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Federal Register

Wednesday
October 30, 1985

Briefings on How To Use the Federal Register
For information on briefings in Atlanta, GA, and Philadelphia, PA, see announcement on the inside cover of this issue.

Selected Subjects

Antibiotics
Food and Drug Administration
Aviation Safety
Federal Aviation Administration
Chemicals
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Customs Duties and Inspection
Customs Service
Fisheries
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Marketing Agreements
Agricultural Marketing Service
National Banks
Comptroller of Currency
Natural Gas
Federal Energy Regulatory Commission
Pesticides and Pests
Environmental Protection Agency
Privacy
Interior Department
Radio Broadcasting
Federal Communications Commission

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Selected Subjects

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

How To Cite This Publication: Use the volume number and the page number. Example: 50 FR 12345.

Savings and Loan Associations
Federal Home Loan Bank Board

Securities
Comptroller of Currency

Surface Mining
Surface Mining Reclamation and Enforcement Office

Water Pollution Control
Environmental Protection Agency

THE FEDERAL REGISTER: WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 2 1/2 hours) to present:
1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

ATLANTA, GA

WHEN: Nov. 21; at 1 pm.
Nov. 22; at 9 am. (identical session)

WHERE: Room LP-7,
Richard B. Russell Federal Building,
75 Spring Street, SW., Atlanta, GA.

RESERVATIONS: Deborah Hogan,
Atlanta Federal Information Center,
Before Nov. 12: 404-221-2170
On or after Nov. 12: 404-331-2170

PHILADELPHIA, PA

WHEN: Dec. 17; at 1 pm.
Dec. 18; at 9 am. (identical session)

WHERE: Room 3306/10
William J. Green, Jr., Federal Building,
600 Arch Street, Philadelphia, PA.

RESERVATIONS:
Laura Lewis,
Philadelphia Federal Information Center,
215-597-1709

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Presidential Documents

Title 3—

The President

Proclamation 5397 of October 28, 1985

National Hospice Month, 1985

By the President of the United States of America

A Proclamation

Hospices play an important role in our national medical care system. Terminally ill hospice patients receive expert medical care while they and their families can develop essential emotional and spiritual support.

Hospices have shown their ability to provide appropriate, competent, and compassionate care. Under the hospice concept, each program has a team of physicians, nurses, social workers, pharmacists, psychological and spiritual counselors, and community volunteers—all trained to assist the terminally ill. The team works together to care for patients and their families, especially helping them to cope with their pain and grief.

Hospices are rapidly becoming full partners in our health care system. In November 1983, hospice care benefits became available to people under Medicare. Many private insurance carriers and employers have also recognized the value of hospice care and included hospice benefits in their health care plans.

The Congress, by Senate Joint Resolution 155, has designated the month of November 1985 as "National Hospice Month" and authorized and requested the President to issue a proclamation in observance of this event.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby designate the month of November 1985 as National Hospice Month, and I direct the appropriate government officials, all citizens, and interested organizations and associations to observe this month with activities that recognize this important event.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-eighth day of October, in the year of our Lord nineteen hundred and eighty-five, and of the Independence of the United States of America the two hundred and tenth.

Ronald Reagan

[FR Doc. 85-26005
Filed 10-28-85; 3:09 pm]
Billing code 3195-01-M

Presidential Documents

Proclamation 5398 of October 28, 1985

National Farm-City Week, 1985

By the President of the United States of America

A Proclamation

American farmers are the most productive in the world. But without farm machinery, fuel, electric power, chemical products, and other supplies from industry, our farms could never have achieved this remarkable level of efficiency.

American consumers have the widest variety and the most plentiful supply of food and fiber products that can be found anywhere. But without adequate transportation, processing, and marketing, our consumers could not reap the full benefits of our bounteous farms, orchards, and ranches.

It is the successful synergism of farms, towns, cities, industry, and business that makes the United States a cornucopia for its own citizens, able to share its superabundance with a world where large regions suffer from critical shortages of food, often because of policies that discourage initiative and thwart progress.

To arrive at a better appreciation of how our American system works—with its cooperation between farm workers and city workers—we set aside in each November a Farm-City Week. During this time we seek to highlight the contributions that farmers and city dwellers, working together, make to the bounty, vitality, and strength of our Nation.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the week beginning November 22, 1985, through November 28, 1985, as National Farm-City Week. I call upon all Americans, in rural areas and in cities alike, to join in recognizing the accomplishments of our productive farmers and of our urban residents in working together in a spirit of cooperation and interdependence to create abundance, wealth, and strength for the Nation.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-eighth day of October, in the year of our Lord nineteen hundred and eighty-five, and of the Independence of the United States of America the two hundred and tenth.

Ronald Reagan

[FR Doc. 85-26000
Filed 10-28-85; 3:10 pm]
Billing code 3195-01-M

Presidential Documents

Proclamation 5399 of October 28, 1985

National Family Week, 1985

By the President of the United States of America

A Proclamation

America's families are America's greatest strength. Just as American society is more than the sum of its parts, families are more than just collections of individuals.

It is within the family that we first gain an understanding of who we are; that we learn to give and receive love; that we learn to respect the individuality of others; that we grow to be strong, healthy adults able to take our place in the larger families of community, country, and the world. Through the family we pass on our traditions, our rituals, and our values. From our families we receive the love, encouragement, and education needed to meet life's challenges. Family life also provides a stimulus for the spiritual growth that fosters probity of character, generosity of spirit, and responsible citizenship.

It is important that we dedicate ourselves to the promotion of strong families for, with their strength, commitment, and loyalty, they form the hearth and heart of our national life. As an eminent American educator has wisely observed: "The security and elevation of the family and of family life are the prime objects of civilization, and the ultimate ends of all industry." Special concern is due to troubled families, for we recognize that any chain is only as strong as its weakest link. At their best, strong families are small communities of love. Let us help them prosper.

National Family Week gives us a chance to honor all families and especially to honor those Americans who have extended the love and support of their families to a child through adoption or foster care. By giving the shelter of their loving arms to such a child on a temporary or permanent basis, these Americans demonstrate in a special way the unconditional love that only families can provide.

The Congress, by Senate Joint Resolution 31, has designated the week of November 24 through 30, 1985, as "National Family Week" and authorized and requested the President to issue a proclamation in observance of this week.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the week of November 24 through November 30, 1985, as National Family Week. I invite the Governors of the several States, the chief officials of local governments, the leaders in industry, and all Americans to observe this week with appropriate ceremonies and activities. As we celebrate this Thanksgiving Week, I also invite all Americans to give thanks for the many blessings that they have derived from their family relationships and to reflect upon the importance of maintaining strong families.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-eighth day of October, in the year of our Lord nineteen hundred and eighty-five, and of the Independence of the United States of America the two hundred and tenth.

Ronald Reagan

[FR Doc. 85-26007
Filed 10-28-85; 3:11 pm]
Billing code 3195-01-M

Presidential Documents

Proclamation 5400 of October 28, 1985

Centennial Year of Liberty in the United States

By the President of the United States of America

A Proclamation

She remains a Wonder of the World—an uncanny fusion of art and engineering. She is the result of a unique collaboration between two freedom-loving Frenchmen with a profound affection for America: a great sculptor, Frederic-Auguste Bartholdi, and the greatest structural engineer of his time, Alexandre Gustave Eiffel. Next year she will be 100 years old.

Nineteen hundred and eighty-six marks the Centennial of the Statue of Liberty. Originally called "Liberty Enlightening the World," the Statue was a generous gift from the people of France to the people of the United States. It represents the close and cordial relationship that traditionally has existed between our countries and our common devotion to freedom and democracy.

She rises majestically 151 feet above the magnificent base designed by Richard M. Hunt, the preeminent American architect. But she is much more than her awesome dimensions and her physical splendor. For millions of anxious immigrants, the forebears of countless millions of today's Americans, she was the first glimpse of America. She was assurance of journey's end, safe harbor reached at last, and the beginning of a new adventure in a free and blessed land. For them she was a dream come true, the Lady with the Lamp, a warm welcome to a new world and a new life.

The gifted American poet Emma Lazarus, hailing her as the "New Colossus," put the message of the Statue of Liberty in unforgettable words:

> Keep ancient lands, your storied pomp . . .
> Give me your tired, your poor,
> Your huddled masses yearning to breathe free,
> The wretched refuse of your teeming shore.
> Send these, the homeless, tempest-tost, to me.
> I lift my lamp beside the Golden Door.

Since its dedication on October 28, 1886, the Statue of Liberty has held high the beacon of freedom, hope, and opportunity to welcome millions of immigrants and visitors from foreign lands. From that time she has been one of the proudest symbols of the American ideal of liberty and justice for all.

Today, the Statue of Liberty and nearby Ellis Island are being restored from the ravages of time and weather by the Statue of Liberty-Ellis Island Centennial Foundation, Inc.

The United States will celebrate the one hundredth anniversary of the Statue of Liberty through commemorative events scheduled to take place during the Fourth of July Weekend in 1986 and on October 28, 1986.

In recognition of the importance of the Statue of Liberty to the American people, the Congress, by House Joint Resolution 407, has designated the twelve-month period ending on October 28, 1986, as the "Centennial Year of Liberty in the United States" and authorized and requested the President to issue a proclamation in observance of this occasion.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the twelve-month period ending on October 28,

1986, as the Centennial Year of Liberty in the United States, and I call upon the people of the United States to observe this year with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-eighth day of October, in the year of our Lord nineteen hundred and eighty-five, and of the Independence of the United States of America the two hundred and tenth.

Ronald Reagan

[FR Doc. 85-26082
Filed 10-29-85; 10:40 am]
Billing code 3195-01-M

Editorial note: For the President's remarks of October 28 on signing proclamation 5400, see the *Weekly Compilation of Presidential Documents* (vol. 21, no. 44).

Presidential Documents

Executive Order 12537 of October 28, 1985

President's Foreign Intelligence Advisory Board

By the authority vested in me as President by the Constitution and statutes of the United States of America, and in order to enhance the security of the United States by improving the quality and effectiveness of intelligence available to the United States, it is ordered as follows:

Section 1. There is hereby established within the White House Office, Executive Office of the President, the President's Foreign Intelligence Advisory Board (the "Board"). The Board shall consist of not more than fourteen members, who shall serve at the pleasure of the President and shall be appointed by the President from among trustworthy and distinguished citizens outside the government who are qualified on the basis of achievement, experience, and independence. The President shall establish the terms of the members upon their appointment. To the extent practicable, one-third of the Board at any one time shall be comprised of members whose current term of service does not exceed two years. The President shall designate a Chairman and Vice Chairman from among the members. The Board shall utilize full-time staff and consultants as authorized by the President. Such staff shall be headed by an Executive Director, appointed by the President.

Sec. 2. The Board shall assess the quality, quantity, and adequacy of intelligence collection, of analysis and estimates, of counterintelligence, and other intelligence activities. The Board shall have the authority to continually review the performance of all agencies of the Federal government that are engaged in the collection, evaluation, or production of intelligence or the execution of intelligence policy. The Board shall further be authorized to assess the adequacy of management, personnel, and organization in the intelligence agencies.

Sec. 3. The Board shall report directly to the President and advise him concerning the objectives, conduct, management, and coordination of the various activities of the agencies of the intelligence community. The Board shall report periodically, but at least semiannually, concerning findings and appraisals and shall make appropriate recommendations for actions to improve and enhance the performance of the intelligence efforts of the United States.

Sec. 4. The Board shall receive, consider, and recommend appropriate action with respect to matters, identified to the Board by the Director of Central Intelligence, the Central Intelligence Agency, or other government agencies engaged in intelligence or related activities, in which the support of the Board will further the effectiveness of the national intelligence effort. With respect to matters deemed appropriate by the President, the Board shall advise and make recommendations to the Director of Central Intelligence, the Central Intelligence Agency, and other government agencies engaged in intelligence and related activities, concerning ways to achieve increased effectiveness in meeting national intelligence needs.

Sec. 5. The Board shall have access to the full extent permitted by applicable law to all information necessary to carry out its duties in the possession of any agency of the Federal government. Information made available to the Board shall be given all necessary security protection in accordance with applicable laws and regulations. Each member of the Board, each member of the Board's staff, and each of the Board's consultants shall execute an

agreement never to reveal any classified information obtained by virtue of his or her service with the Board except to the President or to such persons as the President may designate.

Sec. 6. Members of the Board shall serve without compensation, but may receive transportation, expenses, and per diem allowance as authorized by law. Staff and consultants to the Board shall receive pay and allowances as authorized by the President.

Sec. 7. Executive Order No. 12331 of October 20, 1981 is revoked.

Ronald Reagan

THE WHITE HOUSE,
October 28, 1985.

[FR Doc. 85-26083
Filed 10-29-85; 10:41 am]
Billing code 3195-01-M

Presidential Documents

Proclamation 5401 of October 28, 1985

National Sudden Infant Death Syndrome Awareness Month, 1985

By the President of the United States of America

A Proclamation

Sudden Infant Death Syndrome (SIDS), the sudden and unexpected death of apparently healthy babies, is the major cause of death of infants between the ages of one month and one year. Between 5,000 and 6,000 babies die of SIDS annually in the United States. Most die unobserved in their sleep. Despite two decades of aggressive biomedical and behavioral research, supported in large part by the Federal government, the exact cause of SIDS remains elusive. From what we have learned through research, choking, neglect, infection, and heredity have been ruled out as probable causes, and today the syndrome is attributed to a combination of subtle physiological deficiencies in the infant.

