS PROCES |
| -FUEL RESOURCES DEVELOPMENT CO | | | | RECEIVED: | 02/13/84 | JA: CO | | | |
| 8420519 | 83-575 | 0512310643 | | 103 | 107-TF | AVEY #1 | WATTENBERG | 4.0 | PANHANDLE EASTERN |
| -GERBER ENERGY CORP | | | | RECEIVED: | 02/13/84 | JA: CO | | | |
| 8420480 | 83-664 | 0500506834 | | 102-2 | | CARRAWAY-MCCALLAN #1 | CHALICE | 49.6 | NATURAL GAS PIPEL |

BILLING CODE 6717-01-M

| JD NO | JA DKT | API NO | D | SEC(1) | SEC(2) | WELL NAME | FIELD NAME | PROD | PURCHASER |
|---|---|---|---|---|---|---|---|---|---|
| 8420524 | 83-663 | 0500506834 | | 107-TF | | CARRAWAY-MCCALLAN #1 | CHALICE | 49.6 | NATURAL GAS PIPEL |
| 8420481 | 83-666 | 0500506844 | | 102-2 | | CAVANAUGH #4 | CHALICE | 60.6 | NATURAL GAS PIPEL |
| 8420525 | 83-665 | 0500506844 | | 107-TF | | CAVANAUGH #4 | CHALICE | 60.6 | NATURAL GAS PIPEL |
| -GRIFFIN OIL & GAS INC | | | | RECEIVED: | 02/13/84 | JA: CO | | | |
| 8420467 | 83-624 | 0512311245 | | 102-4 | | CARLA #1 | BARBWIRE | 127.0 | DAMSON GAS PROCES |
| 8420482 | 83-794 | 0512311296 | | 102-2 | | DONAGENE #1 | WILDCAT | 73.0 | DAMSON GAS PROCES |
| 8420526 | 83-793 | 0512311296 | | 107-TF | | DONAGENE #1 | WILDCAT - UNNAMED AT | 73.0 | DAMSON GAS PROCES |
| 8420483 | 83-726 | 0500108292 | | 102-2 | | EDNA #1 | HOFFMAN CREEK | 456.0 | KOCH HYDROCARBON |
| 8420468 | 83-629 | 0512311275 | | 102-4 | | GALE #1 | BARBWIRE | 36.0 | DAMSON GAS PROCES |
| 8420469 | 83-623 | 0512301121 | | 102-4 | | GAY #1 | BARBWIRE | 109.0 | DAMSON GAS PROCES |
| 8420484 | 83-725 | 0500105467 | | 102-2 | | JERI #1 | HOFFMAN CREEK | 292.0 | KOCH HYDROCARBON |
| -GULF ENERGY CORP | | | | RECEIVED: | 02/13/84 | JA: CO | | | |
| 8420527 | 83-790 | 0512311000 | | 107-TF | | KAUFFMAN #21-11 | WATTENBERG | 50.0 | DAMSON GAS PROCES |
| -JRC OIL | | | | RECEIVED: | 02/13/84 | JA: CO | | | |
| 8420503 | 83-696 | 0512311117 | | 103 | | OPDYKE/HINKLE #1 | WATTENBERG | 60.0 | PANHANDLE EASTERN |
| -LYNX EXPLORATION CO | | | | RECEIVED: | 02/13/84 | JA: CO | | | |
| 8420504 | 83-620 | 0508707712 | | 103 | | GIVAN #1 | PLAINSMAN | 109.0 | PANTERA ENERGY CO |
| -NATOMAS NORTH AMERICA INC | | | | RECEIVED: | 02/13/84 | JA: CO | | | |
| 8420528 | 83-415 | 0506706544 | | 107-TF | | DUNAVANT 1-15U | IGNACIO BLANCO | 0.0 | EL PASO NATURAL G |
| -NORTHWEST PIPELINE CORPORATION | | | | RECEIVED: | 02/13/84 | JA: CO | | | |
| 8420530 | 83-702 | 0506706443 | | 107-TF | | CARR #1M (DK) | IGNACIO BLANCO DAKOTA | 21.0 | NORTHWEST PIPELIN |
| 8420531 | 83-700 | 0506706451 | | 107-TF | | TIFFANY 2M (DK) | IGNACIO BLANCO DAKOTA | 40.0 | NORTHWEST PIPELIN |
| -ROCK OIL CORP | | | | RECEIVED: | 02/13/84 | JA: CO | | | |
| 8420485 | 83-646 | 0500100000 | | 102-2 | | SILVER DOLLAR-GATTMAN #43-4 | BANNER LAKES | 72.0 | DAMSON GAS PROCES |
| -S K TUTHILL & B J BARBEE | | | | RECEIVED: | 02/13/84 | JA: CO | | | |
| 8420487 | 83-534 | 0509906218 | | 102-2 | | HOLLIS 1-6 | | 109.5 | LAMAR UTILITIES B |
| -SAMUEL GARY OIL PRODUCER | | | | RECEIVED: | 02/13/84 | JA: CO | | | |
| 8420520 | 83-634 | 0500506439 | | 107-TF | | #23-16 BLAUW | RAZOR | 1.6 | BUCKEYE NATURAL G |
| 8420523 | 83-636 | 0500107747 | | 107-TF | | #8-16 TRUPP | BENNETT SE SE 8-T8S-R | 2.7 | PANHANDLE EASTERN |
| 8420501 | 83-638 | 0503906346 | | 103 | | AMOCO #23-16 | RUNNING CREEK | 3.0 | BUCKEYE NATURAL G |
| 8420521 | 83-635 | 0503906368 | | 107-TF | | DAUGHENBAUGH #26-2 | RUNNING CREEK | 14.0 | BUCKEYE NATURAL G |
| 8420502 | 83-639 | 0503900427 | | 103 | | ERICKSON #2-5 | LOWRY | 8.8 | BUCKEYE NATURAL G |
| 8420522 | 83-637 | 0500107668 | | 107-TF | | STATE #36-13 | RADAR SW SW 36-T2S-R6 | 4.8 | PANHANDLE EASTERN |
| -SHEPLER & THOMAS INC | | | | RECEIVED: | 02/13/84 | JA: CO | | | |
| 8420505 | 83-757 | 0512311230 | | 103 | | KINZER 28-1 | WATTENBERG (CODELL) | 35.0 | NATURAL GAS ASSOC |
| 8420506 | 83-649 | 0512311232 | | 103 | | RIEDER 32-1 | WATTENBERG | 0.0 | NATURAL GAS ASSOC |
| 8420507 | 83-651 | 0512311231 | | 103 | | SMITH-REEVES #27-1 | WATTENBERG | 0.0 | NATURAL GAS ASSOC |
| -SOHIO PETROLEUM CO | | | | RECEIVED: | 02/13/84 | JA: CO | | | |
| 8420508 | 83-474 | 0503900000 | | 103 | | HANLON 10-1 | WILDCAT | 5.9 | SUN GAS CO |
| -TRANS-TEXAS ENERGY INC | | | | RECEIVED: | 02/13/84 | JA: CO | | | |
| 8420509 | 83-643 | 0503901283 | | 103 | | COGGINS ET AL #1-10 OGCC#811260 | CALEDONIA | 40.0 | BUCKEYE NATURAL G |
| 8420510 | 83-645 | 0500506478 | | 103 | | KRAUSE-ALBIN #1-20 | FERRET | 72.0 | BUCKEYE NATURAL G |
| 8420511 | 83-642 | 0503906395 | | 103 | | NORDMAN ESTATE #1-10 OGCC#811846 | CALEDONIA | 14.0 | BUCKEYE NATURAL G |
| 8420512 | 83-644 | 0500506509 | | 103 | | STATE #1-34 | BRAVE | 20.0 | BUCKEYE NATURAL G |
| -TXO PRODUCTION CORP | | | | RECEIVED: | 02/13/84 | JA: CO | | | |
| 8420486 | 83-621 | 0509906213 | | 102-2 | | ELLENBERGER "B" #1 | EAST DRY CREEK | 256.0 | MOUNTAIN FUEL SUP |
| ********** | | | | | | | | | |
| LOUISIANA OFFICE OF CONSERVATION | | | | | | | | | |
| ********** | | | | | | | | | |
| -AMOCO PRODUCTION CO | | | | RECEIVED: | 02/13/84 | JA: LA | | | |
| 8420423 | 84-0165 | 1707720312 | | 107-DP | | G G LACOUR #1 17,900 TUSC RA SU P | MORGANZA | 3650.0 | COLUMBIA GAS TRAN |
| 8420430 | 84-0208 | 1705721994 | | 103 | | L ACOSTA #3 | VALENTINE | 18.3 | COLUMBIA GAS TRAN |
| 8420427 | 84-0220 | 1702321336 | | 103 | | MIAMI CORP I R/A C #14 | LITTLE PECAN LAKE | 727.0 | COLUMBIA GAS TRAN |
| -ARKANSAS LOUISIANA GAS CO | | | | RECEIVED: | 02/13/84 | JA: LA | | | |
| 8420424 | 84-0153 | 1706120325 | | 103 | | BARHAM ESTATE #1 HOSS OIL RA SUF | RUSTON | 183.0 | ARKANSAS LOUISIAN |
| -BASS ENTERPRISES PRODUCTION CO | | | | RECEIVED: | 02/13/84 | JA: LA | | | |
| 8420403 | 83-1334 | 1706120231 | | 107-TF | | DAYTON MCGEE #1 CV DAVIS RB SUO | MIDDLEFORK | 90.0 | UNITED GAS PIPE L |
| 8420434 | 83-0702 | 1706120324 | | 107-TF | | JESSE J RISER #1 CV RA SUG | HICO-KNOWLES | 438.0 | UNITED GAS PIPE L |
| 8420455 | 83-0681 | 1702721069 | | 102-4 | 103 | L F GREEN #1 CV DAVIS RB SUHH | MIDDLEFORK | 146.0 | UNITED GAS PIPE L |
| 8420405 | 83-1320 | 1711123544 | | 107-TF | | M R YOUNG #1 CV DAVIS RB SUD | MIDDLEFORK | 164.0 | UNITED GAS PIPE L |
| 8420432 | 83-0706 | 1706120226 | | 107-TF | | MATTIE A TATUM #1 CV RA SUF | HICO-KNOWLES | 109.0 | UNITED GAS PIPE L |
| 8420406 | 83-1314 | 1706120211 | | 107-TF | | P B DREWETT A #1 CV DAVIS RB SUF | MIDDLEFORK | 91.0 | UNITED GAS PIPE L |
| 8420453 | 83-0699 | 1706120234 | | 107-TF | | REX M TATUM #1 CV RA SUE | HICO-KNOWLES | 90.0 | UNITED GAS PIPE L |
| 8420433 | 83-0703 | 1706120218 | | 107-TF | | T S HARKINS #1 CV DAVIS RB SUL | MIDDLEFORK | 145.0 | UNITED GAS PIPE L |
| -BETHLAN PRODUCTION CORP | | | | RECEIVED: | 02/13/84 | JA: LA | | | |
| 8420418 | 84-0140 | 1711123940 | | 103 | | OLIN MATHIESON #5 | MONROE | 0.0 | IMC PIPELINE CO I |
| -COMMONWEALTH ENERGY INC | | | | RECEIVED: | 02/13/84 | JA: LA | | | |
| 8420457 | 84-0113 | 1706721740 | | 103 | | NAVARRO #1 | MONROE | 876.0 | IMC PIPELINE CO I |
| -CONOCO INC | | | | RECEIVED: | 02/13/84 | JA: LA | | | |
| 8420420 | 84-0123 | 1707500000 | | 103 | | W D BLK 54 S/L 979 #25 | WEST DELTA BLOCK 55 | 365.0 | TENNESSEE GAS PIP |
| -CRYSTAL OIL AND LAND COMPANY | | | | RECEIVED: | 02/13/84 | JA: LA | | | |
| 8420419 | 84-0133 | 1701724551 | | 103 | | CLEMENTS #6 | NORTH MISSIONARY LAKE | 91.3 | ARKANSAS LOUISIAN |
| 8420404 | 83-1323 | 1701724654 | | 103 | 107-TF | CLEMENTS #8 | NORTH MISSIONARY LAKE | 317.6 | ARKANSAS LOUISIAN |
| 8420454 | 83-0694 | 1701723386 | | 107-TF | | EDGAR #1 CV D SULL | GREENWOOD-WASKOM | 237.3 | UNITED GAS PIPE L |
| 8420435 | 83-726 | 1701521871 | | 102-4 | 107-TF | INTERNA PAPER CO K #1ALT HAY RA SUU | ARKANA | 1825.0 | ARKANSAS LOUISIAN |
| -EXPLORATION CO OF LOUISIANA INC | | | | RECEIVED: | 02/13/84 | JA: LA | | | |
| 8420413 | 83-1598 | 1711321296 | | 102-2 | | AMOS BROUSSARD #001 | OUTSIDE ISLAND | 548.0 | |
| -EXXON CORPORATION | | | | RECEIVED: | 02/13/84 | JA: LA | | | |
| 8420417 | 84-0146 | 1710922664 | | 103 | | LATERRE CO INC #44 | LIRETTE | 200.0 | COLUMBIA GAS TRAN |
| 8420450 | 83-0397 | 1771720177 | | 107-DP | | S L 799 #BB-3 | GRAND ISLE BLOCK 16 | 1750.0 | COLUMBIA GAS TRAN |
| 8420411 | 83-1601 | 1772520299 | | 102-2 | | SL 6706 A #13 | MAIN PASS BLOCK 74 | 0.0 | UNITED GAS PIPE L |
| -G L SLADE INC | | | | RECEIVED: | 02/13/84 | JA: LA | | | |
| 8420456 | 84-0114 | 1708320715 | | 103 | | SLADE-MAXIE #1 | BIG CREEK FIELD | 110.0 | SUN EXPLORATION & |
| -GETTY OIL COMPANY | | | | RECEIVED: | 02/13/84 | JA: LA | | | |
| 8420461 | 84-0077 | 1703120917 | | 107-TF | | N T POWELL #2 CV RA SU E | LOGANSPORT | 1000.0 | TENNESSEE GAS PIP |
| 8420460 | 84-0078 | 1703121220 | | 107-TF | | THELMA NASH #3 CV RA SUC | LOGANSPORT | 34.0 | TENNESSEE GAS PIP |
| -GUERNSEY PETROLEUM CORPORATION | | | | RECEIVED: | 02/13/84 | JA: LA | | | |
| 8420463 | 84-0063 | 1703121116 | | 102-2 | 103 | ORVILLE D BEHM #1 | CYPRESS BRANCH | 72.0 | TEXAS EASTERN TRA |
| 8420464 | 84-62 | 1703121476 | | 102-2 | 103 | PACE #2 | CYPRESS BRANCH | 72.0 | TEXAS EASTERN TRA |
| -GULF OIL CORPORATION | | | | RECEIVED: | 02/13/84 | JA: LA | | | |
| 8420421 | 84-0117 | 1709720669 | | 103 | | KU #52-D KZS SU | KROTZ SPRINGS | 383.0 | MICHIGAN WISCONSI |
| -JEEMS BAYOU PRODUCTION CORP | | | | RECEIVED: | 02/13/84 | JA: LA | | | |
| 8420414 | 83-1597 | 1703121895 | | 102-0 | | MARTIN A #1 | CHATMAN BAYOU | 370.0 | LOUISIANA INTRAST |
| -LOUISIANA LAND & EXPLORATION CO | | | | RECEIVED: | 02/13/84 | JA: LA | | | |
| 8420429 | 84-0219 | 1704520759 | | 103 | | BREAUX MCDONALD #1 | JEFFERSON ISLAND | 490.0 | TEXAS GAS TRANSMI |
| 8420407 | 83-1305 | 1710922299 | | 103 | | LL&E-TENNECO FEE 6-D | LAKE GERO | 400.0 | UNITED GAS PIPELI |
| -MARK L SHIDLER INC | | | | RECEIVED: | 02/13/84 | JA: LA | | | |
| 8420402 | 83-1336 | 1711123622 | | 107-TF | | HEARN #1 | MONROE | 0.0 | WEST MONROE GAS G |
| -MCGOLDRICK OIL COMPANY | | | | RECEIVED: | 02/13/84 | JA: LA | | | |
| 8420436 | 83-725 | 1702721091 | | 103 | 107-TF | GANDY #4-ALT CV RA SU O | LEATHERMAN CREEK FIEL | 0.0 | LOUISIANA GAS INT |
| -MCRAE OIL CORP | | | | RECEIVED: | 02/13/84 | JA: LA | | | |
| 8420452 | 83-0700 | 1706120317 | | 107-DP | | REED LUMBER CO #1 LCV RA SUY | TERRYVILLE | 75.0 | LOUISIANA GAS PUR |
| -MICHEL T HALBOUTY ENERGY CO | | | | RECEIVED: | 02/13/84 | JA: LA | | | |
| 8420451 | 83-0203 | 1700121165 | | 102-4 | | W PETTIJEAN & CO #2 | SOUTH RAYNE | 1670.0 | |