The parents and families of SIDS victims frequently experience intense and traumatic grief, often accompanied by unwarranted feelings of guilt that can result in psychosocial and even physical problems. It is extremely important that the facts about SIDS be widely disseminated and understood in order to banish myths and misconceptions. By working together, parents, schools, private and voluntary organizations, and government at all levels can bring about a greater public understanding of this tragic syndrome.

The Congress, by House Joint Resolution 322, has designated the month of October 1985, as "National Sudden Infant Death Syndrome Awareness Month" and authorized and requested the President to issue a proclamation in observance of this event.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the month of October 1985, as National Sudden Infant Death Syndrome Awareness Month.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-eighth day of October, in the year of our Lord nineteen hundred and eighty-five, and of the Independence of the United States of America the two hundred and tenth.

Ronald Reagan

[FR Doc. 85-26097
Filed 10-29-85; 11:05 am]
Billing code 3195-01-M

Rules and Regulations

Federal Register
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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 2

Revision of Delegation of Authority; Administrator, Office of Transportation

AGENCY: Office of the Secretary.

ACTION: Final rule.

SUMMARY: This document revises the delegation of authority from the Secretary and general officers of the Department to reflect the change in title of the head of the Office of Transportation from Director, Office of Transportation, to Administrator, Office of Transportation.

EFFECTIVE DATE: October 30, 1985.

FOR FURTHER INFORMATION CONTACT: John C. Frey, Classification, Employment and Executive Resources Program, Human Resources Division, Animal and Plant Health Inspection Service, Federal Center Bldg., Room 221, 6505 Belcrest Road, Hyattsville, MD 20782 (301–436–6466).

SUPPLEMENTARY INFORMATION: The mission of the Office of Transportation is to assist the Secretary in the development of agricultural and rural transportation policies and programs. As a result of a recently approved revision of the Office of Transportation organization, the top official of the office is designated as Administrator rather than Director. This rule relates to internal agency management. Therefore, pursuant to 5 U.S.C. 553, notice of proposed rulemaking and opportunity for comment are not required and this rule may be made effective in less than 30 days after publication in the **Federal Register**. Further, since this rule relates to internal agency management, it is exempt from the provisions of E.O. 12291.

Finally, this action is not a rule as defined by Public Law 96–354, the Regulatory Flexibility Act, and thus is exempt from the provisions of that Act.

List of Subjects in 7 CFR Part 2

Authority delegations (Government agencies).

PART 2—DELEGATIONS OF AUTHORITY BY THE SECRETARY OF AGRICULTURE AND GENERAL OFFICERS OF THE DEPARTMENT

Accordingly, 7 CFR Part 2 is amended as follows:

1. The authority citation for Part 2 continues to read as follows:

Authority: 5 U.S.C. 301 and Reorganization Plan No. 2 of 1953, unless otherwise noted.

Subpart F—Delegations of Authority by the Assistant Secretary for Marketing and Inspection Services

2. Section 2.52 is amended by revising the heading and introductory paragraph (a) to read as follows:

§ 2.52 Administrator, Office of Transportation.

(a) Delegations. Pursuant to § 2.17(d), the following delegations of authority are made by the Assistant Secretary for Marketing and Inspection Services to the Administrator, Office of Transportation:

* * * * *

Done at Washington, D.C., this 23rd day of October, 1985.

Raymond D. Lett,

Assistant Secretary for Marketing and Inspection Services.

[FR Doc. 85–25842 Filed 10–29–85; 8:45 am]

BILLING CODE 3410–01–M

Agricultural Marketing Service

7 CFR Part 905

[Oranges, Grapefruit, Tangerine, and Tangelo Regulation 6, Amdt. 37]

Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida; Amendment of Size Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action lowers the minimum diameter requirement for domestic shipments of Florida pink seedless grapefruit and imports of pink seedless grapefruit from 3$^{7}/_{16}$ inches (size 48) to 3$^{5}/_{16}$ inches (size 56). This action recognizes changes in supply and demand conditions for smaller size pink seedless grapefruit and is necessary to promote the interests of growers and consumers.

EFFECTIVE DATES: October 24, 1985–August 17, 1986.

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 Memorandium 1512–1 and Executive Order 12291 and has been designated as 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.

The amendment is issued under the marketing agreement and Order No. 905 (7 CFR Part 905), both as amended, regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This action is based upon the recommendation and information submitted by the Citrus Administrative Committee, and upon other available information. It is hereby found that regulation of Florida and imported pink seedless grapefruit, as hereinafter provided, will tend to effectuate the declared policy of the act.

Florida Citrus Regulation 6 was issued on a continuing basis subject to modification, suspension, or termination upon recommendation by the committee and approval by the Secretary. The committee meets prior to and during each season to consider recommendations for modification, suspension or termination of the regulatory requirements for Florida oranges, grapefruit, tangerines, and tangelos. Prior to making any such recommendations, the committee submits to the Secretary a marketing policy for the season including an analysis of supply and demand factors having a bearing on the marketing of the crop. Committee meetings are open to

the public and interested persons may express their views at these meetings. The Department reviews committee recommendations and information submitted by the committee and other available information, and determines whether modification, suspension, or termination of the regulatory requirements would tend to effectuate the declared policy of the act.

Florida seedless grapefruit production is expected to total 41 million boxes in 1985–86 compared to 41.1 million boxes last season. However, domestic shipments of Florida pink seedless grapefruit are expected to increase 10.0 percent from last year. The increase in anticipated fresh shipments is mainly attributed to the freeze-reduced crop in Texas and an increased demand for smaller sizes of pink seedless grapefruit in certain markets, particularly Canada. In addition, allowing smaller size fruit to be marketed will enable growers to pick their groves once, thus reducing costs to growers and decreasing the risk of ctirus canker infestation.

The minimum size requirements, specified herein, reflect the committee's and the Department's appraisal of the need to revise the size requirements applicable to Florida pink seedless grapefruit due to current and prospective crop and demand conditions.

Under section 8e of the Act (7 U.S.C. 608e–1), whenever specified commodities, including grapefruit, are regulated under a Federal marketing order, imports of that commodity must meet the same or comparable grade, size, quality or maturity requirements as those in effect for the domestically produced commodity. Thus, the size requirements for imported pink seedless grapefruit will also change to conform to the size requirements for domestic shipments of Florida pink seedless grapefruit.

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 amendment is based and the effective date necessary to effectuate the declared purposes of the act. This amendment relieves restrictions on shipments of Florida and imported pink seedless grapefruit. Handlers have been apprised of such provisions and the effective dates.

List of Subjects in 7 CFR Part 905

Agricultural Marketing Service, Marketing agreements and orders, Grapefruit, Oranges, Tangelos, Tangerines, Florida.

1. The authority citation for 7 CFR Part 905 continues to read as follows:

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

2. Section 905.306 is amended by revising the following entries in Table I, paragraph (a), applicable to domestic shipments, to read as follows:

§ 905.306 Orange, Grapefruit, Tangerine and Tangelo Regulation 6.

(a) * * *

TABLE I

Variety	Regulation Period	Minimum grade	Minimum diameter (in.)
(1)	(2)	(3)	(4)
* * *	* * *	* * *	*
Grapefruit:			
Seedless, pink	10/24/85–8/17/86	Improved No. 2 (External) U.S. No. 1 (Internal).	3–5/16
	On and after 8/18/86	Improved No. 2 (External) U.S. No. 1 (Internal).	3–9/16
* * *	* * *	* * *	*

* * * * *

Dated: October 24, 1985.

Thomas R. Clark,

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

[FR Doc. 85–25826 Filed 10–29–85; 8:45 am]

BILLING CODE 3410–02–M

7 CFR Parts 906 and 944

Oranges and Grapefruit Grown in Texas, and Imported Oranges; Revision of Grade, Size, and Container Marking Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule temporarily: (1) Relaxes the current minimum grade requirements for Texas oranges and grapefruit; (2) lowers the minimum size requirement for Texas grapefruit; (3) suspends certain container marking requirements; and (4) relaxes the minimum grade requirement for imported oranges. Such action is designed to permit the shipment of Texas oranges and grapefruit with slightly more cosmetic defects, and slightly smaller grapefruit during the 1985–86 season due to current crop conditions.

DATES: Effective October 25, 1985 through July 31, 1986.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Chief, Fruit Branch, F&V, AMS, USDA, Washington, DC 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 certified 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.

The revision of the Texas orange and grapefruit requirements is issued under the marketing agreement, as amended, and Order No. 906, as amended (7 CFR Part 906), regulating the handling of oranges and grapefruit grown in the Lower Rio Crande Valley in Texas. The revision of the orange import requirements is issued under section 8e (7 U.S.C. 608e–1) of the act. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This final rule is based upon the recommendations and information submitted by the Texas Valley Citrus Committee on September 25, 1985, and upon other available information.

This final rule lowers: (1) The current minimum grade requirements of U.S. No. 2 for Texas oranges and imported oranges to U.S. No. 2, with additional allowances for fruit with thorn scratches, scale, green spots, oil spots, and discoloration; (2) the current minimum grade requirement of U.S. No. 2 for Texas grapefruit to U.S. No. 2, with additional allowances for thorn scratches, scale, green spots, and shape; and (3) the minimum size requirement for all Texas grapefruit to pack size 112 with a minimum diameter of 3–5/16 inches. Currently, the minimum size requirement for U.S. No. 2 grade Texas grapefruit is pack size 96 with a minimum diameter of 3–9/16 inches, while for U.S. No. 1 grade grapefruit the minimum is already pack size 112 with a

minimum diameter of 3-5/16 inches. The final rule also suspends a container marking requirement that containers of U.S. No. 2 grade fruit be marked with that grade.

This action reflects prospective marketing conditions and the composition and condition of the 1985-86 season Texas orange and grapefruit crops. The Texas Valley Citrus Committee reports that the prospective Texas orange and grapefruit crops are substantially smaller then normal largely due to substantial freeze damage to the citrus trees nearly 2 years ago. Furthermore, it reports that the oranges and grapefruit have abnormal amounts of skin blemishes this season due to bird pecks, wind and twig scarring, and inadequate spray coverage. The committee believes that a considerable amount of the fruit on the trees will not meet current minimum grade and size requirements and that some of this fruit would likely be abandoned unless current requirements are relaxed because of inadequate market outlets for such fruit. This is partly due to the fact that the juice plants are expected to operate for a maximum of 3 or 4 weeks this season. Prompt action is required because the 1985-86 Texas orange and grapefruit harvest is expected to begin as early as mid-October. Suspension of the container grade marking requirement, which specifies that containers of U.S. No. 2 grade fruit be marked with that grade, is designed to prevent confusion on the part of packinghouse personnel due to the modification of the minimum grade requirements. The grade requirement for imported oranges is being relaxed to conform with the lower grade requirement for Texas oranges, as required in section 8e of the act.

Accordingly, the Secretary finds that upon good cause shown it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date of this final rule until 30 days after publication in the **Federal Register** (5 U.S.C. 553) because: (1) This action relieves restrictions on the handling of oranges and grapefruit; (2) handlers are aware of this action as recommended by the committee at a public meeting, and they will require no additional time to comply with the rule; (3) harvest and shipment of the 1985-86 season Texas orange and grapefruit crop is expected to begin as early as mid-October and the specified requirements should be in effect by that time; and (4) no purpose would be served by delaying the effective date beyond (insert date of signature of the final rule). It is further found that this final rule will tend to effectuate the declared policy of the act.

List of Subjects

7 CFR Part 906

Marketing agreement and orders, Oranges, Grapefruit, Texas.

7 CFR Part 944

Food grades or Standards, Imports, Oranges.

1. The authority citation for 7 CFR Parts 906 and 944 continues to read as follows:

Authority: Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.

2. Section 906.340 is amended by adding a new proviso following the last word in paragraph (a)(3) of such section, § 906.365 is amended by adding a new paragraph (c) to such section, and § 944.312 is amended by adding a new paragraph (g) to such section to read as follows: (this final rule expires July 31, 1986, and will not be published in the Code of Federal Regulations).

PART 906—ORANGES AND GRAPEFRUIT GROWN IN LOWER RIO GRANDE VALLEY IN TEXAS

§ 906.340 Container, pack and container marking regulation.

(a) * * *

(3) * * *: *Provided,* That such container grade marking requirement is suspended during the period October 25, 1985 through July 31, 1986.

* * * * *

§ 906.365 Texas Orange and Grapefruit Regulation 34.

* * * * *

(c) Notwithstanding the requirements specified for oranges and grapefruit in paragraphs (a)(1) through (4) of this section, during the period (insert date of signature of the final rule), through July 31, 1986, any handler may ship: (1) Oranges if such fruit grades at least U.S. No. 2, except very serious damage by thorn scratches, scale, green spots, oil spots, and discoloration shall be permitted, provided such defects are within the acceptance levels specified in § 51.689; (2) grapefruit if such fruit grades at least U.S. No. 2, except very serious damage by thorn scratches, scale, green spots, and shape shall be permitted, provided such defects are within the acceptance levels specified in § 51.628; and (3) such grapefruit are at least pack size 112, except that the minimum diameter limit for such pack size in any lot shall be 3 5/16 inches in diameter. Applicable grade and size requirements are defined in 7 CFR 51.620-51.653, and 51.680-51.714.

PART 944—FRUITS: IMPORT REGULATIONS

§ 944.312 Orange Import Regulation 13.

* * * * *

(g) Notwithstanding the requirements specified for oranges in this section, during the period October 25, 1985, through July 31, 1986, any person may import oranges if they grade at least U.S. No. 2, except very serious damage by thorn scratches, scale, green spots, oil spots, and discoloration shall be permitted, provided such defects are within the acceptance levels specified in § 51.689. Such grade is defined in 7 CFR 51.680-51.714.