| JD NO | JA DKT | API NO | D | SEC(1) | SEC(2) | WELL NAME | FIELD NAME | PROD | PURCHASER |
|---|---|---|---|---|---|---|---|---|---|
| -MID LOUISIANA GAS COMPANY | | | | RECEIVED: | 02/13/84 | JA: LA | | | |
| 8420448 | 83-1663 | 1711123816 | | 108 | | MLGC FEE GAS #1179 | MONROE GAS FIELD | 12.3 | MID LOUISIANA GAS |
| 8420447 | 83-1664 | 1711123818 | | 108 | | MLGC FEE GAS #1182 | MONROE GAS FIELD | 9.7 | MID LOUISIANA GAS |
| 8420446 | 83-1665 | 1711123880 | | 108 | | MLGC FEE GAS #1204 | MONROE GAS FIELD | 9.9 | MID LOUISIANA GAS |
| 8420408 | 83-1604 | 1711123999 | | 103 | | MLGC FEE GAS #1216 | MONROE GAS FIELD | 13.7 | MID LOUISIANA GAS |
| 8420412 | 83-1600 | 1711124000 | | 103 | | MLGC FEE GAS #1217 | MONROE GAS FIELD | 12.6 | MID LOUISIANA GAS |
| 8420409 | 83-1603 | 1711124045 | | 103 | | MLGC FEE GAS #1221 | MONROE GAS FIELD | 24.5 | MID LOUISIANA GAS |
| 8420410 | 83-1602 | 1711124046 | | 103 | | MLGC FEE GAS #1222 | MONROE GAS FIELD | 23.0 | MID LOUISIANA GAS |
| 8420441 | 83-1605 | 1711124870 | | 103 | | MLGC FEE GAS #1225 | MONROE GAS FIELD | 22.3 | MID LOUISIANA GAS |
| 8420440 | 83-1606 | 1711124071 | | 103 | | MLGC FEE GAS #1226 | MONROE GAS FIELD | 18.0 | MID LOUISIANA GAS |
| 8420439 | 83-1660 | 1711124051 | | 103 | | MLGC FEE GAS #1237 | MONROE GAS FIELD | 25.2 | MID LOUISIANA GAS |
| 8420438 | 83-1661 | 1711124072 | | 103 | | MLGC FEE GAS #1238 | MONROE GAS FIELD | 22.7 | MID LOUISIANA GAS |
| 8420449 | 83-1662 | 1711124073 | | 103 | | MLGC FEE GAS #1239 | MONROE GAS FIELD | 20.9 | MID LOUISIANA GAS |
| 8420445 | 83-1666 | 1711124086 | | 103 | | MLGC FEE GAS #1243 | MONROE GAS FIELD | 21.6 | MID LOUISIANA GAS |
| -MILTON D A | | | | RECEIVED: | 02/13/84 | JA: LA | | | |
| 8420415 | 83-1596 | 1705920726 | | 108 | | KIRKHAM #1 | STANDARD | 14.6 | GAS TRANSPORTATIO |
| -PRIMOS PRODUCTION CO | | | | RECEIVED: | 02/13/84 | JA: LA | | | |
| 8420458 | 84-0112 | 1706721743 | | 103 | | TENSAS DELTA E #26 | MONROE GAS | 9.2 | UNITED GAS PIPE L |
| 8420444 | 83-1684 | 1706721766 | | 103 | | TENSAS DELTA E #48 | MONROE GAS | 9.2 | UNITED GAS PIPE L |
| 8420443 | 83-1685 | 1706721767 | | 103 | | TENSAS DELTA E #49 | MONROE GAS | 6.2 | UNITED GAS PIPE L |
| 8420442 | 83-1686 | 1706721768 | | 103 | | TENSAS DELTA E #50 | MONROE GAS | 6.2 | UNITED GAS PIPE L |
| -SANTANA EXPLORATION INC | | | | RECEIVED: | 02/13/84 | JA: LA | | | |
| 8420426 | 84-0147 | 1705520253 | | 103 | | J C NICKERSON #1 VUA | ANSE LA BUTTE | 438.0 | DOW INTRASTATE GA |
| 8420425 | 84-0148 | 1705520247 | | 103 | | LUCILE V KEENEY #1 | ANSE LA BUTTE | 547.2 | DOW INTRASTATE GA |
| -SUN EXPLORATION & PRODUCTION CO | | | | RECEIVED: | 02/13/84 | JA: LA | | | |
| 8420416 | 83-0631 | 1700120862 | | 103 | | HOUSSIERE-LATRIELLE B #11 CAM SUR | EGAN | 114.0 | TRANSCONTINENTAL |
| -TEXACO INC | | | | RECEIVED: | 02/13/84 | JA: LA | | | |
| 8420428 | 84-0224 | 1708920458 | | 103 | | IDEAL FUR CO #1 | LAKE DES ALLEMANDS | 620.0 | KAISER ALUMINUM & |
| 8420431 | 84-0203 | 1710922279 | | 103 | | LP U13 #73 VUM | LAKE PELTO | 39.0 | KAISER ALUMINUM & |
| 8420462 | 84-0071 | 1705120639 | | 107-DP | | S L 2084 U4 #4 VUD | QUEEN BESS ISLAND | 2.3 | |
| 8420459 | 84-0080 | 1710121344 | | 107-DP | | S L 340 COTE BLANCHE ISLAND #182 | COTE BLANCHE ISLAND | 0.0 | |
| 8420422 | 84-0177 | 1710922644 | | 103 | | SL 188 CAILLOU ISLAND #712 | CAILLOU ISLAND | 37.0 | KAISER ALUMINUM & |
| -TXO PRODUCTION CORP | | | | RECEIVED: | 02/13/84 | JA: LA | | | |
| 8420437 | 83-0717 | 1706120342 | | 102-4 | 107-TF | WRIGHT "C" #1 CV DAVIS RA SUC | CHOUDRANT | 584.0 | DELHI GAS PIPELIN |
| ********** | | | | | | | | | |
| MONTANA BOARD OF OIL & GAS CONSERVATION | | | | | | | | | |
| ********** | | | | | | | | | |
| -LEAR PETROLEUM EXPLORATION INC | | | | RECEIVED: | 02/13/84 | JA: MT | | | |
| 8420465 | 9-83-125 | 2509121372 | | 102-2 | | MELBY #2 | CLEAR LAKE | 14.0 | PHILLIPS PETROLEU |
| -SUN EXPLORATION & PRODUCTION CO | | | | RECEIVED: | 02/13/84 | JA: MT | | | |
| 8420466 | 12-83-190 | 2508321675 | | 102-2 | | NORGAARD #1 | BORSON | 0.0 | |
| ********** | | | | | | | | | |
| NEW MEXICO DEPARTMENT OF ENERGY & MINERALS | | | | | | | | | |
| ********** | | | | | | | | | |
| -ELK OIL COMPANY | | | | RECEIVED: | 02/13/84 | JA: NM | | | |
| 8420395 | | 3000561870 | | 102-2 | | AIKMAN STATE COMM #1 | UNDESIGNATED PENN | 300.0 | TRANSWESTERN PIPE |
| 8420400 | | 3000562012 | | 102-2 | | VIKING STATE COMM #2 | UNDESIGNATED FUSSELMA | 350.0 | TRANSWESTERN PIPE |
| -HARVEY E YATES COMPANY | | | | RECEIVED: | 02/13/84 | JA: NM | | | |
| 8420389 | | 3002527259 | | 107-TF | | DUNCAN UNIT #2 | WILDCAT | 0.0 | |
| 8420391 | | 3002527782 | | 107-TF | | RICHARDSON UNIT #1 | AUSTIN-MISSISSIPPIAN | 0.0 | |
| 8420390 | | 3000561212 | | 107-TF | | SEYMOUR STATE COM #1 | WILDCAT (ABO ONLY) | 0.0 | |
| -JEROME P MCHUGH | | | | RECEIVED: | 02/13/84 | JA: NM | | | |
| 8420394 | | 3003923110 | | 102-2 | | JANET #1 | BASIN DAKOTA/GALLUP | 90.0 | NORTHWEST PIPELIN |
| -MARKS & GARNER PRODUCTION CO | | | | RECEIVED: | 02/13/84 | JA: NM | | | |
| 8420397 | | 3002527567 | | 103 | | BETENBEUGH #5 | BOUGH PERMO PENN | 45.6 | WARREN PETROLEUM |
| -MCCLELLAN OIL CORPORATION | | | | RECEIVED: | 02/13/84 | JA: NM | | | |
| 8420401 | | 3000561926 | | 102-4 | 107-TF | TOLMAC STATE #3 NM-L-2464 | PENJACK (ABO) | 109.5 | TRANSWESTERN PIPE |
| -SOUTHLAND ROYALTY CO | | | | RECEIVED: | 02/13/84 | JA: NM | | | |
| 8420392 | | 3004525676 | | 103 | | DECKER "A" #2E | BASIN | 65.0 | SOUTHERN UNION GA |
| -STEVENS OPERATING CORP | | | | RECEIVED: | 02/13/84 | JA: NM | | | |
| 8420393 | | 3000560598 | | 108 | | O'BRIEN "E" #3 | TWIN LAKES - SAN ANDR | 1.0 | MAPCO PRODUCTION |
| 8420399 | | 3000560033 | | 108 | | STATE "CH" COM #1 | TWIN LAKES SAN ANDRES | 19.0 | TRANSWESTERN PIPE |
| -UNICON PRODUCING CO | | | | RECEIVED: | 02/13/84 | JA: NM | | | |
| 8420398 | | 3004524673 | | 103 | | MANGUM 1-E | BASIN DAKOTA | 45.0 | SOUTHERN UNION GA |
| -WALLACE OIL & GAS INC | | | | RECEIVED: | 02/13/84 | JA: NM | | | |
| 8420396 | | 3000500000 | | 102-2 | 107-TF | BRITT #1 | WILDCAT ABO | 1948.0 | TRANSWESTERN PIPE |
| ********** | | | | | | | | | |
| WEST VIRGINIA DEPARTMENT OF MINES | | | | | | | | | |
| ********** | | | | | | | | | |
| -BRAXTON OIL AND GAS CORP | | | | RECEIVED: | 02/13/84 | JA: WV | | | |
| 8420545 | | 4708300758 | | 107-DV | | REGISTER #1 | ELLAMORE | 40.0 | COLUMBIA GAS TRAN |
| -CABOT OIL & GAS CORP | | | | RECEIVED: | 02/13/84 | JA: WV | | | |
| 8420534 | | 4704700207 | | 108 | | POCAHONTAS LAND #87 | BIG CREEK | 19.3 | TENNESSEE GAS PIP |
| 8420533 | | 4706700451 | | 108 | | SECONDO DALPORTO #2 | JEFFERSON | 20.0 | TENNESSEE GAS PIP |
| -HAUGHT INC | | | | RECEIVED: | 02/13/84 | JA: WV | | | |
| 8420535 | | 4708504915 | | 108 | | LUCY BOESHAR H-1091 | GRANT DISTRICT | 2.0 | CONSOLIDATED GAS |
| 8420536 | | 4708504916 | | 108 | | LUCY BOESHAR H-1092 | GRANT DISTRICT | 2.0 | CONSOLIDATED GAS |
| -MAGNUM OIL CORP | | | | RECEIVED: | 02/13/84 | JA: WV | | | |
| 8420538 | | 4708506657 | | 102-3 | | LAYFIELD #1 | CAIRO | 0.0 | CONSOLIDATED GAS |
| 8420544 | | 4708506657 | | 107-DV | | LAYFIELD #1 | CAIRO | 0.0 | CONSOLIDATED GAS |
| -SENECA-UPSHUR PETROLEUM CO | | | | RECEIVED: | 02/13/84 | JA: WV | | | |
| 8420546 | | 4705901052 | | 107-DV | | C-58 | HARDEE | 35.0 | COLUMBIA GAS TRAN |
| 8420549 | | 4705901055 | | 107-DV | | C-59 | HARDEE | 35.0 | COLUMBIA GAS TRAN |
| 8420537 | | 4705901056 | | 103 | | C-60 | HARDEE | 35.0 | COLUMBIA GAS TRAN |
| 8420550 | | 4705901057 | | 107-DV | | C-61 | HARDEE | 35.0 | COLUMBIA GAS TRAN |
| 8420540 | | 4708300750 | | 102-4 | | FAHRNER #2-A | MIDDLE FORK | 35.0 | TENNESSEE GAS PIP |
| 8420539 | | 4708300740 | | 102-4 | | SMITH-ROBERTS #3-A | MIDDLE FORK | 35.0 | COLUMBIA GAS TRAN |
| -STERLING DRILLING AND PROD CO INC | | | | RECEIVED: | 02/13/84 | JA: WV | | | |
| 8420547 | | 4701303560 | | 107-DV | | BAILEY #732-REV | LEE DISTRICT | 11.8 | |
| 8420548 | | 4708703741 | | 107-DV | | BENNETT #279-REV | SPENCER DISTRICT | 25.0 | |
| 8420541 | | 4701303584 | | 107-DV | | HAYES #793 | LEE DISTRICT | 7.0 | |
| 8420542 | | 4701303585 | | 107-DV | | HAYES #794 | LEE DISTRICT | 5.7 | |
| 8420543 | | 4701303613 | | 107-DV | | MELLOTT #800 | LEE DISTRICT | 18.0 | |
| ********** | | | | | | | | | |
| ** DEPARTMENT OF THE INTERIOR, BUREAU OF LAND MANAGEMENT, CASPER,WY | | | | | | | | | |
| ********** | | | | | | | | | |
| -BEARTOOTH OIL & GAS CO | | | | RECEIVED: | 02/13/84 | JA: UT 5 | | | |
| 8420560 | 083-83 | 4301931066 | | 103 | | BRYSON CANYON UNIT #14 | BRYSON CANYON | 180.0 | MESA PIPELINE CO |
| 8420562 | 043-83 | 4301930960 | | 103 | | BRYSON CANYON UNIT #15 | BRYSON CANYON | 180.0 | MESA PIPELINE CO |
| -CAMPBELL G S | | | | RECEIVED: | 02/13/84 | JA: UT 5 | | | |
| 8420564 | 091-83 | 4301330742 | | 102-2 | | MONUMENT BUTTE GOVT C&D #4 | MONUMENT BUTTE | 36.5 | MOUNTAIN FUEL SUP |
| -CELSIUS ENERGY CO | | | | RECEIVED: | 02/13/84 | JA: UT 5 | | | |
| 8420555 | 090-83 | 4304731330 | | 103 | | ISLAND UNIT #15 | ISLAND | 350.0 | MOUNTAIN FUEL SUP |
| 8420565 | 088-83 | 4304731331 | | 103 | | ISLAND UNIT WELL #14 | ISLAND | 730.0 | MOUNTAIN FUEL SUP |