Dated: October 25, 1985

Thomas R. Clark,

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

[FR Doc. 85-25896 Filed 10-29-85; 8:45 am]

BILLING CODE 3410-02-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Parts 545, 563, and 584

[No. 85-936]

Loans to One Borrower

Dated: October 17, 1985.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule.

SUMMARY: The Federal Home Loan Bank Board ("Board"), as operating head of the Federal Savings and Loan Insurance Corporation ("Corporation" or "FSLIC"), is amending its regulations pertaining to loans to one borrower to adopt portions of the "common enterprise" test similar to that used by the Office of the Comptroller of the Currency to determine when loans to separate borrowers must be combined; to clarify that a second tier of entities is considered "one borrower" under the regulation; to create an exception from the lending limitation for loans to service corporations; to expand the types of investments that may be made in commercial paper and corporate debt securities of one issuer; and to clarify other miscellaneous matters concerning the loans-to-one-borrower regulation.

EFFECTIVE DATE: November 27, 1985.

FOR FURTHER INFORMATION CONTACT: Gary Gegenheimer, Attorney, Office of General Counsel, (202) 377-6433, or Rosemary Stewart, Associate General

Counsel, Office of General Counsel, (202) 377-6437.

SUPPLEMENTARY INFORMATION: On June 21, 1985, the Board issued and solicited comments on proposed amendments to the regulatory limitation on loans to one borrower, applicable to institutions the accounts of which are insured by the FSLIC ("insured institutions"). 50 FR 25715 (1985). The amendments proposed to adopt the "common enterprise" test, currently used by the Office of the Comptroller of the Currency ("Comptroller") in establishing lending limitations for national banks; to clarify that a second "tier" of entities are subject to existing regulatory limitations; to create an exemption from the current lending limits for loans to service corporation subsidiaries to expand the types of investments that may be made in commercial paper and corporate debt securities; and to clarify certain other miscellaneous provisions of the regulations.

Elements of the Proposals

As proposed, the amendments would have added three new provisions to the definition of "one borrower" codified in § 563.9-3(a)(1)(i). The first of these provisions codifies past opinions of the Board's Office of General Counsel clarifying when a guarantor is to be included in the definition of "obligor." The second amendment clarifies that a second tier of entities is encompassed within the definition of "one borrower" by requiring that loans made by an insured institution to any person that controls or is controlled by any other person that is an obligor of that institution must be aggregated with loans made to that obligor. The third proposed amendment would adopt portions of the "common enterprise" test used by the Comptroller in determining leading limitations for national banks. In particular, it adds two of the three so-called "per se" rules set forth at 12 CFR 32.5(a)(2) of the Comptroller's regulations, for combining loans to separate entities where the expected source of repayment is the same for each person or where two or more otherwise unrelated entities will utilize the loan proceeds to jointly acquire a business enterprise.

The proposed amendment also revised the definition of "outstanding loans" to adopt substantial portions of the Comptroller's definition of "loans and extensions of credit." It also clarified that the execution of a promissory note is the event that triggers the requirements of § 563.9-3. In particular, the proposal clarified the rule as it applies to "funds advanced under an executed note," to make it clear that funds that an institution is obliged to advance under an executed promissory note are counted toward the limitation unless the institution has previously obtained a binding overline buyout commitment covering the loans. The policy behind this proposed change is that an executed note typically creates a more immediate obligation than an ordinary loan commitment. For purposes of clarification, the Board also proposed to adopt the definition of the term "person" used by the Comptroller.

The June proposal also would have exempted loans made by insured institutions to their subsidiary service corporations, subject to the aggregate limitation on direct investments by insured institutions in service corporations, real estate, and equity securities, 12 CFR 563.9-8, 50 FR 6912, 6928 (February 19, 1985) and the net-worth requirements pertaining to such investments, 12 CFR 563.13, 50 FR 6891, 6909 (February 19, 1985). The reasoning behind this change was that the present version of the regulation is an ineffective means of eliminating excessive concentration of funds in service corporations by insured institutions because it simply promotes transfers of funds between a parent institution and its subsidiary service corporation in the form of equity, rather than in the form of loans. This places the parent in a less favorable position than holders of the service corporation's debt securities in the event of failure of the subsidiary, and therefore may also affect adversely the FSLIC's position in the even of a failure of the parent association. It also was noted that adverse tax consequences may result from structuring the transfers of funds as purchases and sales of securities, because the interest that a service corporation pays on a loan may be deducted as a business expense, while dividends paid to shareholders may not.

The June proposal also expanded the categories of rated obligations in which insured institutions would be authorized to invest. Under the proposal, insured institutions would be permitted to invest up to one-half of one percent of assets in obligations of one issuer evidenced by: (1) Commercial paper rated in one of the two highest categories; or (2) corporate debt securities rated in any of the three highest categories. This is broader than the current rule, which allows investments only in the highest category for commercial paper and in the two highest categories for corporate debt.

Finally, the Board proposed certain technical amendments to § 584.3(a)(4)(i) to make it consistent with the proposed revisions of § 563.9-3, by providing that loans to service corporations could be made to the extent permitted by the proposed revision to § 563.9-3. It was also proposed to clarify that an institution's net worth or level of withdrawable accounts is to be determined as of the date of the most recent periodic report (monthly or quarterly) required to be filed with the Board prior to the date of execution of the promissory note or analogous document covering the loan in question. After consideration of the public comments and other available information, the Board has determined to adopt the amendments substantially as proposed with modifications as discussed below.

Summary and Discussion of Comments On The Proposed Amendments

The Board received nine public comments in response to the proposed amendments. Two were submitted by savings and loan associations, one by a savings and loan holding company, and one from a FSLIC-insured savings bank. Two comments were received from trade assocations. Two comments were received from law firms on behalf of savings and loan associations, and one from a savings and loan consulting firm. These comments are summarized below in the discussion of each portion of the proposed rule to which they pertain.

Definition of "One borrower". The Board proposed to add three new provisions to the definition of "one borrower" codified in § 563.9-3(a)(1)(i). Subparagraph (*a*) would be amended to clarify when a "guarantor" is to be included in the term "obligor." New subparagraph (*e*) would clarify that a second "tier" of entities is encompassed within the definition of one borrower, by requiring that loans made by an insured institution to any "person" (as that term would be defined in a proposed new paragraph (a)(5)) that controls or is controlled by any person that is an obligor of that institution, must be aggregated with loans made to that obligor. New subparagraph (*f*) would adopt portions of the "common enterprise" test currently used by the Comptroller of the Currency in establishing lending limitations for national banks. It would expand the definition of "one borrower" to include two or more persons where they are acquiring a business enterprise of which those same persons will, in the aggregate, own 50 percent or more of the capital stock, or where the expected source of repayment for the loan or extension of credit in question is the same for each person.

The provision concerning guarantors of loans would codify the staff interpretation of how guarantors are to be treated under the loans-to-one-borrower regulation by providing that if an insured institution has determined, in good faith, that the primary obligor has qualified for a loan, then any guarantor will not be considered an "obligor" for that loan. The Board's Office of General Counsel previously has opined that a guarantee of debt by a party does not automatically cause the amount so guaranteed to be aggregated with other debt owned by the guarantor *unless* it is the creditworthiness of the guarantor upon which the lending institution relied in deciding to grant the loan. In making this determination, the lender's underwriting must demonstrate that the particular loan would have been granted regardless of the existence of the guarantor, and such underwriting itself must be consistent with prudent underwriting standards and practices that are accepted in the savings and loan industry. If this cannot be demonstrated, the guarantor will be considered an obligor for the debt, and it will be aggregated with other debt owed by the guarantor to the institution. The Board noted in the proposal that such a standard would be difficult to monitor in some cases and necessarily would be subject to scrutiny by Board examiners in appropriate cases. A lending institution would be expected to demonstrate to the examiners its reasons for the underwriting decision in such cases, *i.e.*, that the named borrowers qualify for the amount of loan granted and that this can be proven by reference to financial statements, income/expenses projections, and so forth.

The Board received four comments which dealt with the proposed language about guarantors. One commenter supported the proposal as clarifying uncertainties associated with the treatment of guarantors and obligors under the present regulation. One commenter supported the codification of past opinions relating to guarantors but suggested additional commentary addressing the question of subsequent events that may affect a lender's initial "good faith" determination of the creditworthiness of the borrower as it affects the guarantor. It was suggested, by way of example, that when a borrower's initially stable financial condition deteriorates to near default and the guarantor requests a new, unrelated loan, it may be hazardous to continue to exclude the guarantor from the limitations of the regulation. The third commenter believed the proposed test for exclusion of guarantors to be overly stringent. It was claimed that the proposal failed to recognize that an insured institution may look to the collateral as well as an obligor personally in making a loan, and unrealistically assumed that an institution would evaluate each loan proposal where there was a guarantor offered as if there were none. The commenter recommended an alternative of excluding the guarantor from the definition of "one borrower" if the institution looked "primarily" to the obligor, together with the collateral offered by the obligor, in deciding to make the loan. Finally, one commenter suggested that a guarantor should be included in the definition of "one borrower" only to the extent of the guarantee.

After consideration of the comments, the Board has decided to adopt the proposal relating to guarantors as proposed. Clearly there are situations in which insured institutions will look to the creditworthiness of guarantors in evaluating loan proposals, and in those instances, the Board believes that such guarantors should be included in the definition of "one borrower" to the extent of their liability under the note or guarantee that was executed. On the other hand, the Board does not believe that it is unrealistic to assume that an insured institution's analysis and evaluation of loan proposals will demonstrate whether or not an obligor on a loan would qualify independently for that loan when measured against underwriting standards generally accepted in the savings and loan industry. Additionally, to exclude a guarantor at the time a loan is made but subsequently include the guarantor if he independently requests a loan from the institution may work an unfair result. For these reasons, the Board has determined that the language concerning guarantors should be adopted in its proposed form. For consistency and in response to a suggestion made in one of the comment letters, paragraph (a)(1(ii) has been amended to provide that in the case of a loan that has been assumed by a third party with the consent of the lending insured institution, the former debtor or guarantor shall not be deemed an "obligor" with respect to such loan.

The Board also proposed in June to add language to the regulation to clarify that the definition of "one borrower" includes "second tier" entities, citing the potential for abuse and evasion of the regulation if it is read to exclude such entities. The proposal would include in the definition of "one borrower" any "person" that controls or is controlled by another "person" (as that term would be defined in a separate definition).

Four comments were received which addressed this issue. Two of the comments believed the proposed definition of "control" to be overbroad. One of these commenters recommended that the definition set forth at § 583.26 of the regulations relating to savings and loan holding companies be used instead of the proposed definition.[1] The other commenter recommended the use of the Comptroller's criteria for control under the Change in Bank Control Act.[2] The same commenter also objected to the inclusion of subsidiaries where a parent obligor has substantial sources of income other than the subsidiary. Two commenters were opposed to automatic aggregation of parent-subsidiary loans. One of these commenters suggested that second-tier corporations should be included only where the Board could demonstrate that the source of financing of the subsidiary was in fact the controlling person who was also a borrower from the institution. The commenter also suggested that the percentage of stock ownership to determine whether one company controls another should be 50 percent.

As pointed out in the proposal, the Board believes that the present version of the regulation requires the aggregation of loans to a parent corporation and its subsidiaries. The present paragraph (a)(1)(i)(*c*) includes in the definition of "one borrower" "[a]ll . . . corporations of which such [obligor] is a . . . record or beneficial stock holder owning 10 percent or more of the capital stock." Thus, a parent corporation that is an obligor on a loan would, under the present version of the regulation, be considered one borrower with its subsidiary if it owned 10 percent or more of the capital stock of the subsidiary. The utilization of any percentage of stock ownership other than 10 percent to determine "control" thus would result in an inconsistency between the present and proposed versions of the rule. As noted above, the present regulation already requires the aggregation of loans where one company owns 10 percent or more of the capital stock of another. Utilization of a higher threshold (such as 25 or 50

[1] Section 583.26 generally defines control as ownership or power to vote 25 percent or more of the voting shares of a company.

[2] The Change in Bank Control Act provides that a person must have the power to vote 25 percent or more of the voting securities of a corporation to be deemed to have control, unless he owns 10 percent or more of the voting securities and either: (1) the corporation is publicly held, or (2) the person is the corporation's largest shareholder.

percent) for purposes of the proposed definition of "control" would allow institutions to make loans to a larger set of borrowers, which the Board is not prepared to do in light of its concerns about safety and soundness.

For these reasons, the Board has determined to adopt the proposed amendment concerning "control" and to retain the present 10-percent threshold test for determining whether control exists. This amendment, while not changing the substance of current paragraph (a)(1)(i)(*c*), is desirable for purposes of clarification. The Board believes that a careful reading of the regulation requires the result described above, but the Board's staff receives a sufficient number of inquiries each year from institutions and their attorneys as to whether loans to subsidiary corporations are aggregated with loans to their parent companies, to indicate the desirability of clarifying the existing text of the regulation. The amendment adopted today thus simply clarifies the existing rule, and specifically addresses situations in which *de facto* control by one entity over another is present.