| JD NO | JA DKT | API NO | D | SEC(1) | SEC(2) | WELL NAME |
|---|---|---|---|---|---|---|
| -COASTAL OIL & GAS CORP | | | | | | |
| 8420557 | 085-83 | 4304731233 | | RECEIVED: | 02/13/84 | JA: UT 5 |
| 8420561 | 082-83 | 4304730480 | | 107-TF | | NATURAL BUTTES UNIT #88V |
| 8420559 | 084-83 | 4304730478 | | 108 | | NBU 56-11B |
| -CONSOLIDATED OIL & GAS INC | | | | 108 | | NBU 60-26B |
| 8420563 | 092-83 | 4303730866 | | RECEIVED: | 02/13/84 | JA: UT 5 |
| -COSEKA RESOURCES (USA) LIMITED | | | | 103 | | BLUFF #42-5 |
| 8420558 | 086-83 | 4304700000 | | RECEIVED: | 02/13/84 | JA: UT 5 |
| -MAPCO PRODUCTION COMPANY | | | | 102-2 | | FEDERAL 16-4-15-23 |
| 8420556 | 087-83 | 4304730720 | | RECEIVED: | 02/13/84 | JA: UT 5 |
| -AMOCO PRODUCTION CO | | | | 107-TF | | RBU 7-3E |
| 8420552 | W 117-3 | 4902320529 | | RECEIVED: | 02/13/84 | JA: WY 5 |
| 8420553 | W116-3 | 4902320529 | | 107-TF | | SHUTE CREEK UNIT #12 |
| -ANADARKO PRODUCTION COMPANY | | | | 103 | | SHUTE CREEK UNIT #12 |
| 8420554 | W130-3 | 4903721991 | | RECEIVED: | 02/13/84 | JA: WY 5 |
| -WEXPRO COMPANY | | | | 107-TF | | SEVEN MILE GULCH #14 |
| 8420551 | W145-3 | 4904120427 | | RECEIVED: | 02/13/84 | JA: WY 5 |
| | | | | 107-RT | | CHURCH BUTTES UNIT #34 |

| FIELD NAME | PROD | PURCHASER |
|---|---|---|
| NATURAL BUTTES | 346.0 | COLORADO INTERSTA |
| NATURAL BUTTES UNIT | 0.0 | COLORADO INTERSTA |
| NATURAL BUTTES UNIT | 0.0 | COLORADO INTERSTA |
| BLUFF EXTENSION | 0.0 | EL PASO NATURAL G |
| MAIN CANYON | 146.2 | MONO POWER CO |
| RIVER BEND | 327.0 | |
| SHUTE CREEK - FRONTIE | 74.9 | |
| SHUTE CREEK - FRONTIE | 74.9 | |
| SEVEN MILE GULCH | 190.0 | NORTHWEST PIPELIN |
| CHURCH BUTTES | 850.0 | MOUNTAIN FUEL SUP |

[FR Doc. 84-6317 Filed 3-8-84; 8:45 am]

BILLING CODE 6717-01-C

[Vol. 1080]

## Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: March 5, 1984.

The following notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF).

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the **Federal Register.**

Source data from the Form 121 for this and all previous notices is available on magnetic tape from the National Technical Information Service (NTIS). For information, contact Stuart Weisman (NTIS) at (703) 487–4808, 5285 Port Royal Rd., Springfield, Va. 22161.

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
- 102–2: New well (2.5 Mile rule)
- 102–3: New well (1000 Ft rule)
- 102–4: New onshore reservoir
- 102–5: New reservoir on old OCS lease

Section 107–DP: 15,000 feet or deeper
- 107–GB: Geopressured brine
- 107–CS: Coal Seams
- 107–DV: Devonian Shale
- 107–PE: Production enhancement
- 107–TF: New tight formation
- 107–RT: Recompletion tight formation

Section 108: Stripper well
- 108–SA: Seasonally affective
- 108–ER: Enhanced recovery
- 108–PB: Pressure buildup