Another addition to the regulation proposed in June was the adoption of portions of the "common enterprise" test for combining loans to otherwise separate borrowers where the expected source of repayment is identical for each person. The Board received three comments pertaining to this proposal. One commenter expressed general support for the proposal but urged that the rule be applied "flexibly" (presumably meaning not at all) in situations where the independent creditworthiness of individuals would allow each to qualify for a loan. The same commenter also suggested that the amendment should be interpreted so that loans to individuals jointly acquiring a business enterprise but relying on different sources of repayment would not be aggregated. A second commenter objected to the proposed "common enterprise" test as being inflexible in that it would not accommodate situations where one borrower who operates in diversified fields provides different types of income-generating projects. The third commenter supported the concept of the common enterprise test but expressed concern regarding some situations in which the application of the rule might be unclear. This commenter suggested that loans to two separate persons should be combined only if they both are using the loan proceeds to buy, in the aggregate, 50 percent or more of the capital stock of an enterprise and neither is providing substantial collateral for the loan other than the capital stock.

After careful consideration of the comments and the reasons for the proposal, the Board has decided to adopt the rule as proposed. The Board, like the Comptroller, believes that developing meaningful rules for combining loans to separate but related borrowers is an integral part of effective supervision of insured institutions. Recent experience indicates that there is a high correlation between troubled or failing associations and concentrations of loans to related entities. The development of some "per se" rules which are easily understood and consistently applied is essential.

The Board believes that to adopt the "common enterprise" test on the theory that it is necessary and then not apply it in the situations outlined in certain of the comments would effectively negate the rule. In particular, not combining loans to separate individuals who have strong credit histories or who are relying on different sources of repayment, but where all of the other elements of the "common enterprise" test are present, would be unworkable without detailed factual inquiry in each case with respect to the assets and liabilities of particular borrowers to determine if loans should be combined. In addition, allowing loans to one borrower to exceed the lending limitation simply because the borrower engages in different kinds of projects would permit widespread evasion of the entire loans-to-one-borrower rule.

Definition of "Outstanding loans". The Board received several comments concerning its proposal to amend the definition of "outstanding loans." Most of these comments focused on the proposal to clarify the Board's position that the term includes funds that an insured institution is obligated to advance under an executed promissory note as well as funds that the institution has actually advanced. Two commenters argued that the date of the loan commitment, as opposed to the date of execution of the note, was the more significant date in determining whether an institution has an obligation to advance funds. One commenter recommended that loans guaranteed by irrevocable letters of credit or surety bonds issued by other financial institutions or recognized surety companies be excluded from the definition of "outstanding loans." Also included in this recommendation would be collateral assignments of rights under transferable letters of credit or surety bonds. One commenter requested clarification of the status of collateral loans and repurchase agreements under the definition of "outstanding loans". Specifically, it was suggested that collateral loans, fully secured by mortgages, should be exempted from the definition, as well as repurchase agreements collateralized by securities. One commenter recommended that loans or portions thereof made subject to an overline buyout commitment from any source (rather than only from a financial institution as set forth in the proposal) be excluded from the definition. This commenter further suggested that undisbursed loan proceeds should be included in the definition only to the extent that all conditions precedent to disbursement have been fulfilled, on the theory that contractual provisions often prohibit disbursements over a given amount until specified dates or construction milestones are reached. Finally, one commenter sought clarification in the final version of the rule as to whether commercial loans are included in the definition.

The Board wishes to take this opportunity to clarify any uncertainties in the definition of "outstanding loans" as well as to explain why the definition is being adopted substantially as proposed. First, the Board noted in the preamble to the May 1983 amendments to the loans-to-one-borrower regulation that because an obligation to advance funds under an executed promissory note generally is more immediate than such an obligation created by an ordinary loan commitment, undisbursed loan proceeds would be included in the definition where there was in place an executed note. The only exception to this rule was where an overline buyout commitment covered the loan amount if it should exceed the regulatory limit. The present approach also allows insured institutions the flexibility to issue loan commitments in excess of the limitation where they do not expect all of those commitments to materialize into actual advances of credit, where loan participations will be sold for the excess portion before the loan is closed, or where additional advances of credit are contingent upon the happening of certain events. For this reason, the Board is not, at this time, adopting a commenter's suggestion that the amount of loan commitments also be included in the one-borrower limitation, although the Board is continuing to study whether there are circumstances in which commitments should be included in the one-borrower limitations. The Board believes that this represents a reasonable approach and should adequately satisfy concerns based on an institution's obligation to advance funds

only opon the satisfaction of certain conditions precedent.

The Board also notes that collateral loans that are secured by real estate mortgages or mortgage-backed securities, while subject to the general limitation based on net worth or withdrawable accounts, are not considered to be "commercial loans" for purposes of the regulatory limitation. The policy behind this position is that upon default of the "prime" obligor on a loan secured by real estate mortgages, the insured institution would take possession of the mortgages and hence to a lien on the real property itself. The Board's Office of General Counsel has consistently opined that such loans are, in effect, secured by real property because of the real property interest involved. On the other hand, it would not make sense to totally exclude such loans from the definition of "outstanding loans," because the institution still would have to confront the possibility of default of the individual mortgagees upon default of the "prime" obligor and the inclusion of the mortgages in its portfolio. Therefore, the Board rejects the suggestion that such loans be excluded from the definition of "outstanding loans." Additionally, the Board notes that in such situations, it is the amount of the credit outstanding to the prime obligor, and not the amounts of the individual mortgages that collectively make up the collateral for the loan, which is considered to be the "outstanding loan" in determining compliance with the regulation.

The Board also rejects the notion that repurchase agreements should be excluded from the definition of outstanding loans. In a recent policy statement concerning mortgage-backed securities, the Board stated that "a reverse repurchase agreement is an agreement (contract) to sell and purchase ('sell/buy') the *identical* mortgage-backed security within a specified time at a specified price. These transactions are the equivalent to borrowing funds in an amount equal to the sales price of the related mortgage-backed security." 12 CFR 571.16. While this policy statement, by its terms, applies to reverse repurchase agreements, the Board believes that the same reasoning would apply to repurchase agreements in which an institution buys and later sells the identical mortgage-backed security. In substance, such a transaction is a "borrowing" by the seller of the securities and, in the Board's view, should be treated as such.

Similarly, the final regulation includes a provision that general leases satisfying the criteria set forth in section 545.78 of this Chapter are included in the definition of "outstanding loans." At present, the regulation expressly includes only finance leases satisfying the criteria of § 545.53. Both sections grant authority for federally-chartered institutions to invest in property to lease, with § 545.78 granting general leasing authority for personal property and § 543.53 the authority to engage in "finance leasing" in personal or real property. The effect of adding § 545.78 to the definition of outstanding loans will be to include all leases as part of the aggregate of outstanding loans made to one borrower.

The Board believes that there is no practical difference between the leases authorized by the two sections. Indeed, the effect of excluding § 545.78 leases in determining outstanding loans may result in a substantial loophole for institutions desiring to circumvent the lending limitation. Therefore, the final version of the definition includes a reference to § 545.78 as well as to § 545.53.

The Board concurs with the suggestion that a binding overline buyout commitment, which would exclude all or a portion of a loan from the lending limitation, need not come from a financial institution *per se*. As the mortgage market continues to develop, more and more individuals and business entities will be purchasing all or parts of loans through participations, mortgage-backed bonds, and other means. So long as a loan is in fact purchased and the insured institution's legal exposure concomitantly reduced, it makes no difference whether the purchasing entity is an individual, a financial institution, or any other entity, and the final language has been modified accordingly.

Loan to service corporations. The Board received six comment letters that addressed the proposed relaxation of the limitation on loans that insured institutions may make to their own service corporations. All but one of these commenters favored the proposal. The reasons for the Board's proposal to exempt service corporation loans from the loans-to-one-borrower limitation, which is adopted today, are set forth in some detail in the June proposal. As described above, the Board proposed this change because the present version of the regulation restricts loans, but not purchases of service corporation stock, by insured institutions, thus spurring the response that infusions of capital into service corporations by their parent institutions are in the form of equity rather than debt. Moreover, adverse tax consequences can result from structuring such infusions as purchases and sales of stock rather than loans, because interest on a loan is deductible as a business expense of the service corporation, whereas stock dividends are not.

One commenter questioned whether the proposed new limitation, exempting loans to service corporations from the loans-to-one-borrower rule but continuing to apply to them the limitation on direct investments in service corporations, real estate, and equity securities, as set forth in 12 CFR 563.9–8, would apply to each service corporation owned by an insured institution or to all such corporations in the aggregate. This commenter suggested that the aggregate direct-investment limitation should apply to each service corporation separately. In fact, however, this is not what the Board intended in adopting this rule. The direct-investment regulation imposes an aggregate limitation of 10 percent of an insured institution's assets, or twice its net worth, on investments in service corporations, real estate, and equity securities. Thus, each insured institution has one figure which its total investment in all three of these categories may not exceed. The rule proposed in June and adopted today would not alter that aggregate limitation. Instead, it would continue to allow an insured institution to put the entire aggregate amount allowed under the direct-investment regulation into one service corporation if it so desired. The institution could alternatively choose to make loans of up to that aggregate amount to no more than one service corporation, in total. The rule will not, however, permit the institution to make loans of up to the aggregate direct-investment limitation to each of several service corporations. The Board believes that the direct-investment regulation prescribes a reasonable and prudent vehicle for regulating investments in service corporations by insured institutions. Recent experience indicates that in states in which the permitted amount of investments in service corporations is very high (up to one hundred percent of the assets of the parent insured institution in some instances), the number of troubled institutions increases dramatically. Moreover, many of the problems associated with such troubled institutions are directly related to the institutions' service corporation activities. The direct-investment regulation was promulgated, in part, in response to those concerns. The Board therefore does not believe it would be wise policy to permit institutions to

evade that regulation by utilization of the loans-to-one-borrower rule.

One commenter pointed out that the proposal introduced the term "subsidiary service corporation" without defining it, and queried whether the proposed expansion would apply to all subsidiaries or to the more specialized term, "service corporations." The commenter suggested that the rule employ the term "subsidiary" as defined in §§ 561.36 and 583.14, rather than "service corporation" as defined in § 561.26, because this would allow insured institutions to make a greater amount of loans to "second-tier" subsidiaries and to first-tier service corporations whose activities may be more extensive than those allowed for service corporations of federally-chartered institutions. The Board believes this recommendation would be to allow a virtually unlimited number of subsidiary corporations to borrow without limit from their parent insured institution, and therefore declines to accept it. The Board intends the rule to exempt "service corporations" as defined in § 561.26 that *also* are "subsidiaries" of the lending parent institution as the term "subsidiary" is defined at § 561.36, and therefore adopts this portion of the regulation as proposed.

Consistent with the exemption of service corporation subsidiaries from the loans-to-one-borrower rule, a technical correction has been made to the Federal Regulations at section 545.74 with respect to service corporations. At present, a federally chartered association meeting specified net-worth and scheduled-items ratios may make conforming loans to its service corporation—above the three-percent-of-assets limitation set forth in § 545.74—in specified amounts that reference the institution's loans-to-one-borrower limitation. Because these limitations no longer apply to service corporation debt, the final regulation replaces the current reference in § 545.74 with one that relates to the institution's net worth.

Rated obligations. In its June proposal, the Board proposed to amend the portion of the loans-to-one-borrower regulation concerning investments in commercial paper and corporate debt securities of one issuer. That proposal followed the technical and clarifying amendments adopted in October 1984 implementing the new powers granted to federally-chartered savings and loan associations by the Garn-St Germain Depository Institutions Act of 1982. 49 FR 43040 (October 26, 1984). Among those amendments was a revision of the portion of the loans-to-one-borrower regulations concerning the authority of insured institutions to invest in corporate debt securities of one issuer. The amendment provided that insured institutions may invest up to one percent of assets, or one million dollars, whichever is more, in corporate debt securities of one issuer, where the securities are rated in one of the two highest categories by one nationally recognized investment rating service, rather than by two such services, as had been required previously. This change was believed to be desirable because the previous requirement of two ratings may have precluded investments in many prudent corporate debt investments. 49 FR 43042. The double-rating requirement remained intact for investments in commercial paper.

Following the May 1983 amendments to the loans-to-one-borrower rule, a number of institutions expressed the opinion that the regulation was unduly restrictive with regard to the number of categories of rated obligations in which they were permitted to invest. Specifically, it was contended that the necessity that commercial paper be rated in the highest grade and corporate debt securities in one of the two highest grades may prevent insured institutions from investing to the extent that they had in the past in many high-quality companies that provide attractive yields on both commercial paper and corporate debt securities.

In response to these concerns, the Board proposed and is adopting today an amendment to paragraph (3) of § 563.9–3(b) to allow insured institutions to invest up to one-half of one percent of assets in obligations of one issuer evidenced by: (1) Commercial paper rated in one of the two highest categories; or (2) corporate debt securities rated in any of the three highest categories. As explained in the June proposal, the Board believes that the change is desirable as a means of increasing the range of investment options available to insured institutions, while at the same time ensuring that the degree of risk involved in such investments will be low. The number of ratings required remains unchanged from the present version (two for commercial paper and one for corporate debt securities). As explained in the preamble to the amendments clarifying the implementation of new powers under the DIA, it is the Board's view that the double-rating requirement is appropriate in the case of commercial paper, while one rating is sufficient in the case of corporate debt securities. 49 FR 43042. Finally, the Board wishes to make it clear that the current investment amounts permitted by § 563.9–3(b)(3) in rated obligations of one issuer may be made *in addition to* loans and investments made under the limitations imposed by § 563.9–3(b)(1) and (2). Of course, it is the commercial loans-to-one borrower limit at paragraph (b)(2) of that section that applies to an institution's investments in commercial paper and corporate debt securities because they are not collateralized by real estate.

Definition of "Person". For purposes of clarification, the Board proposed in June to add a new paragraph (5) to § 563.9–3(a) and to adopt the definition of the term "person" used by the Comptroller at 12 CFR 32.2(b). The term includes an individual, partnership, sole proprietorship, joint venture, association, trust, estate, business trust, corporation, nonprofit corporation, financial institution, sovereign government, or any agency, instrumentality, or political subdivision thereof, or any similar entity or organization.