**Kenneth F. Plumb,**

*Secretary.*

NOTICE OF DETERMINATIONS VOLUME 1080

March 5, 1984

| JD NO | JA DKT | API NO | D | SEC(1) | SEC(2) | WELL NAME | FIELD NAME | PROD | PURCHASER |
|---|---|---|---|---|---|---|---|---|---|
| KENTUCKY DEPARTMENT OF MINES & MINERALS | | | | | | | | | |
| -ALERT OIL & GAS COMPANY INC | | | | RECEIVED: | 02/13/84 | JA: KY | | | |
| 8420740 | 506826 | 1619500000 | | 107-DV | | A C BURNETT WELL #4 | STONE COAL FIELD | 580.1 | KENTUCKY WEST VIR |
| 8420747 | 506833 | 1619500000 | | 108 | | D L GILLIAM #8 | STONE COAL | 12.1 | KENTUCKY WEST VIR |
| 8420755 | 506841 | 1619500000 | | 107-DV | | D L GILLIAM #8 | STONE COAL CREEK | 12.1 | KENTUCKY WEST VIR |
| 8420737 | 506813 | 1615900000 | | 108 | | ELIAS STEPP #15 | WOLFE CREEK | 6.8 | COLUMBIA GAS TRAN |
| 8420749 | 506835 | 1615900000 | | 107-DV | | ELIAS STEPP #15 | WOLFE CREEK | 681.7 | COLUMBIA GAS TRAN |
| 8420748 | 506834 | 1619500000 | | 108 | | JOHN S RATLIFF #9 | STONE COAL | 12.1 | KENTUCKY WEST VIR |
| 8420746 | 506832 | 1619500000 | | 108-PB | | JOHN STEWART #7 | STONE COAL | 12.1 | KENTUCKY WEST VIR |
| 8420754 | 506840 | 1619500000 | | 107-DV | | JOHN STEWART #7 | STONE COAL CREEK | 12.1 | KENTUCKY WEST VIR |
| 8420756 | 506842 | 1619500000 | | 107-DV | | JOHNS RATLIFF #9 | STONE COAL CREEK | 12.1 | KENTUCKY WEST VIR |
| 8420743 | 506829 | 1619500000 | | 108-PB | | JOSEPH CLEVENGER #3 | STONE COAL | 12.1 | KENTUCKY WEST VIR |
| 8420745 | 506831 | 1619500000 | | 108 | | JOSEPH CLEVENGER #6 | STONE COAL | 12.1 | KENTUCKY WEST VIR |
| 8420744 | 506830 | 1619500000 | | 108 | | ROBERT BUNCH #5 | STONE COAL | 12.1 | KENTUCKY WEST VIR |
| 8420753 | 506839 | 1619500000 | | 107-DV | | ROBERT BUNCH #5 | STONE COAL CREEK | 12.1 | KENTUCKY WEST VIR |
| 8420741 | 506827 | 1619500000 | | 108 | | WILLIAM CLEVENGER #1 | STONE COAL | 12.1 | KENTUCKY WEST VIR |
| 8420751 | 506837 | 1619500000 | | 107-DV | | WILLIAM CLEVENGER #1 | STONE COAL CREEK | 12.1 | KENTUCKY WEST VIR |
| 8420742 | 506828 | 1619500000 | | 108 | | WILLIAM CLEVENGER #2 | STONE COAL | 12.1 | KENTUCKY WEST VIR |
| 8420752 | 506838 | 1619500000 | | 107-DV | | WILLIAM CLEVENGER #2 | STONE COAL CREEK | 12.1 | KENTUCKY WEST VIR |
| -APPALACHIAN NATURAL GAS CORP | | | | RECEIVED: | 02/13/84 | JA: KY | | | |
| 8420576 | 506524 | 1612700000 | | 107-DV | | APP #10 (RIDGEWAY FUEL) #48248 | BIG SANDY | 0.0 | COLUMBIA GAS TRAN |
| 8420577 | 506525 | 1612700000 | | 107-DV | | APP #10 (RIDGEWAY FUEL) #48248 | BIG SANDY | 0.0 | COLUMBIA GAS TRAN |
| 8420644 | 506673 | 1612700000 | | 107-DV | | APP #11 (RIDGEWAY FUEL) #50677 | BIG SANDY | 0.0 | COLUMBIA GAS TRAN |
| 8420647 | 506676 | 1612700000 | | 107-DV | | APP #11 (RIDGEWAY FUEL) #50677 | BIG SANDY | 0.0 | COLUMBIA GAS TRAN |
| 8420642 | 506671 | 1612700000 | | 107-DV | | APP #12 (RIDGEWAY FUEL) #50948 | BIG SANDY | 0.0 | COLUMBIA GAS TRAN |
| 8420646 | 506675 | 1612700000 | | 107-DV | | APP #12 (RIDGEWAY FUEL) #50948 | BIG SANDY | 0.0 | COLUMBIA GAS TRAN |
| 8420575 | 506523 | 1612700000 | | 107-DV | | APP #18 (RIDGEWAY FUEL) #50949 | BIG SANDY | 0.0 | COLUMBIA GAS TRAN |
| 8420574 | 506522 | 1612700000 | | 107-DV | | APP #18 (RIDGEWAY FUEL) #50949 | BIG SANDY | 0.0 | COLUMBIA GAS TRAN |
| 8420591 | 506551 | 1612700000 | | 107-DV | | APP #19 (RIDGEWAY FUEL) #49519 | BIG SANDY | 0.0 | COLUMBIA GAS TRAN |
| 8420597 | 506557 | 1612700000 | | 107-DV | | APP #19 (RIDGEWAY FUEL) #49519 | BIG SANDY | 0.0 | COLUMBIA GAS TRAN |
| 8420578 | 506526 | 1612700000 | | 107-DV | | APP #2 (RIDGEWAY FUEL) #49298 | BIG SANDY | 36.0 | COLUMBIA GAS TRAN |
| 8420581 | 506529 | 1612700000 | | 107-DV | | APP #2 (RIDGEWAY FUEL) #49298 | BIG SANDY | 36.0 | COLUMBIA GAS TRAN |
| 8420598 | 506558 | 1612700000 | | 107-DV | | APP #3 (RIDGEWAY FUEL) #49297 | BIG SANDY | 0.0 | COLUMBIA GAS TRAN |
| 8420599 | 506559 | 1612700000 | | 107-DV | | APP #3 (RIDGEWAY FUEL) #49297 | BIG SANDY | 0.0 | COLUMBIA GAS TRAN |
| 8420582 | 506530 | 1612700000 | | 107-DV | | APP #5 (RIDGEWAY FUEL) #49247 | BIG SANDY | 0.0 | COLUMBIA GAS TRAN |
| 8420583 | 506530 | 1612700000 | | 107-DV | | APP #5 (RIDGEWAY FUEL) #48247 | BIG SANDY | 0.0 | COLUMBIA GAS TRAN |
| 8420643 | 506672 | 1612700000 | | 107-DV | | APP #6 (RIDGEWAY FUEL) #51729 | BIG SANDY | 0.0 | COLUMBIA GAS TRAN |
| 8420645 | 506674 | 1612700000 | | 107-DV | | APP #6 (RIDGEWAY FUEL) #51729 | BIG SANDY | 0.0 | COLUMBIA GAS TRAN |
| 8420579 | 506527 | 1612700000 | | 107-DV | | APP #8 (RIDGEWAY FUEL) #50678 | BIG SANDY | 0.0 | COLUMBIA GAS TRAN |
| 8420580 | 506528 | 1612700000 | | 107-DV | | APP #8 (RIDGEWAY FUEL) #50678 | BIG SANDY | 0.0 | COLUMBIA GAS TRAN |
| 8420651 | 506680 | 1612700000 | | 107-DV | | APP-WALBRIDGE #2 #52239 | BIG SANDY | 0.0 | COLUMBIA GAS TRAN |
| 8420652 | 506681 | 1612700000 | | 107-DV | | APP-WALBRIDGE #2 #52239 | BIG SANDY | 0.0 | COLUMBIA GAS TRAN |
| 8420800 | 506905 | 1612700000 | | 107-DV | | ROBERTSON WELL #1 - PERMIT #28999 | | 5.0 | KENTUCKY-WEST VIR |
| 8420801 | 506906 | 1612700000 | | 107-DV | | ROBERTSON WELL #3 PERMIT 29084 | | 10.0 | KENTUCKY-WEST VIR |
| -ARGO ENERGY CORP | | | | RECEIVED: | 02/13/84 | JA: KY | | | |
| 8420707 | 506782 | 1612100000 | | 103 | | BASCUM ASHER WELL #1 | CAMPBELL CHURCH | 0.0 | |
| 8420705 | 506780 | 1612100000 | | 103 | | C L FRAZIER ET UX ET AL WELL #2 | CAMPBELL CHURCH | 0.0 | |

BILLING CODE 6717-01-M

| JD NO | JA DKT | API NO | D | SEC(1) | SEC(2) | WELL NAME | FIELD NAME | PROD | PURCHASER |
|---|---|---|---|---|---|---|---|---|---|
| 8420702 | 506777 | 1612100000 | | 103 | | CL & GENEVIE FRAZIER & G FRAZIER #1 | CAMPBELL CHURCH | 0.0 | |
| 8420700 | 506775 | 1612100000 | | 103 | | CURTIS CONGLETON JR WELL #1 | CAMPBELL CHURCH | 0.0 | |
| 8420701 | 506776 | 1612100000 | | 103 | | CURTIS CONGLETON JR WELL #2 | CAMPBELL CHURCH | 0.0 | |
| 8420708 | 506783 | 1612100000 | | 103 | | HAROLD JONES ET UX ET AL WELL #1 | CAMPBELL CHURCH | 0.0 | |
| 8420706 | 506781 | 1612100000 | | 103 | | JOHNSON/MOSES COMMUNITY WELL #1 | CAMPBELL CHURCH | 0.0 | |
| 8420704 | 506779 | 1612100000 | | 103 | | KENNETH AND JOYCE VALENTINE WELL #1 | CAMPBELL CHURCH | 0.0 | |
| 8420703 | 506778 | 1612100000 | | 103 | | SARAH G CONGLETON WELL #1 | CAMPBELL CHURCH | 0.0 | |
| -ASHLAND EXPLORATION INC | | | | RECEIVED: | 02/13/84 | JA: KY | | | |
| 8420804 | 502050 | 1619500000 | | 108 | | COLONY COAL & COKE #60 - 046130 | EASTERN KENTUCKY GAS | 21.0 | COLUMBIA GAS TRAN |
| -BOB HURT DRILLING CO | | | | RECEIVED: | 02/13/84 | JA: KY | | | |
| 8420797 | 506903 | 1619500000 | | 107-DV | | FRIEND & MULLINS #1 | PIKEVILLE | 0.0 | COLUMBIA GAS TRAN |
| 8420798 | 506904 | 1619500000 | | 103 | | FRIEND MULLINS #1 | PIKEVILLE | 0.0 | COLUMBIA GAS TRAN |
| 8420796 | 506902 | 1619500000 | | 107-DV | | KINNEY STRATTON - CH108 #1 | PIKEVILLE | 0.0 | COLUMBIA GAS TRAN |
| -BOW VALLEY PETROLEUM INC | | | | RECEIVED: | 02/13/84 | JA: KY | | | |
| 8420664 | 506697 | 1613349241 | | 103 | | COLLINS #944 | LINE FORK | 0.0 | COLUMBIA GAS TRAN |
| 8420657 | 506690 | 1613339085 | | 103 | | KENTUCKY RIVER COAL #886 | LINE FORK | 0.0 | COLUMBIA GAS TRAN |
| 8420658 | 506691 | 1613339087 | | 103 | | KENTUCKY RIVER COAL #887 | LINE FORK | 0.0 | COLUMBIA GAS TRAN |
| 8420659 | 506692 | 1613339461 | | 103 | | KENTUCKY RIVER COAL #888 | LINE FORK | 0.0 | COLUMBIA GAS TRAN |
| 8420660 | 506693 | 1613339486 | | 103 | | KENTUCKY RIVER COAL #889 | LINE FORK | 0.0 | COLUMBIA GAS TRAN |
| 8420661 | 506694 | 1613339088 | | 103 | | KENTUCKY RIVER COAL #891 | LINE FORK | 0.0 | COLUMBIA GAS TRAN |
| 8420665 | 506698 | 1613349367 | | 103 | | KENTUCKY RIVER COAL #991 | LINE FORK | 0.0 | COLUMBIA GAS TRAN |
| 8420667 | 506700 | 1613349361 | | 107-DV | | KENTUCKY RIVER COAL #991 | LINE FORK | 0.0 | COLUMBIA GAS TRAN |
| 8420662 | 506695 | 1613342503 | | 103 | | KRCC 930 | LINE FORK | 0.0 | COLUMBIA GAS TRAN |
| 8420663 | 506696 | 1613342816 | | 103 | | KRCC 931 | LINE FORK | 0.0 | COLUMBIA GAS TRAN |
| 8420666 | 506699 | 1613348880 | | 103 | | ROARK #988 | LINE FORK | 0.0 | COLUMBIA GAS TRAN |
| 8420668 | 506701 | 1613348880 | | 107-DV | | ROARK #988 | LINE FORK | 0.0 | COLUMBIA GAS TRAN |
| -BROWN WM P & MAERTZ RALPH | | | | RECEIVED: | 02/13/84 | JA: KY | | | |
| 8420592 | 506552 | 1604700000 | | 107-DV | | CLIFTON ZENTMYER #1 | EAST CROFTON | 4.0 | WESTERN KENTUCKY |
| -CHLOE ENTERPRISES | | | | RECEIVED: | 02/13/84 | JA: KY | | | |
| 8420803 | 506910 | 1619500000 | | 107-DV | | JOHN H PASNICK #3 | PIKEVILLE FIELD | 0.0 | COLUMBIA GAS TRAN |
| 8420802 | 506909 | 1619500000 | | 107-DV | | JOHN H RASNICK #4 | PIKEVILLE FIELD | 0.0 | COLUMBIA GAS TRAN |
| -CITIES SERVICE COMPANY | | | | RECEIVED: | 02/13/84 | JA: KY | | | |
| 8420697 | 506753 | 1619525532 | | 108 | | HATCHER "B" #16 | CANADA | 10.3 | COLUMBIA GAS TRAN |
| 8420691 | 506747 | 1619500000 | | 108 | | LAW HEIRS "A" #1 | CANADA | 2.8 | COLUMBIA GAS TRAN |
| 8420698 | 506754 | 1619500000 | | 108 | | ROGERS BROS COAL CO #2 | CANADA | 2.3 | COLUMBIA GAS TRAN |
| 8420799 | 506908 | 1619549555 | | 107-DV | | SMITH "H" #7 | CANADA | 18.6 | |
| -COLUMBIA GAS TRANSMISSION CORP | | | | RECEIVED: | 02/13/84 | JA: KY | | | |
| 8420601 | 506579 | 1619500000 | | 107-DV | | J J HAMILTON 820714 | KENTUCKY FIELD AREA C | 24.6 | COLUMBIA GAS TRAN |
| 8420602 | 506580 | 1619500000 | | 103 | | J J HAMILTON 820714 | KENTUCKY FIELD AREA C | 39.0 | COLUMBIA GAS TRAN |
| 8420772 | 506868 | 1615900000 | | 107-DV | | POCAHONTAS KENTUCKY 820536 | KENTUCKY AREA C | 25.6 | COLUMBIA GAS TRAN |
| -CONTROLLED RESOURCES OIL & GAS CORP | | | | RECEIVED: | 02/13/84 | JA: KY | | | |
| 8420616 | 506616 | 1615900000 | | 108 | | COLUMBIA - A F CASSADY CF-1 | COW FORK | 12.0 | COLUMBIA GAS TRAN |
| 8420615 | 506615 | 1615900000 | | 108 | | COLUMBIA - A F CASSADY CF-2 | COW FORK | 12.0 | COLUMBIA GAS TRAN |
| 8420617 | 506617 | 1615900000 | | 108 | | COLUMBIA - A F CASSADY 79-10 | COW FORK | 12.0 | COLUMBIA GAS TRAN |
| 8420613 | 506613 | 1615900000 | | 108 | | COLUMBIA - A F CASSADY 79-9 | COW FORK | 12.0 | COLUMBIA GAS TRAN |
| 8420614 | 506614 | 1615900000 | | 108 | | COLUMBIA GAS - A F CASSADY 79-8 | COW FORK | 12.0 | COLUMBIA GAS TRAN |
| -DORAN & ASSOCIATES INC | | | | RECEIVED: | 02/13/84 | JA: KY | | | |
| 8420785 | 506886 | 1612700000 | | 103 | | DIXIE MAY MOORE #1 DD-2 | | 20.0 | COLUMBIA GAS TRAN |
| -FORB CORP | | | | RECEIVED: | 02/13/84 | JA: KY | | | |
| 8420770 | 506864 | 1623500000 | | 103 | | CROLEY #1 | CARTER COORDINATE 5-8 | 126.0 | COLUMBIA GAS TRAN |
| -GILBERT IMPORTED HARDWOODS INC | | | | RECEIVED: | 02/13/84 | JA: KY | | | |
| 8420604 | 506586 | 1615900000 | | 107-DV | | C F & CHRISTINE SHEWEY #2 | LAUREL FORK | 12.0 | COLUMBIA GAS TRAN |
| 8420605 | 506587 | 1615900000 | | 107-DV | | C F & CHRISTINE SHEWEY #3 | LAUREL FORK | 12.0 | COLUMBIA GAS TRAN |
| 8420619 | 506622 | 1615900000 | | 103 | | PREECE #1 | LONG BRANCH | 18.0 | COLUMBIA GAS TRAN |
| -HAR-KEN OIL COMPANY | | | | RECEIVED: | 02/13/84 | JA: KY | | | |
| 8420709 | 506784 | 1610700000 | | 108 | | PAUL P GANNON ESTATE #1 | SOUTH ST CHARLES | 22.0 | TEXAS GAS TRANSMI |
| -INTERSTATE OIL & GAS CO INC | | | | RECEIVED: | 02/13/84 | JA: KY | | | |
| 8420600 | 506578 | 1610700000 | | 103 | | HARLON ALLEN #1 46829 | HARLON ALLEN | 36.5 | ORBIT GAS CO |
| 8420771 | 506865 | 1617700000 | | 103 | | KATE PITTMAN #3A | HARPS HILL | 708.0 | ORBIT GAS CO |
| 8420773 | 506869 | 1617700000 | | 103 | | MIDLAND COAL COMPANY #1 | HARPS HILL | 70.0 | ORBIT GAS CO |
| -J W KINZER | | | | RECEIVED: | 02/13/84 | JA: KY | | | |
| 8420596 | 506556 | 1615900000 | | 107-DV | | JANE C ALLEN - WELL #6 | INEZ FIELD | 0.0 | COLUMBIA GAS TRAN |
| 8420593 | 506553 | 1615900000 | | 107-DV | | JANE C ALLEN - WELL #7 | INEZ FIELD | 0.0 | COLUMBIA GAS TRAN |
| 8420594 | 506554 | 1615900000 | | 107-DV | | JANE C ALLEN - WELL #8 | INEZ FIELD | 0.0 | COLUMBIA GAS TRAN |
| 8420595 | 506555 | 1615900000 | | 107-DV | | JANE C ALLEN - WELL #9 | INEZ FIELD | 0.0 | COLUMBIA GAS TRAN |
| 8420736 | 506817 | 1619300000 | | 107-DV | | MONTGOMERY COAL BLOCK 10 WELL #2 | BULL CREEK | 0.0 | COLUMBIA GAS TRAN |
| 8420739 | 506825 | 1619300000 | | 107-DV | | MONTGOMERY COAL BLOCK 11 WELL #3 | BULL CREEK | 0.0 | COLUMBIA GAS TRAN |
| 8420620 | 506623 | 1613300000 | | 107-DV | | MONTGOMERY COAL BLOCK 14 WELL 2 | BULL CREEK | 0.0 | COLUMBIA GAS TRAN |
| 8420766 | 506858 | 1619300000 | | 107-DV | | MONTGOMERY COAL BLOCK 5 WELL #2 | BULL CREEK | 0.0 | COLUMBIA GAS TRAN |
| 8420681 | 506724 | 1619300000 | | 107-DV | | MONTGOMERY COAL BLOCK 7 WELL 2 | BULL CREEK | 0.0 | COLUMBIA GAS TRAN |
| 8420767 | 506859 | 1619300000 | | 107-DV | | MONTGOMERY COAL BLOCK 7 WELL 4 | BULL CREEK | 0.0 | COLUMBIA GAS TRAN |
| 8420682 | 506725 | 1619300000 | | 107-DV | | MONTGOMERY COAL BLOCK 8 WELL 3 | BULL CREEK | 0.0 | COLUMBIA GAS TRAN |
| 8420683 | 506726 | 1619300000 | | 107-DV | | MONTGOMERY COAL BLOCK 8 WELL 5 | BULL CREEK | 0.0 | COLUMBIA GAS TRAN |
| 8420653 | 506684 | 1619300000 | | 107-DV | | MONTGOMERY COAL WELL #3 BLOCK 10 | BULL CREEK | 0.0 | COLUMBIA GAS TRAN |
| -JIMMY HAMILTON GAS & OIL | | | | RECEIVED: | 02/13/84 | JA: KY | | | |
| 8420786 | 506887 | 1615900000 | | 107-DV | | BESSIE DELONG GOBLE #307 | | 15.0 | |
| -KEPCO INC | | | | RECEIVED: | 02/13/84 | JA: KY | | | |
| 8420696 | 506752 | 1607100000 | | 107-DV | | ADAM TURNER - #KL310 | KENTUCKY EAST | 12.3 | KENTUCKY WEST VIR |
| 8420711 | 506792 | 1613100000 | | 103 | | ALEX GRIFFITH # K80-1739 | KENTUCKY EAST | 6.9 | KENTUCKY WEST VIR |
| 8420716 | 506797 | 1613100000 | | 107-DV | | ARCH BAKER #KF57 | KENTUCKY EAST | 12.3 | KENTUCKY WEST VIR |
| 8420672 | 506711 | 1611900000 | | 108 | | ARIO CORP - #K19-1717 | KENTUCKY EAST | 3.2 | KENTUCKY WEST VIR |
| 8420673 | 506712 | 1611900000 | | 107-DV | | ARIO CORPORATION - #K19-1717 | KENTUCKY EAST | 8.8 | KENTUCKY WEST VIR |
| 8420674 | 506713 | 1611900000 | | 107-DV | | ARIO CORPORATION - #K329-1718 | KENTUCKY EAST | 8.7 | KENTUCKY WEST VIR |
| 8420628 | 506639 | 1611900000 | | 108 | | ARIO CORPORATION - #K332-1736 | KENTUCKY EAST | 20.4 | KENTUCKY WEST VIR |
| 8420699 | 506755 | 1619500000 | | 107-DV | | BALLARD WEDDINGTON - #KL407 | KENTUCKY EAST | 78.7 | KENTUCKY WEST VIR |
| 8420775 | 506871 | 1613100000 | | 103 | | BIGE LEWIS - #KL35 (1771) | KENTUCKY EAST | 8.8 | KENTUCKY WEST VIR |
| 8420776 | 506872 | 1613100000 | | 107-DV | | BIGE LEWIS - #KL35 (1771) | KENTUCKY EAST | 16.4 | KENTUCKY WEST VIR |
| 8420778 | 506874 | 1619500000 | | 107-DV | | C C SCALF - KF411 | KENTUCKY EAST | 76.2 | KENTUCKY WEST VIR |
| 8420689 | 506737 | 1611900000 | | 103 | | CHARLES & FRANCIS STURGILL - #KL358 | KENTUCKY EAST | 15.0 | KENTUCKY WEST VIR |
| 8420710 | 506791 | 1613100000 | | 103 | | CHARLES THOMAS # KL34 | KENTUCKY EAST | 71.8 | KENTUCKY WEST VIR |
| 8420715 | 506796 | 1613100000 | | 107-DV | | CHARLES THOMAS #KL34 | KENTUCKY EAST | 32.1 | KENTUCKY WEST VIR |
| 8420608 | 506599 | 1619300000 | | 107-DV | | COL JOHN BAKER ET AL - #KL391 | KENTUCKY EAST | 12.3 | KENTUCKY WEST VIR |
| 8420610 | 506601 | 1613100000 | | 103 | | COOK HEIRS - #KL31-1766 | KENTUCKY EAST | 12.3 | KENTUCKY WEST VIR |
| 8420656 | 506687 | 1613100000 | | 103 | | COOK HEIRS - #KL431 | KENTUCKY EAST | 160.6 | KENTUCKY WEST VIR |
| 8420712 | 506793 | 1613100000 | | 103 | | COOK HEIRS # KL430 | KENTUCKY EAST | 136.2 | KENTUCKY WEST VIR |
| 8420685 | 506733 | 1607100000 | | 107-DV | | D D MARTIN - #KF374 | KENTUCKY EAST | 36.9 | KENTUCKY WEST VIR |
| 8420783 | 506884 | 1607100000 | | 107-DV | | D D MARTIN #KF359 | KENTUCKY EAST | 19.4 | KENTUCKY WEST VIR |
| 8420633 | 506648 | 1613100000 | | 107-DV | | E J FELTNER - #KF389 | KENTUCKY EAST | 13.7 | KENTUCKY WEST VIR |
| 8420654 | 506685 | 1611900000 | | 107-DV | | ELIZABETH STEPHENS-#KL375 | KENTUCKY EAST | 15.0 | KENTUCKY WEST VIR |
| 8420627 | 506638 | 1613300000 | | 108 | | ELKHORN COAL CO INC - #K317-1748 | KENTUCKY EAST | 6.8 | KENTUCKY WEST VIR |
| 8420677 | 506716 | 1613300000 | | 107-DV | | ELKHORN COAL CO INC - K305-1744 | KENTUCKY EAST | 8.8 | KENTUCKY WEST VIR |
| 8420584 | 506534 | 1613100000 | | 103 | | ELMER WHITAKER - #KL406 | KENTUCKY EAST | 56.4 | KENTUCKY WEST VIR |
| 8420587 | 506537 | 1613100000 | | 107-DV | | ELMER WHITAKER - #KL406 | KENTUCKY EAST | 12.3 | KENTUCKY WEST VIR |
| 8420765 | 506856 | 1613100000 | | 107-DV | | ELMER WHITAKER # KL479 | KENTUCKY EAST | 20.4 | KENTUCKY WEST VIR |