The Board received only one comment regarding this proposal, and it supported the adoption of the Comptroller's definition, with certain suggestions as to how it could be expanded to designate the person responsible for debts of various entities. The Board believes that such expansion is unnecessary and therefore has adopted the amendment substantially as proposed.

Waivers. The Board also proposed to amend the waiver provision of the regulation, § 563.9–3(b)(4), to allow waivers to be granted by the Director of the Board's Office of Examinations and Supervision at the request of an institution being operated by a conservator appointed by the Board. While a number of commenters expressed support for the general concept of waiver of the limitation in certain circumstances, several suggested revisions that would go well beyond the intent of the amendment as proposed.

After making this proposal, the Board has reconsidered the need for such a waiver and has determined that requests for waivers made to the Board in the recent past have not been met with undue delays or failures to be addressed by the Board. Accordingly, the Board has determined not to delegate loans-to-one-borrower waiver authority in conservatorship situations.

Timing of calculations. The Board proposed the addition of a new paragraph, (b)(5), which would provide that the date of the execution of the promissory note or analogous loan-purchase documents is the applicable

date to determine compliance with the loans-to-one-borrower restrictions, and that the amount of an institution's net worth or withdrawable accounts is determined as of the date covered by the most recent periodic report (monthly or quarterly) required to be filed with the Board prior to the date of the granting or purchasing of the loan in question. The Board also solicited comments on whether to codify staff interpretations of the regulation to require that the level of net worth or withdrawable accounts be adjusted if the institution knows or has reason to believe it has changed or has readily ascertainable data which indicates a change as of the date the loan is granted or purchased. Further, the Board sought comment on whether such adjustments, if adopted, should be made only if they reduce net worth or withdrawable accounts or whether all appropriate adjustments, upward or downward, should be required.

Seven commenters submitted their views on this matter. Three of the commenters stated that periodic reports are sufficient, and that adjustments between reports would be overly burdensome and speculative. Four commenters expressed support for the concept of adjustments between periodic reports, with three of them specifically stating that such interim adjustments, if adopted, should be made whether upward or downward changes are indicated. One commenter suggested that upward adjustments could be permitted for actual, material transactions and that negative adjustments should be required resulting from transactions of which either the insured institution or the Supervisory Agent knows or has reason to have knowledge. It also was suggested that adjustments be limited to net worth because it would be difficult to verify the appropriateness of adjustments to withdrawable accounts.

In promulgating the amendment to paragraph (b)(5), the Board is adopting a middle-ground approach. The final rule establishes the principle that the periodic reports required to be filed with the Board will continue to be the yardstick against which compliance with the lending limitation is measured. However, it requires adjustments based upon tangible events of which the institution has knowledge or reason to know based upon readily available information. In the case of negative adjustments, this would include, for example, a directive from a Supervisory Agent to establish a specific loss reserve on a given loan, or notice of default on a loan, and the resulting impact on net worth, between reports. In the case of positive adjustments, it could include events such as a completed sale of an asset for more than its book value, which would result in an increase in net worth. Clearly, the actual state of an institution's net worth or withdrawable accounts must be utilized when loans-to-one-borrower calculations are made. The Board believes that the rule adopted today will reflect this reality, while minimizing the risk of increased paperwork and speculation by charging institutions with knowledge or reason to know only of specific events that have actually occurred.

Miscellaneous Amendments. In the interest of consistency, the June proposal included a provision amending § 584.3(a)(4)(i), pertaining to transactions in which a subsidiary insured institution of a savings and loan holding company may engage.

Section 584.3(a)(4)(i) currently provides that no subsidiary insured institution of a savings and loan holding company may make any loan, discount, or extension of credit to any affiliate, other than to a service corporation subsidiary, except in a transaction authorized by paragraph (a)(7)(i) of the same section. Loans, discounts, and extensions of credit to service corporations are currently allowed up to the extent authorized by § 545.74(d) (in the case of federal associations) and relevant provisions of state law (in the case of state-chartered institutions). The proposed amendment conformed paragraph (a)(4)(i) with the proposed revisions of § 563.9–3 by providing that loans to service corporations may be made to the extent permitted by the revised § 563.9–3(b). No comments dealt with this issue in substance, and the amendment has been adopted as proposed.

The Board has also corrected a typographical error in the present version of the regulation, by substituting the word "obligor" for the word "obligator" in paragraph (a)(1)(i)(*c*).

Finally, the Board notes that the preamble to the May 1983 amendments indicated that an interpretive memorandum would be forthcoming dealing with the various exceptions from the commercial lending limitations. That memorandum, Memorandum T–73a, which was issued in 1984, substantially reproduces the exceptions contained in 12 U.S.C. 84(c) and 12 CFR 32.6, 48 FR 15855 (April 12, 1983), applicable to national banks. Insured institutions are referred to that memorandum for guidance concerning the exceptions from the commercial lending limitation in the loans-to-one-borrower rule.

Final Regulatory Flexibility Analysis

Pursuant to section 3 of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, the Board is providing the following regulatory flexibility analysis.

1. *Reasons, objectives, and legal basis underlying this proposed rule.* These factors are discussed elsewhere in the supplementary information.

2. *Small entities to which the rule will apply.* The rule applies to all institutions the accounts of which are insured by the Federal Savings and Loan Insurance Corporation, as well as Federal Savings banks, the accounts of which are insured by the FDIC.

3. *Impact of the rule on small federal associations.* The rule will not have a disproportionately adverse impact on small institutions. Many of the changes are clarifying in nature, and others liberalize existing provisions of the present regulation. The modifications which could be characterized as restrictive settle issues which could have been determined by opinion, and providing clear guidance in itself is expected to have a beneficial impact on large and small institutions alike.

4. *Overlapping or conflicting federal rules.* There are no known federal rules that may duplicate, overlap, or conflict with the rule.

5. *Alternatives to the rule.* The rule is intended to clarify possible sources of confusion by the regulated industry in the current regulation, and to increase the lending and investment opportunities of insured institutions in certain areas, within prudent limitations. There are no alternative approaches that would have the intended result with a lesser impact on small entities.

List of Subjects in 12 CFR Parts 545, 563 and 584

Savings and loan associations.

Accordingly, the Board hereby amends Part 545 of Subchapter C and Part 563 of Subchapter D, Part 584 of Subchapter F, Chapter V of Title 12, Code of Federal Regulations, as set forth below.

SUBCHAPTER C—FEDERAL SAVINGS AND LOAN SYSTEM

PART 545—OPERATIONS

1. The authority for 12 CFR Part 545 continues to read as follows:

Authority: Sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); Reorg. Plan No. 3 of 1947; 3 CFR, 1943–1948 Comp., p. 1071, unless otherwise noted.

2. Revise § 545.74(d)(2) as follows:

§ 545.74 Service corporations.

* * * * *

(d) *Amount of investment.* * * *

(2) In addition to amounts which it may invest under paragraph (d)(1) of this section, an association that meets the minimum net-worth requirement for that association as set forth in paragraph (b) of § 563.13 of this chapter, and that has a ratio of scheduled items (other than assets acquired in a merger instituted for supervisory reasons) to specified assets of not more than 2.5 percent (except as provided in paragraph (d)(4) of this section), may lend additional amounts as follows:

(i) An amount not to exceed net worth may be invested in conforming loans and functionally equivalent leases made to each service corporation of which the association owns or holds with power to vote not more than ten percent of the capital stock and to each joint venture, in which a service corporation in which the association is a stockholder, including subsidiaries of such service corporation, (*a*) owns or holds with power to vote not more than a total of ten percent of the capital stock or (*b*) is a limited partner and has contributed not more than ten percent of such joint venture's capital.

(ii) An aggregate outstanding amount not to exceed fifty percent of net worth may be invested in conforming loans and functionally equivalent leases to all service corporations in which the association owns more than ten percent of the capital stock, and to all joint ventures in which service corporations in which the association is a stockholder, including subsidiaries of such service corporations, (*a*) own or hold with power to vote more than a total of ten percent of the capital stock, or (*b*) are partners.

* * * * *

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

PART 563—OPERATIONS

3. The authority for 12 CFR Part 563 continues to read as follows:

Authority: Sec. 4, 80 Stat. 824, as amended (12 U.S.C. 1425a); Sec. 5, 49 Stat. 132, as amended (12 U.S.C. 1464); Secs. 402, 403, 48 Stat. 12556, 1257, as amended (12 U.S.C. 1725, 1726); Reorg. Plan No. 3 of 1947; 12 CFR Parts 1943–48 Comp., p. 1071.

4. Amend § 563.9–3 by: Revising pargraph (a)(1)(i)(*a*) as set forth below; substituting the word "obligor" for the word "obligator" in paragraph (a)(1)(i)(*c*), and removing the word "and" at the end of that paragraph; replacing the period at the end of paragraph (a)(1)(i)(*d*) with a semi-colon, and adding new paragraphs (a)(1)(i) (*e*) and (*f*); revising paragraph (a)(1)(ii) as set forth below; revising paragraph (a)(2) as set forth below; adding new paragraph (a)(5); redesignating the existing text of paragraph (b)(2) as (b)(2)(i) and adding a new paragraph (b)(2)(ii); revising paragraph (b)(3) as set forth below; and adding a new paragraph (b)(5); as follows:

§ 563.9–3 Loans to one borrower.

(a) *Definitions used in this section.*—(1) *One borrower.* (i) The term "one borrower" means:

(*a*) Any person or entity that is, or upon the making of a loan will become, obligor on a loan. Provided, that a guarantor shall not be included within the meaning of "obligor" if, in connection with a loan or other extension of credit, the insured institution has determined, in good faith, that the primary obligor has qualified for the loan or extension of credit irrespective of the existence of the guarantor;

* * * * *

(*e*) Any person that, directly or indirectly, owns or controls, or is owned or controlled by, any person that is: An obligor on a loan; a nominee of such an obligor; a general partner or limited partner owning an interest of ten percent or more in a partnership that is an obligor; the beneficiary of a trust that is an obligor; or a member of a syndicate that is an obligor. For purposes of this paragraph, the term "control" means the power, directly or indirectly, to direct the management or policies of a person or to vote 10 percent or more of any class of voting securities of a person; and

(*f*) Two or more persons acquiring a business enterprise of which those persons will in the aggregate own 50 percent or more of the capital stock, or two or more persons obtaining loans for a related purpose where the expected source of repayment for the loans or extensions of credit is the same for each person.

(ii) In the case of a loan that has been assumed by a third party with the consent of the lending insured institution, the former debtor and any guarantor shall not be deemed an "obligor."

* * * * *

(2) *Outstanding loans.* The term "outstanding loans" means: (i) Any direct or indirect advance of funds (including obligations of makers and endorsers arising from the discounting of commercial paper) to a person on the basis of any obligation of that person to repay the funds, or repayable from specific property pledged by or on behalf of a person, plus interest due and unpaid, less repayments; (ii) funds an insured institution has an obligation to advance under an executed promissory note, unless the loan is subject to a legally binding overline purchase commitment of another person; (iii) credit extended in the form of finance leases satisfying the criteria set forth in §§ 545.53 and 545.78 of this Chapter; (iv) potential liabilities under standby letters of credit, lines of credit, and guarantee or suretyship obligations, except to the extent that the institution has recourse to cash or a segregated deposit account of its customer to indemnify it against such liabilities; and (v) investments in commercial paper and corporate debt obligations. The term does not include a loan or participation interest sold without recourse, a loan secured by a first lien or real estate subject to an annual contributions contract under former Section 23 of the United States Housing Act of 1937, as amended, a loan on the security of an institution's deposit accounts, or a deposit or a loan of unsecured day(s) funds described in § 563.9–6 of this Chapter. The amount of an outstanding "wraparound" loan is determined by the amount of funds advanced by the institution, except to the extent that the institution has become liable to pay an obligation secured by a lien on the security property prior to its own.

* * * * *

(5) *Person.* The term "person" means an individual, sole proprietorship, partnership, joint venture, association, trust, estate, business trust, corporation, non-profit corporation, financial institution, sovereign government or any agency, instrumentality, or political subdivision thereof, or any similar entity or organization.

(b) *Limitations.*—* * *

(2) *Commercial loans.* * * *

(ii) Notwithstanding the limitations imposed by paragraphs (b) (1) and (2) of this section, an insured institution may make loans to a service corporation subsidiary in any amount, subject to any limitations on the total amount of investment in service corporations that applies to such institution.

(3) *Rated obligations.* Notwithstanding the limitations set forth in paragraphs (b)(1) and (2) of this section, an insured institution may invest:

(i) Up to one percent of assets or one million dollars, whichever is more, in obligations of one issuer evidenced by:

(*a*) Commercial paper rated, as of the date of purchase, as shown by the most

recently published rating by at least two nationally recognized investment rating services in the highest category, or

(*b*) Corporate debt securities that may be sold with reasonable promptness at a price that corresponds reasonably to their fair value, and that are rated in one of the two highest categories by a nationally recognized investment rating service in its most recently published ratings before the date of purchase of the security; *and*

(ii) Up to one half of one percent of assets, or $500,000, whichever is more, in obligations of one issuer evidenced by:

(*a*) Commercial paper rated, as of the date of purchase, as shown by the most recently published rating by at least two nationally recognized investment rating services, in one of the two highest categories, or

(*b*) Corporate debt securities that may be sold with reasonable promptness at a price that corresponds reasonably to their fair value, and that are rated in the first, second, or third highest category by a nationally recognized investment rating service in its most recently published ratings before the date of purchase of the security: *Provided*, however, that the total amount invested by an insured institution in obligations of one issuer pursuant to this parapraph (b)(3) shall not exceed an amount equal to one percent of assets or one million dollars, whichever is more.