| JD NO | JA DKT | API NO | D | SEC(1) | SEC(2) | WELL NAME | FIELD NAME | PROD | PURCHASER |
|---|---|---|---|---|---|---|---|---|---|
| 8420732 | 506813 | 1619300000 | | 107-DV | | FELIX BRASHEAR # KL429 | KENTUCKY EAST | 33.7 | KENTUCKY WEST VIR |
| 8420695 | 506751 | 1613100000 | | 103 | | FORDSON COAL CO - #KL442 | KENTUCKY EAST | 5.8 | KENTUCKY WEST VIR |
| 8420727 | 506808 | 1619300000 | | 107-DV | | FORDSON COAL CO # K320-1628 | KENTUCKY EAST | 10.7 | KENTUCKY WEST VIR |
| 8420729 | 506810 | 1619300000 | | 103 | | FORDSON COAL CO # K320-1628 | KENTUCKY EAST | 1.6 | KENTUCKY WEST VIR |
| 8420589 | 506539 | 1611900000 | | 107-DV | | GARDNER PATRICK - #KL421 | KENTUCKY EAST | 47.7 | KENTUCKY WEST VIR |
| 8420795 | 506900 | 1613100000 | | 107-DV | | HANNAH BAKER - #KP-15 | KENTUCKY EAST | 8.8 | KENTUCKY WEST VIR |
| 8420713 | 506794 | 1613100000 | | 103 | | HAYES LEWIS # KL459 | KENTUCKY EAST | 7.2 | KENTUCKY WEST VIR |
| 8420655 | 506686 | 1619300000 | | 103 | | HENDERSON COLWELL - #KF384 | KENTUCKY EAST | 219.0 | KENTUCKY WEST VIR |
| 8420670 | 506709 | 1619300000 | | 103 | | HENDERSON COLWELL - #KF385 | KENTUCKY EAST | 365.0 | KENTUCKY WEST VIR |
| 8420680 | 506719 | 1613100000 | | 103 | | HENRY TURNER - #KF427 | KENTUCKY EAST | 8.8 | KENTUCKY WEST VIR |
| 8420686 | 506734 | 1613100000 | | 107-DV | | HERMAN MAGGARD #KL425 | KENTUCKY EAST | 32.1 | KENTUCKY WEST VIR |
| 8420684 | 506732 | 1613100000 | | 107-DV | | HERMAN MAGGARD ET AL - KL424 | KENTUCKY EAST | 19.4 | KENTUCKY WEST VIR |
| 8420588 | 506538 | 1619500000 | | 107-DV | | J S CLINE - #KL410 | KENTUCKY EAST | 8.8 | KENTUCKY WEST VIR |
| 8420728 | 506809 | 1619300000 | | 107-DV | | JACK WHITTAKER # KL328-1702 | KENTUCKY EAST | 14.6 | KENTUCKY WEST VIR |
| 8420730 | 506811 | 1619300000 | | 103 | | JACK WHITTAKER # KL328-1702 | KENTUCKY EAST | 14.3 | KENTUCKY WEST VIR |
| 8420787 | 506888 | 1619300000 | | 103 | | JAMES CAMPBELL ET AL - #K540-7281 | KENTUCKY EAST | 365.0 | KENTUCKY WEST VIR |
| 8420694 | 506750 | 1613100000 | | 103 | | JAMES J HENDRIXON - #KF404 | KENTUCKY EAST | 19.4 | KENTUCKY WEST VIR |
| 8420774 | 506870 | 1613300000 | | 107-DV | | JESSIE WRIGHT - #KL498 | KENTUCKY EAST | 34.9 | KENTUCKY WEST VIR |
| 8420611 | 506602 | 1613100000 | | 103 | | JOHN C CAUSEY - #K64-7299 | KENTUCKY EAST | 1314.0 | KENTUCKY WEST VIR |
| 8420570 | 506498 | 1613100000 | | 107-DV | | JOHN M BAKER - #K365-7344 | KENTUCKY EAST | 8.8 | KENTUCKY WEST VIR |
| 8420777 | 506873 | 1613100000 | | 107-DV | | JOHN YORK - #K349-7336 | KENTUCKY EAST | 8.8 | KENTUCKY WEST VIR |
| 8420676 | 506715 | 1613100000 | | 107-DV | | KYCOGA LAND CO - #KL55 | KENTUCKY EAST | 15.0 | KENTUCKY WEST VIR |
| 8420634 | 506649 | 1613100000 | | 103 | | KYCOGA LAND CO - #K26-1760 | KENTUCKY EAST | 378.1 | KENTUCKY WEST VIR |
| 8420632 | 506647 | 1613100000 | | 107-DV | | KYCOGA LAND CO - #K28-1763 | KENTUCKY EAST | 27.6 | KENTUCKY WEST VIR |
| 8420609 | 506600 | 1613100000 | | 103 | | KYCOGA LAND COMPANY - #KL23 | KENTUCKY EAST | 12.3 | KENTUCKY WEST VIR |
| 8420631 | 506646 | 1613100000 | | 107-DV | | KYCOGA LAND COMPANY - #K27-1762 | KENTUCKY EAST | 46.0 | KENTUCKY WEST VIR |
| 8420606 | 506597 | 1613100000 | | 107-DV | | KYCOGA LAND COMPANY #KL23 | KENTUCKY EAST | 8.8 | KENTUCKY WEST VIR |
| 8420624 | 506635 | 1607100000 | | 108 | | M A DAVIDSON - #KL41 | KENTUCKY EAST | 20.0 | KENTUCKY WEST VIR |
| 8420626 | 506637 | 1607100000 | | 108 | | M A DAVIDSON - #K84-1746 | KENTUCKY EAST | 7.5 | KENTUCKY WEST VIR |
| 8420612 | 506603 | 1607100000 | | 103 | | M F MARTIN - #KL362 | KENTUCKY EAST | 2.6 | KENTUCKY WEST VIR |
| 8420607 | 506598 | 1607100000 | | 107-DV | | M F MARTIN - KL362 | KENTUCKY EAST | 65.8 | KENTUCKY WEST VIR |
| 8420714 | 506795 | 1613100000 | | 107-DV | | MARGARET DEATON # KL32-1768 | KENTUCKY EAST | 45.3 | KENTUCKY WEST VIR |
| 8420671 | 506710 | 1619500000 | | 103 | | NOAH LUCAS ET AL - #KL366 | KENTUCKY EAST | 3.0 | KENTUCKY WEST VIR |
| 8420635 | 506650 | 1619300000 | | 103 | | OWEN COMBS - #KL435 | KENTUCKY EAST | 58.4 | KENTUCKY WEST VIR |
| 8420590 | 506550 | 1611500000 | | 107-DV | | PAULINE V LIVELY - #KL443 | KENTUCKY EAST | 12.3 | KENTUCKY WEST VIR |
| 8420675 | 506714 | 1613100000 | | 107-DV | | PHILLIP JOSEPH - #KF54 | KENTUCKY EAST | 10.7 | KENTUCKY WEST VIR |
| 8420717 | 506798 | 1613100000 | | 107-DV | | RAY COAL COMPANY # KL458 | KENTUCKY EAST | 51.5 | KENTUCKY WEST VIR |
| 8420625 | 506636 | 1619500000 | | 108 | | RAY TAYLOR - #K75-1728 | KENTUCKY EAST | 2.6 | KENTUCKY WEST VIR |
| 8420690 | 506738 | 1619300000 | | 103 | | SAMUEL COLWELL - #KF398 | KENTUCKY EAST | 268.8 | KENTUCKY WEST VIR |
| 8420688 | 506736 | 1619300000 | | 103 | | SAMUEL COUCH - #KF346-7318 | KENTUCKY EAST | 150.7 | KENTUCKY WEST VIR |
| 8420687 | 506735 | 1619300000 | | 103 | | SAMUEL COUCH - #K343-7296 | KENTUCKY EAST | 361.6 | KENTUCKY WEST VIR |
| 8420585 | 506535 | 1611900000 | | 103 | | SHERWOOD OSBORNE - #KL318 | KENTUCKY EAST | 2.2 | KENTUCKY WEST VIR |
| 8420586 | 506536 | 1611900000 | | 107-DV | | SHERWOOD OSBORNE - #KL318 | KENTUCKY EAST | 56.1 | KENTUCKY WEST VIR |
| 8420768 | 506860 | 1607100000 | | 107-DV | | TOMMY HALL ET AL - #KL436 | KENTUCKY EAST | 18.5 | KENTUCKY WEST VIR |
| 8420569 | 506497 | 1613100000 | | 107-DV | | WILLIAM CRESS - #K347-7321 | KENTUCKY EAST | 12.3 | KENTUCKY WEST VIR |
| 8420764 | 506855 | 1607100000 | | 107-DV | | WILLIAM R CALLIHAN # KL471 | KENTUCKY EAST | 17.4 | KENTUCKY WEST VIR |
| -MORGAN DRILLING INC | | | | RECEIVED: | 02/13/84 | JA: KY | | | |
| 8420571 | 506509 | 1615900000 | | 103 | | VINEY MAYNARD #2 | | 0.0 | |
| -NEWSOM TIVIS | | | | RECEIVED: | 02/13/84 | JA: KY | | | |
| 8420566 | 506445 | 1619500000 | | 107-DV | | THOMAS RATLIFF #20 | BEAR FORK - ROBINSON | 0.0 | COLUMBIA GAS TRAN |
| 8420567 | 506446 | 1619500000 | | 107-DV | | THOMAS RATLIFF #21 | BEAR FORK - ROBINSON | 0.0 | COLUMBIA GAS TRAN |
| 8420793 | 506897 | 1619500000 | | 107-DV | | THOMAS RATLIFF #22 | BEAR FORK - ROBINSON | 0.0 | COLUMBIA GAS TRAN |
| 8420794 | 506898 | 1619500000 | | 107-DV | | THOMAS RATLIFF #23 | BEAR FORK - ROBINSON | 0.0 | COLUMBIA GAS TRAN |
| -P T C INC | | | | RECEIVED: | 02/13/84 | JA: KY | | | |
| 8420784 | 506885 | 1619500000 | | 107-DV | | R D & VIVIAN MAYNARD #3 | BIG CREEK - PIKE COUN | 0.0 | COLUMBIA GAS TRAN |
| -PANBOWL PRODUCTION CO | | | | RECEIVED: | 02/13/84 | JA: KY | | | |
| 8420738 | 506822 | 1602500000 | | 108 | | E BOGGS | QUICKSAND | 10.0 | PUBLIC GAS CO |
| 8420750 | 506836 | 1602500000 | | 108 | | LINVILLE CARPENDER #3 | QUICKSAND | 0.0 | PUBLIC GAS CO |
| -PEAKE OPERATING CO | | | | RECEIVED: | 02/13/84 | JA: KY | | | |
| 8420769 | 506863 | 1619552229 | | 103 | | HAMILTON 1-B | | 5.0 | COLUMBIA GAS TRAN |
| -PETRO UNITED LTD | | | | RECEIVED: | 02/13/84 | JA: KY | | | |
| 8420726 | 506807 | 1608500000 | | 107-DV | | H CLEMENTS #3 PUL NO 1562 | SHREWSBURY | 4.7 | EQUITABLE LIFE AS |
| -PETROLEUM CORPORATION OF TEXAS | | | | RECEIVED: | 02/13/84 | JA: KY | | | |
| 8420568 | 506449 | 1613100000 | | 107-DV | | FANNIE HENSLEY HEIRS #1 | HYDEN-WEST | 34.3 | COLUMBIA GAS TRAN |
| -ROBERTS & JENKINS | | | | RECEIVED: | 02/13/84 | JA: KY | | | |
| 8420731 | 506812 | 1607100000 | | 108 | | GEORGE HAMILTON #1 | | 0.0 | COLUMBIA GAS TRAN |
| -SABINE PRODUCTION COMPANY | | | | RECEIVED: | 02/13/84 | JA: KY | | | |
| 8420669 | 506703 | 1610700000 | | 103 | | GENTRY-DIEHL ET AL UNIT #1 | | 0.0 | ORBIT GAS CO |
| 8420679 | 506718 | 1610700000 | | 102-4 | | GENTRY-DIEHL ET AL UNIT #1 | | 0.0 | ORBIT GAS CO |
| -SARGENT OIL & GAS CO INC | | | | RECEIVED: | 02/13/84 | JA: KY | | | |
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| -TENNESSEE LAND & EXPLORATION CO | | | | RECEIVED: | 02/13/84 | JA: KY | | | |
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| 8420572 | 506514 | 1619500000 | | 108 | | J B ELKINS #1 | J B ELKINS | 4.5 | COLUMBIA GAS TRAN |