* * * * *

(5) An institution's compliance with the limitations set forth in paragraphs (b)(1) and (b)(2) of this section shall be determined as of the date of execution of the promissory note(s) evidencing an obligation, execution of documents evidencing the purchase of loan(s), or such other act as creates a binding obligation by the obligor(s) to repay funds to the lending institution. The amount of an institution's "withdrawable accounts" or "net worth" pursuant to paragraph (b)(1), or its "unimpaired capital and unimpaired surplus" pursuant to paragraph (b)(2), shall be calculated as of the institution's most recent periodic report (monthly or quarterly) required to be filed with the Corporation prior to the date of granting or purchasing the loan or otherwise creating the obligation to repay funds, unless the institution knows, or has reason to know, based on transactions or events actually completed, that such level has changed, upward or downward, subsequent to the filing of such report.

* * * * *

SUBCHAPTER F—SAVINGS AND LOAN HOLDING COMPANIES

PART 584—REGULATED ACTIVITIES

5. The authority for 12 CFR Part 584 continues to read as follows:

Authority. Sec. 408, 82 Stat. 5 (12 U.S.C. 1730a) unless otherwise noted.

6. Revise § 584.3(a)(4)(i) to read as follows:

§ 584.3 Transactions with affiliates.

(a) *Prohibited transactions.*

* * * * *

(4) Make any loan, discount or extension of credit to:

(i) Any affiliate (other than to a service corporation subsidiary of such insured institution) except in a transaction authorized by paragraph (a)(7)(i) of this section: *Provided*, that a subsidiary insured institution of a savings and loan holding company may make loans to a service corporation subsidiary of such insured institution to the extent permitted by §§ 563.9–3(b) and 545.74 of this chapter, or

* * * * *

By the Federal Home Loan Bank Board.

Jeff Sconyers,

Secretary.

[FR Doc. 25891 Filed 10–29–85; 8:45 am]

BILLING CODE 6720–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 85–NM–112–AD; Amdt. 39–5165]

Airworthiness Directives; Boeing Model 757 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive (AD) applicable to certain Boeing Model 757 airplanes. This AD requires the inspection of the Number 4 left passenger door for integrity of the lower control rod installation and repair, if necessary. This action is prompted by several reports of improper installation of bolts. This condition, if not corrected, could prevent the unlatching of the door and would jeopardize successful evacuation of the airplane.

EFFECTIVE DATE: November 18, 1985.

ADDRESSES: The service bulletin specified in this AD may be obtained upon request to the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. It may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Pliny Brestel, Airframe Branch, ANM–120S; telephone (206) 431–2931. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: On September 26, 1985, the manufacturer reported to the FAA that, while conducting an inspection to eliminate an air leak at the Number 4 left passenger door, an operator discovered that the lower control rod assembly was disconnected from the crank on the lower latch torque tube.

The connecting bolt was loose in the bottom of the door and the washer and nut were missing. An inspection of the passenger doors on production line airplanes revealed that the nut was omitted from the control rod bolt installation on two of ten Number 4 left passenger doors. It was determined that this omission has occurred only on the Number 4 left passenger door. Improper installation of the control rod assembly could prevent the opening of the door.

On September 26, 1985, Boeing issued Service Bulletin 757–52A0017, which describes inspection and repair, if necessary, of the Number 4 left passenger door to ensure proper bolt, washer, and nut connection between the lower control rod assembly and the crank on the lower latch torque tube.

Since this condition is likely to exist on other airplanes of this model, the FAA has determined that an AD is necessary which requires inspection and repair, if necessary, of the Number 4 left passenger door, in accordance with the service bulletin previously mentioned.

Further, since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

The FAA has determined that this regulation is an emergency regulation that is not major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this

document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation or analysis is not required).

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the Federal Aviation Regulations as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

2. By adding the following new airworthiness directive:

Boeing: Applies to Boeing Model 757 airplanes prior to line number 72, certificated in any category. Compliance is required within 21 days after the effective date of this amendment. To ensure proper door opening, accomplish the following, unless already accomplished:

A. Inspect the Number 4 left passenger door to verify proper hardware installation and install missing hardware, if necessary, in accordance with Boeing Service Bulletin 757-52A0017 dated September 26, 1985, or later FAA-approved revisions.

B. Alternate means of compliance which provide an acceptable level of safety may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and/or modifications required by this AD.

All persons affected by this AD who have not already received copies of the service bulletin cited herein may obtain copies upon request from the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. This document may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

This Amendment becomes effective November 18, 1985.

Issued in Seattle, Washington, on October 23, 1985.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 85-25811 Filed 10-29-85; 8:45 am]

BILLING CODE 4910-13-M

[Docket No. 85-NM-119-AD; Amdt. 39-5166]

14 CFR Part 39

Airworthiness Directives; Gates Learjet Model 55 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule, request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) applicable to certain Gates Learjet Model 55 airplanes. It requires increasing the Airplane Flight Manual (AFM) landing distances by inserting revised information in the manuals. This AD is necessary to prevent use of unconservative and unsafe landing distances.

DATE: Effective November 22, 1985.

Comments must be received by November 22, 1985.

ADDRESSES: Send comments on the rule in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Office of Regional Counsel, Attention: Airworthiness Rules Docket No. 85-NM-119-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from Gates Learjet Corporation, P.O. Box 7707, Wichita, Kansas 67277. This information may be examined at FAA, Central Region, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas, or FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Bennett L. Sorensen, Aerospace Engineer, FAA, Central Region, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 946-4433.

SUPPLEMENTARY INFORMATION: Landing distances presented in the Airplane Flight Manual (AFM) for the Gates Learjet Model 55 airplane were developed after conducting actual landings using a prototype airplane. During the landings, the ground spoiler system was used to decrease the landing distances in accordance with normal practices. Recently, it was discovered that the ground spoiler systems on certain production airplanes do not operate, during landing, at the same speed that the prototype ground spoiler system had operated. Investigation has revealed that, during normal operation with all systems working properly, the affected airplanes' spoilers deploy on the ground in approximately 5.4 seconds. In contrast, full deployment on the prototype required only approximately 1 second. The additional 4.4 seconds in deployment time results in maximum performance landing distance increases of up to 4% with normal systems operating. In addition, on flights with the spoileron system inoperative, deployment times are increased 10 seconds, and the landing distance is increased up to 15%. If attempts are made to land using the currently presented landing distances, the airplane may not be able to stop on a runway of the length presented in the AFM.

Since this situation is likely to exist on other airplanes of the same type design, this AD requires a change to each affected airplane's AFM to reflect the increased landing distances. Alternatively, compliance may be accomplished by a modification of the airplane spoiler system to perform like that of the prototype airplane.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

Although this action is in the form of a final rule, which involves an emergency and, thus was not preceded by notice and public procedure, interested persons are invited to submit such written data, views, or arguments as they may desire regarding this AD. Communications should identify the docket number and be submitted in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 85-NM-119-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. All communications received before the closing date will be considered by the Administrator, and the AD may be changed in light of the comments received.

The FAA has determined that this regulation is an emergency regulation that is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis,

as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required).

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

2. By adding the following new airworthiness directive:

Gates Learjet Corporation: Applies to Model 55 airplanes, serial numbers 55-003 through 55-086, except those incorporating Service Bulletin 55-27-7, Airplane Modification Kit 55-84-7A, or Airplane Accessory Kit 55-83-4. Compliance required as indicated after the effective date of this AD, unless already accomplished.

To prevent use of incorrect landing distances, accomplish the following:

A. Within the next 10 hours time-in-service after the effective date of this AD, insert the following information in the "FAA Approved Airplane Flight Manual for Gates Learjet 55," dated 3/17/81 (on 10/4/85, changes through Change 20, dated 5/10/84, were current):

1. Replace the paragraph "SPOILERS/AUTOSPOILERS/SPOILERONS" (pages 1-14) with: "SPOILERS/SPOILERONS

(a) Spoilers

(1) During landings, a time delay in the spoiler circuit will cause increased spoiler extension times. For a normal landing (spoilerons operative with flaps below 25°), full spoiler extension will require approximately 5 seconds. If the spoilerons are inoperative (AUG AIL light illuminated) or the SPOILERON circuit breaker (co-pilot's AC bus) is pulled, spoiler extension will require approximately 11 seconds. To account for the increase spoiler deployment times, the following corrections must be applied to the Actual Landing Distance obtained from the ACTUAL LANDING DISTANCE chart in Section V:

Normal Landing: Multiply distance by 1.04.

Spoilerons Inoperative: Multiply distance by 1.15.

(2) If the spoilers are inoperative during flight, the maximum operating altitude is limited to 41,000 feet.

(3) Do not extend spoilers with flaps extended while airborne.

(4) Do not extend spoilers, or operate with spoilers deployed, at speeds above V_{MO}/M_{MO}.

(b) Spoilerons

(1) Spoilerons may be inoperative. If spoileron preflight check fails, the SPOILERON circuit breaker (co-pilot's AC bus) must be pulled. When the SPOILERON circuit breaker is pulled, the spoilers and spoilerons will be inoperative in flight and landing spoiler deploy times will increase. With spoileron inoperative, the maximum operating altitude will be limited to 41,000 feet, and the Actual Landing Distance obtained from Section V must be increased by 15% (multiply by 1.15)."

2. Replace the first NOTE under the BEFORE TAXI Spoileron System Check (pages 2-20) with the following: "In the event the spoilerons fail the following check, SPOILERON circuit breaker (co-pilot's AC bus)—Pull. AUG AIL will illuminate. The spoilers and spoilerons will be inoperative in flight. The spoiler deploy time will be increased for landing. In this event, the maximum operating altitude is limited to 41,000 feet and the Actual Landing Distance obtained from Section V must be increased 15% (multiply by 1.15)."

3. The following factors must be applied to the Actual Landing Distance obtained from figures 5-57 (pages 5-74):

"*Normal Landing:* Multiply distance by 1.04.

Spoilers Inoperative: Multiply distance by 1.15."

B. In order to comply with the requirements of paragraph A., above, a copy of this AD may be used as a temporary amendment to the Airplane Flight Manual (AFM) and carried in the airplane as part of the AFM until replaced by Gates Learjet-published Temporary Flight Manual Changes TFM 85-03, TFM 85-04, and TFM 85-05.

C. Temporary Flight Manual Changes TFM 85-03, TFM 85-04, and TFM 85-05 may be removed from the AFM upon incorporation of Gates Learjet Service Bulletin 55-27-7, Airplane Modification Kit 545-84-7A, or Airplane Accessory Kit 55-83-4.

D. Alternate means of compliance which provide an acceptable level of safety may be used when approved by the Manager, Wichita Aircraft Certification Office, FAA, Central Region.

All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to Gates Learjet Corporation, P.O. Box 7707, Wichita, Kansas 67277. These documents may be examined at FAA, Central Region, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas.

This Amendment becomes effective November 22, 1985.

Issued in Seattle, Washington, on October 23, 1985.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 85-25810 Filed 10-29-85; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 97

[Docket No. 24794; Amdt. No. 1305]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition to new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: *Effective:* An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference—approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Field Office which originated the SIAP.

For Purchase—Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA-430), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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, DC 20591; telephone (202) 426-8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 97 of the Federal Aviation Regulations (14 CFR Part 97) prescribes new, amended, suspended, or revoked Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR Part 51, and § 97.20 of the Federal Aviation Regulations (FARs). The applicable FAA Forms are identified as FAA Forms 8260-3, 8260-4, and 8260-5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form document is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effectives dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to Part 97 is effective on the date of publication and contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPS critiera were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs is unnecessary, impracticable, and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

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 operationally 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.

List of Subjects in 14 CFR Part 97

Approaches—Standard Instrument.

Issued in Washington, D.C. on October 4, 1985.

John S. Kern,

Acting Director of Flight Standards.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 97 of the Federal Aviation Regulations (14 CFR Part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 G.M.T. on the dates specified, as follows:

1. The authority citation for Part 97 continues to read as follows:

Authority: 49 U.S.C. 1348, 1354(a), 1421, and 1510; 49 U.S.C. 106(g) (revised, Pub. L. 97-449, January 12, 1983; and 14 CFR 11.49(b)(2)).

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

Effective November 21, 1985

Eufaula, AL—Weedon Field, VOR RWY 18, Amdt. 6
Eufaula, AL—Weedon Field, VOR/DME RWY 36, Amdt. 1
Huntsville, AL—Huntsville-Madison Co Arpt—Carl T Jones Field, ILS RWY 18R, Amdt. 17
Montgomery, AL—Dannelly Field, VOR-A, Amdt. 1
Montgomery, AL—Dannelly Field, NDB RWY 9, Amdt. 16
Montgomery, AL—Dannelly Field, ILS RWY 9, Amdt. 21
Montgomery, AL—Dannelly Field, ILS RWY 27, Amdt. 5
Prattville, AL—Autauga County, VOR/DME-A, Amdt. 1
Casa Grande, AZ—Casa Grande Muni, VOR RWY 5, Amdt. 3
Casa Grande, AZ—Casa Grande Muni, ILS/DME RWY 5, Amdt. 4
Chandler, AZ—Chandler Municipal, VOR RWY 4, Amdt. 1
Chandler, AZ—Stellar Airpark, VOR-A, Amdt. 1
Nogales, AZ—Nogales Intl, VOR-A, Amdt. 1
Nogales, AZ—Nogales Intl, VOR/DME-B, Amdt. 1
Nogales, AZ—Nogales Intl, NDB-C, Amdt. 1
Phoenix, AZ—Phoenix Sky Harbor Intl, VOR RWY 26R, Amdt. 2
Phoenix, AZ—Phoenix Sky Harbor Intl, VOR RWY 26L, Amdt. 20
Phoenix, AZ—Phoenix Sky Harbor Intl, VOR/DME RWY 8R, Amdt. 10
Phoenix, AZ—Phoenix Sky Harbor Intl, LOC BC RWY 26L, Amdt. 4
Phoenix, AZ—Phoenix Sky Harbor Intl, ILS RWY 8R, Amdt. 7
Scottsdale, AZ—Scottsdale Muni, VOR-A, Amdt. 5
Tucson, AZ—Ryan Field, NDB-D, Amdt. 1
Tucson, AZ—Ryan Field, ILS RWY 6, Amdt. 4
Tucson, AZ—Tucson International, VOR-A, Amdt. 6, Cancelled
Tucson, AZ—Tucson International, VOR/DME or TACAN RWY 11L, Orig.
Tucson, AZ—Tucson International, VOR/DME or TACAN RWY 29R, Orig.
Tucson, AZ—Tucson International, VOR/DME-B, Amdt. 2, Cancelled
Tucson, AZ—Tucson International, LOC RWY 11L, Amdt. 2, Cancelled
Tucson, AZ—Tucson International, LOC/DME BC RWY 29R, Amdt. 5
Tucson, AZ—Tucson International, ILS RWY 11L, Amdt. 9
Tucson, AZ—Tucson International, RNAV RWY 29R, Amdt. 1, Cancelled
Walnut Ridge, AR—Walnut Ridge Regional, VOR-A, Amdt. 13
Walnut Ridge, AR—Walnut Ridge Regional, VOR/DME RWY 22, Amdt. 10
Bakersfield, CA—Meadows Field, LOC BC RWY 12L, Amdt. 6
Oxnard, CA—Oxnard, VOR RWY 7, Amdt. 10
Oxnard, CA—Oxnard, VOR RWY 25, Amdt. 7
Oxnard, CA—Oxnard, ILS RWY 25, Amdt. 5
Fort Myers, FL—Page Field, VOR RWY 5, Amdt. 8
Fort Myers, FL—Page Field, NDB RWY 5, Amdt. 4
Fort Myers, FL—Page Field, ILS RWY 5, Amdt. 5
Fort Myers, FL—Page Field, RADAR-1, Amdt. 2
Fort Myers, FL—Southwest Florida Regl, VOR, RWY 24, Amdt. 2
Fort Myers, FL—Southwest Florida Regl, NDB RWY 6, Amdt. 2
Fort Myers, FL—Southwest Florida Regl, RADAR-1, Amdt. 2
Tallahassee, FL—Tallahassee Muni, ILS RWY 36, Amdt. 17

Tallahassee, FL—Tallahassee Muni, NDB RWY 36, Amdt. 21
Atlanta, GA—Dekalb-Peachtree, NDB RWY 27, Orig.
Atlanta, GA—Dekalb-Peachtree, RADAR-1, Orig.
Brunswick, GA—Glynco Jetport, VOR/DME-B, Amdt. 4
Brunswick, GA—Glynco Jetport, NDB RWY 7, Amdt. 7
Brunswick, GA—Glynco Jetport, ILS RWY 7, Amdt. 5
Brunswick, GA—Glynco Jetport, RNAV RWY 7, Amdt. 4
Brunswick, GA—Glynco Jetport, RNAV RWY 25, Amdt. 4
Brunswick, GA—Malcolm McKinnon, VOR RWY 4, Amdt. 12
Brunswick, GA—Malcolm McKinnon, NDB RWY 4, Amdt. 2
Brunswick, GA—Malcolm McKinnon, NDB RWY 22, Amdt. 2
Brunswick, GA—Malcolm McKinnon, RNAV RWY 22, Amdt. 3
Jekyll Island, CA—Jekyll Island, VOR-A, Amdt. 6
Jesup, GA—Jesup-Wayne County, NDB RWY 10, Amdt. 4
Hilo, HI—General Lyman Field, VOR RWY 26, Amdt. 7
Hilo, HI—General Lyman Field, VOR/DME or TACAN RWY 26, Amdt. 4
Hilo, HI—General Lyman Field, VOR/DME or TACAN-A, Amdt. 6
Kailua-Kona, HI—Keahole, VOR or TACAN RWY 35, Amdt. 5
Lihue, HI—Lihue, VOR or TACAN RWY 35, Amdt. 3
Lihue, HI—Lihue, VOR-A, Amdt. 2
Lihue, HI—Lihue, VOR/DME or TACAN RWY 17, Orig., Cancelled
Lihue, HI—Lihue, VOR/DME or TACAN RWY 21, Amdt. 1
Lihue, HI—Lihue, ILS RWY 35, Amdt. 3
Lawrenceville, IL—Lawrenceville-Vincennes Intl, VOR RWY 18, Amdt. 8
Lawrenceville, IL—Lawrenceville-Vincennes Intl, VOR RWY 27, Amdt. 3
Lawrenceville, IL—Lawrenceville-Vincennes Intl, VOR RWY 36, Amdt. 8
Mt Carmel, IL—Mt Carmel Muni, VOR RWY 22, Amdt. 5
Mt Carmel, IL—Mt Carmel Muni, NDB RWY 4, Amdt. 1
Robinson, IL—Robinson Muni, VOR RWY 17, Amdt. 3
Robinson, IL—Robinson Muni, VOR RWY 27, Amdt. 3
Robinson, IL—Robinson Muni, NDB RWY 17, Amdt. 6
Bedford, IN—Virgil I Grissom Muni, VOR/DME RWY 13, Amdt. 6
Bedford, IN—Virgil I Grissom Muni, VOR/DME RWY 31, Amdt. 5
Bedford, IN—Virgil I Grissom Muni, NDB RWY 13, Amdt. 5
Bedford, IN—Virgil I Grissom Muni, NDB RWY 31, Amdt. 5
Huntingburg, IN—Huntingburg, VOR RWY 9, Amdt. 1
Huntingburg, IN—Huntingburg, VOR RWY 27, Amdt. 1
Huntingburg, IN—Huntingburg, NDB RWY 27, Amdt. 1
Indianapolis, IN—Indianapolis Intl, NDB RWY 4L, Amdt. 18
Indianapolis, IN—Indianapolis Intl, NDB RWY 31, Amdt. 11
Indianapolis, IN—Indianapolis Intl, ILS RWY 4L, Amdt. 21
Indianapolis, IN—Indianapolis Intl, ILS RWY 31, Amdt. 14
Logansport, IN—Logansport Muni, VOR-A, Amdt. 5
Logansport, IN—Logansport Muni, NDB RWY 9, Amdt. 1
Logansport, IN—Logansport Muni, RNAV RWY 27, Amdt. 2
Tell City, IN—Perry County Muni, VOR RWY 31, Amdt. 1
Tell City, IN—Perry County Muni, NDB RWY 31, Amdt. 5
Terre Haute, IN—Hulman Regional, NDB RWY 5, Amdt. 16
Terre Haute, IN—Hulman Regional, ILS RWY 5, Amdt. 20
Washington, IN—Daviess County, NDB RWY 18, Amdt. 5
Elizabethtown, KY—Elizabethtown, RNAV RWY 5, Amdt. 1
Hawesville, KY—Hancock Airfield, NDB-A, Amdt. 3
Louisville, KY—Standiford Field, LOC BC RWY 11, Amdt. 5
Detroit, MI—Detroit Metropolitan Wayne County, ILS RWY 3L, Amdt. 8
Detroit, MI—Detroit Metropolitan Wayne County, ILS RWY 3R, Amdt. 7
Detroit, MI—Detroit Metropolitan Wayne County, ILS RWY 21L, Amdt. 3
Detroit, MI—Detroit Metropolitan Wayne County, ILS RWY 21R, Amdt. 20
Grosse Ile, MI—Grosse Ile Muni, NDB RWY 3, Orig.
Farmington, NM—Four Corners Regional, VOR RWY 25, Amdt. 4
Wallace, NC—Henderson Field, VOR/DME-A, Amdt. 4
Wilmington, NC—New Hanover County, VOR or TACAN-A, Amdt. 2
Wilmington, NC—New Hanover County, LOC BC RWY 16, Amdt. 6
Wilmington, NC—New Hanover County, NDB RWY 34, Amdt. 15
Wilmington, NC—New Hanover County, ILS RWY 34, Amdt. 19
Wilmington, NC—New Hanover County, RNAV RWY 23, Amdt. 4
Orangeburg, SC—Orangeburg, VOR RWY 4, Amdt. 1, Cancelled
Orangeburg, SC—Orangeburg, VOR RWY 4, Amdt. Orig.
Nashville, TN—Nashville Metropolitan, ILS RWY 2L, Amdt. 5
Charleston, WV—Kanawha, ILS RWY 23, Amdt. 26
Charleston, WV—Kanawha, RADAR-1, Amdt. 12
Sheboygan, WI—Sheboygan County Memorial, NDB RWY 21, Amdt. 5
Waukesha, WI—Waukesha County, VOR-A, Amdt. 12
Waukesha, WI—Waukesha County, LOC RWY 10, Amdt. 1
Waukesha, WI—Waukesha County, NDB RWY 18R, Orig.
Waukesha, WI—Waukesha County, NDB RWY 28, Orig.
Wisconsin Rapids, WI—Alexander Field South Wood County, VOR/DME-A, Amdt. 6
Wisconsin Rapids, WI—Alexander Field South Wood County, SDF RWY 2, Amdt. 1
Wisconsin Rapids, WI—Alexander Field South Wood County, NDB RWY 2, Amdt. 2
Wisconsin Rapids, WI—Alexander Field South Wood County, NDB RWY 29, Amdt. 5

Effective October 24, 1985

Grand Junction, CO—Walker Field, ILS RWY 11, Amdt. 12
Pocatello, ID—Pocatello Muni, LOC/DME BC RWY 3, Amdt. 3
Pocatello, ID—Pocatello Muni, ILS RWY 21, Amdt. 23
Bangor, ME—Bangor Intl, ILS RWY 15, Amdt. 1
Salem, OR—McNary Field, LOC BC RWY 13, Amdt. 4
Salem, OR—McNary Field, LOC/DME RWY 31, Amdt. 4
Salem, OR—McNary Field, ILS RWY 31, Amdt. 26

Effective September 26, 1985

Chillicothe, OH—Ross County, NDB RWY 22, Amdt. 4
Mansfield, OH—Mansfield Lahm Muni, ILS RWY 32, Amdt. 13

The FAA published an Amendment in Docket No. *24764*, Amdt. No. *1303* to Part 97 of the Federal Aviation Regulations (VOL *50* No. *180* Page *37646*; dated *Tuesday, September 17, 1985*) under Section *97.33* effective *October 24, 1985*, which is hereby amended as follows:

Coshocton, OH—Richard Downing, RNAV RWY 22, Orig. Eff 24 OCT 85 is hereby rescinded.

[FR Doc. 85-25814 Filed 10-29-85; 8:45 am]

BILLING CODE 4910-13-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 3

Registration of Floor Brokers

AGENCY: Commodity Futures Trading Commission.

ACTION: Final order.

SUMMARY: The Commodity Futures Trading Commission ("Commission"), by order, is deferring from March 31, 1986 to March 31, 1987 the expiration date of the registration of all floor brokers whose initial or renewal applications for registration were or will be granted between January 1, 1985 and March 31, 1986. The Commission is taking this action to enhance the efficient administration of the Commission's registration program in anticipation of the transfer of floor broker registration responsibility from the Commission to one or more self-regulatory organizations on or before October 1, 1986.

EFFECTIVE DATE: December 1, 1985.

FOR FURTHER INFORMATION CONTACT: Robert P. Shiner, Assistant Director for Registration, or Philip V. McGuire, Attorney, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581. Telephone: (202) 254-9703 or (202) 254-8955, respectively.

SUPPLEMENTARY INFORMATION: On September 5, 1985, the Commission requested comment on a petition for rulemaking submitted by the Chicago Board of Trade ("CBT") with respect to the registration of floor brokers.[1] In its petition, the CBT requested that the Commission amend then-proposed rule 1.62 [2] and other related rules to authorize the designated contract markets, pursuant to section 8a(10) of the Commodity Exchange Act ("Act"), 7 U.S.C. 12a(10) (1982), to process and, where appropriate, grant initial and renewal applications for floor broker registration.

In its request for comment, the Commission emphasized that it remained committed to the delegation of its registration functions with respect to floor brokers by no later than October 1, 1986.[3] To meet this deadline, the Commission anticipates that its staff will be required to begin working with the one or more self-regulatory organizations which will be authorized to perform these functions by no later than March 1986. Thus, the annual renewal of all floor broker registrations on or before March 31, 1986, may well interfere with the efficient transfer of the Commission's floor broker registration functions. Therefore, the Commission has determined that it would be appropriate to defer to March 31, 1987, the expiration date of the registration of all floor brokers whose initial or renewal registration is granted between January 1, 1985 and March 31, 1986. In this connection, therefore, the Commission is issuing the following order.[4]

United States of America, Before the Commodity Futures Trading Commission—Order Deferring Expiration Date of Registration of Floor Brokers.

The Commission, having determined that the efficient administration of its registration program will be enhanced by deferring the expiration date of the registration of floor brokers:

It is hereby ordered that, pursuant to section 4f(1) of the Commodity Exchange Act, 7 U.S.C. 6f(1) (1982):

The expiration date of the registration of any floor broker which otherwise would be March 31, 1986, is deferred to, and any such registration shall instead expire on, March 31, 1987.