| JD NO | JA DKT | API NO | D | SEC(1) | SEC(2) | WELL NAME | FIELD NAME | PROD | PURCHASER |
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| -WELCH BROTHERS OIL & GAS INC | | | | RECEIVED: | 02/13/84 | JA: KY | | | |
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| 8420757 | 506843 | 1623500000 | | 103 | | GEORGE BROWN #1 | | 50.0 | GLOBAL PETROLEUM |
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| 8420693 | 506749 | 1623500000 | | 103 | | SARAH RICHARDSON #1 | CROWLEY BEND | 30.0 | DELTA NATURAL GAS |
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Federal Register

Vol. 49, No. 48

Friday, March 9, 1984

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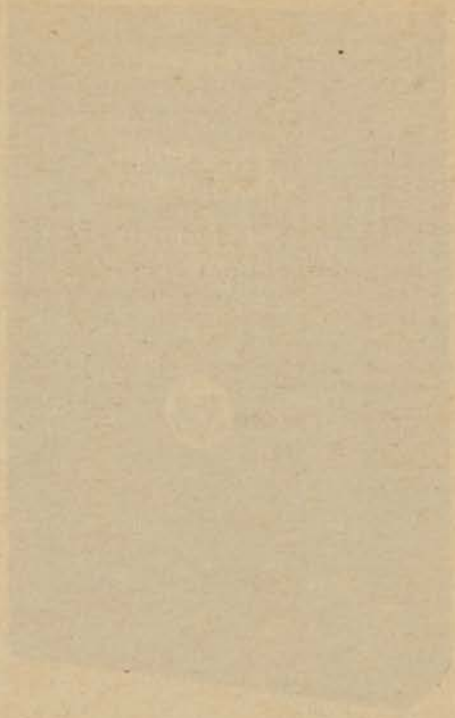
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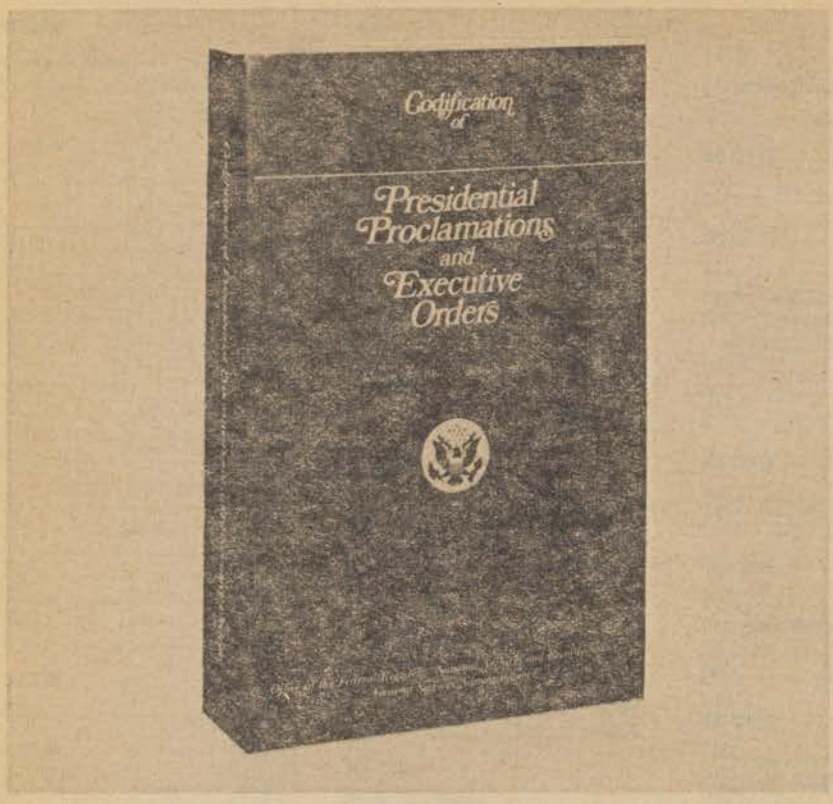
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