Issued in Washington, D.C. on October 24, 1985.

By the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 85-25815 Filed 10-29-85; 8:45 am]

BILLING CODE 6351-01-M

[1] 50 FR 36104 (September 5, 1985).

[2] On June 5, 1985, the Commission published final rule 1.62, which requires each contract market to adopt and enforce rules prohibiting any person from acting in the capacity of a floor broker on the floor of that contract market unless the person is first registered with the Commission as a floor broker in accordance with sections 4e and 4f(1) of the Act, 7 U.S.C. 6e, 6f(1) (1982), and the regulations thereunder. 50 FR 23666 (June 5, 1985) (effective date October 1, 1985) (to be codified at 17 CFR 1.62).

[3] 50 FR 36104-36105. Section 8a(10) of the Act and other 1982 amendments to the Act's registration provisions provide for the establishment of a "framework for delegation of the registration functions," and were intended to enhance the "evolution of self-regulation in the commodities industry and to permit the Commission to move to an oversight role in connection with the registration of commodity professionals." S. Rep. No. 97-384, 97th Cong., 2d Sess. 109 (1982). In this connection, the Commission has authorized the National Futures Association ("NFA"), *inter alia*, to process and, where appropriate, grant initial and renewal applications for registration of futures commission merchants, introducing brokers, commodity trading advisors, commodity pool operators and the associated persons of such registrants. 49 FR 39593 (October 9, 1985) (order authorizing performance of registration functions) and 49 FR 45418 (November 16, 1984) (notice of effective date of order). Thus, the Commission now processes only the initial and renewal applications for registration of floor brokers, leverage transaction merchants and the associated persons of leverage transaction merchants.

[4] A copy of this order is being sent to all registered floor brokers.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. RM80-53]

Ceiling Prices; Maximum Lawful Prices and Inflation Adjustment Factors

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Order of the Director, OPPR.

SUMMARY: Pursuant to the authority delegated by 18 CFR 357.307(1), the Director of the Office of Pipeline and Producer Regulation revises and publishes the maximum lawful prices prescribed under Title I of the Natural Gas Policy Act (NGPA) for the months of November and December, 1985 and January, 1986. Section 101(b)(6) of the NGPA requires that the Commission compute and publish the maximum lawful prices before the beginning of each month for which the figures apply.

EFFECTIVE DATE: November 1, 1985.

FOR FURTHER INFORMATION CONTACT: Kenneth A. Williams, Director, OPPR (202) 357-8500.

Section 101(b)(6) of the Natural Gas Policy Act of 1978 (NGPA) requires that the Commission compute and make available maximum lawful prices and inflation adjustments prescribed in Title I of the NGPA before the beginning of any month for which such figures apply.

Pursuant to this requirement and § 375.307(1) of the Commission's regulations, which delegates the publication of such prices and inflation adjustments to the Director of the Office of Pipeline and Producer Regulation, the maximum lawful prices for the months of November and December, 1985, and January, 1986, are issued by the publication of the price tables for the applicable quarter. Pricing tables are found in § 271.101(a) of the Commission's regulations. Table I of § 271.101(a) specifies the maximum lawful prices for gas subject to NGPA sections 102, 103(b)(1)(2), 105(b)(3), 106(b)(1)(B), 107(c)(5), 108 and 109. Table II of § 271.101(a) specifies the maximum lawful prices for sections 104 and 106(a) of the NGPA. Table III of § 271.102(c) contains the inflation adjustment factors. The maximum lawful prices and the inflation adjustment factors for the periods prior to November 1985 are found in the tables in §§ 271.101 and 271.102.

List of Subjects in 18 CFR Part 271

Natural gas.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

PART 271—[AMENDED]

§ 271.101 [Amended]

1. Section 271.101(a) is amended by inserting the maximum lawful prices for November and December, 1985, and January, 1986 in Tables I and II and inserting footnote numbers one and three in the body of Table I.

§ 271.102 [Amended]

2. Section 271.102(c) is amended by inserting the inflation adjustment for the months of November and December, 1985, and January, 1986, in Table III.

TABLE I.—NATURAL GAS CEILING PRICES

[Other than NGPA §§ 104 and 106(a)]

Subpart of Part 271	NGPA section	Category of gas	Maximum lawful price per MMBtu for deliveries in—		
			November 1985	December 1985	January 1986
B	102	New Natural Gas, Certain OCS Gas [4]	$4.116	$4.141	$4.166
C	103(b)(1)	New Onshore Production Wells [5]	3.047	3.056	3.065
D	103(b)(2)	New Onshore Production Wells [5]	3.582	3.599	3.616
E	105(b)(3)	Intrastate Existing Contracts	4.084	4.105	4.127
F	106(b)(1)(B)	Alternative Maximum Lawful Price for Certain Intrastate Rollover Gas [1]	1.744	1.749	1.754
G	107(c)(5)	Gas Produced from Tight Formations [2]	6.094	6.112	6.130
H	108	Stripper Gas	4.405	4.432	4.459
I	109	Not Otherwise covered	2.525	2.532	2.539

[1] Section 271.602(a) provides that for certain gas sold under an intrastate rollover contract the maximum lawful price is the higher of the price paid under the expired contract, adjusted for inflation or an alternative Maximum Lawful Price specified in this Table. This alternative Maximum Lawful Price for each month appears in this row of Table I. Commencing January 1, 1985, the price of some intrastate rollover gas is deregulated. (See Part 272 of the Commission's regulations.)

[2] The maximum lawful price for tight formation gas is the lesser of the negotiated contract price or 200% of the price specified in Subpart C of Part 271. The maximum lawful price for tight formation gas applies on or after July 16, 1979. (See § 271.703 and § 271.704.)

[4] Commencing January 1, 1985, the price of natural gas finally determined to be new natural gas under section 102(c) is deregulated. (See Part 272 of the Commission's regulations.)

[5] Commencing January 1, 1985, the price of some natural gas finally determined to be natural gas produced from a new, onshore production well under section 103 is deregulated. (See Part 272 of the Commission's regulations.)

TABLE II—NATURAL GAS CEILING PRICES: NGPA §§ 104 and 106(a)

[Subpart D, Part 271]

Category of natural gas	Type of sale or contract	Maximum lawful price per MMBtu for deliveries made in—		
		November 1985	December 1985	January 1986
Post-1974 gas	All producers	$2.525	$2.532	$2.539
1973-1974 biennium gas	Small producer	2.135	2.141	2.147
	Large producer	1.629	1.634	1.639
Interstate rollover gas	All producers	.937	.940	.943
Replacement contract gas or recompletion gas	Small producer	1.199	1.202	1.205
	Large producer	.918	.921	.924
Flowing gas	Small producer	.607	.609	.611
	Large producer	.512	.513	.514
Certain permian basin gas	Small producer	.714	.716	.718
	Large producer	.633	.635	.637
Certain Rocky Mountain gas	Small producer	.714	.716	.718
	Large producer	.607	.609	.611
Certain Appalachian Basin gas	North subarea contracts dated after 10-7-69	.576	.578	.580
	Other contracts	.531	.533	.535
Minimum rate gas [1]	All producers	.314	.315	.316

[1] Prices for minimum rate gas are expressed in terms of dollars per Mcf, rather than MMBtu.

TABLE III—INFLATION ADJUSTMENT

Month of delivery	Factor by which price in preceding month is multiplied
1985:	
November	1.00287
December	1.00287
1986:	
January	1.00287

[FR Doc. 85-25857 Filed 10-29-85; 8:45 am]
BILLING CODE 6717-01-M

18 CFR Part 282

[Docket No. RM79-14]

Order of the Director, OPPR of Publication of Incremental Pricing Acquisition Cost Thresholds Under Title II of the NGPA

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Order prescribing incremental pricing thresholds.

SUMMARY: The Director of the Office of Pipeline and Producer Regulation is issuing the incremental pricing acquisition cost thresholds prescribed by Title II of the Natural Gas Policy Act and 18 CFR 282.304. The Act requires the Commission to compute and publish the threshold prices before the beginning of each month for which the figures apply. Any cost of natural gas above the applicable threshold is considered to be an incremental gas cost subject to incremental pricing surcharging.

EFFECTIVE DATE: November 1, 1985.

FOR FURTHER INFORMATION CONTACT: Kenneth A. Williams, Federal Energy Regulatory Commission, 825 N. Capitol Street, NE., Washington, DC 20426, (202) 357-8500.

Section 203 of the NGPA requires that the Commission compute and make available incremental pricing acquisition cost threshold prices prescribed in Title II before the beginning of any month for which such figures apply.

Pursuant to that mandate and pursuant to § 375.307(1) of the Commission's regulations, delegating the publication of such prices to the Director of the Office of Pipeline and Producer Regulation, in incremental pricing acquisition cost threshold prices for the month of November 1985 is issued by the publication of a price table for the applicable month. The incremental pricing acquisition cost threshold prices for months prior to November 1985 are found in the tables in § 282.304.

List of Subjects in 18 CFR Part 282

Natural gas.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

TABLE I.—INCREMENTAL PRICING ACQUISITION COST THRESHOLD PRICES

[Calendar year 1984]

	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.
Incremental pricing threshold	$2.283	$2.291	$2.299	$2.307	$2.315	$2.323	$2.331	$2.338	$2.345	$2.352	$2.359	$2.366
NGPA section 102 threshold	3.586	3.609	3.632	3.656	3.680	3.705	3.730	3.752	3.774	3.797	3.821	3.845
NGPA section 109 threshold	2.359	2.367	2.375	2.383	2.391	2.399	2.407	2.414	2.421	2.428	2.436	2.444
130 pct of No. 2 fuel oil in New York City threshold	7.730	7.570	7.570	8.550	8.590	7.670	7.930	7.740	7.650	7.230	7.040	7.290

[Calendar year 1985]

	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.
Incremental pricing threshold	$2.373	$2.378	$2.383	$2.388	$2.399	$2.410	$2.421	$2.427	$2.433	$2.439	$2.454	
NGPA section 102 threshold	3.669	3.690	3.911	3.932	3.962	3.992	4.022	4.045	4.068	4.091	4.116	
NGPA section 109 threshold	2.452	2.457	2.462	2.467	2.478	2.489	2.500	2.506	2.512	2.518	2.525	
130 pct of No. 2 fuel oil in New York City threshold	7.170	7.310	7.090	6.920	7.210	7.120	7.400	7.000	6.520	6.630	6.940	

[FR Doc. 85-25858 Filed 10-29-85; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 24

[T.D. 85-168]

Customs Regulations Amendment Relating to Assessment and Collection of Certification Fees

AGENCY: Customs Service, Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations relating to the fee to be charged by Customs for furnishing official certifications. Often referred to as a delivery verification, these certificates are Customs official acknowledgement that certain merchandise was landed in the U.S. from a foreign country and provides information to the requesting party, usually the shipper, as to the disposition of the merchandise. Under this change, the fee would be waived for all delivery certifications if the request is made at the time the entry documents are filed. If the request for certification is made after the entry documents are filed, a fee of $10.00 for each hour or fraction thereof for document searches would be charged in addition to a charge of 15 cents per page for photocopying. This amount must be paid prior to release of a certification. This new fee system will replace the current fee of 20 cents Customs now charges for all certifications regardless of when they are requested. This change will permit Customs to maintain its present service of providing official certificates for the trade community at a fee commensurate with the actual cost of the service rendered.

EFFECTIVE DATE: November 29, 1985.

FOR FURTHER INFORMATION CONTACT: Herb Geller, Duty Assessment Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, DC 20229 (202-566-4161).

SUPPLEMENTARY INFORMATION:

Background

As a service to the trade community, Customs routinely issues official certificates such as certificates of landing and disposition of merchandise arriving in the U.S. from a foreign country. This particular certificate, which is often referred to as a "delivery verification," is Customs official acknowledgement that certain merchandise was landed in the U.S. and provides information to the requesting party, usually the shipper, as to disposition of the merchandise. Unless otherwise prescribed by law, a fee of 20 cents is charged for each certificate issued, as required by § 24.12(a)(2), Customs Regulations (19 CFR 24.12(a)(2)). Notwithstanding inflation, this 20 cent fee has been collected by Customs for this service since at least the 1930's. This charge does not concern certification of navigation fees relating to vessel services which are provided for in § 4.98(a), Customs Regulations (19 CFR 4.98(a)).

By Circular ENT-1-EV, dated December 14, 1965, Customs personnel were advised of two methods of verifying the landing and disposition of importer merchandise. Verification may be accomplished on Customs Form 3227, "Certificates of Disposition of Imported Merchandise", or on an annotated copy of the inward foreign air or vessel manifest, prepared by the requester. Also, verification may be made on Department of Commerce Form 647P, "Delivery Verification Certificate."

In June 1982, Customs Headquarters surveyed the Customs regions to determine the volume and cost of processing "delivery verification" requests. The survey revealed that nationwide there are approximately 21,500 such requests processed annually. Estimates of cost varied widely depending upon the extent and degree of difficulty of the research performed in locating the information requested. For example, at one port the verification procedure takes two forms: (1) Verification requests on Customs Form 3227 received at the time of entry, in which case immediate verification of landing and disposition is made at little or no cost: and (2) requests received after entry, which require a Customs employee to locate the entry and verify the information at a substantially higher cost.

Some Customs ports were in favor of eliminating the delivery verification procedures entirely citing budgetary and personnel restraints. Some ports wished to retain the current procedures but increase the fee to an amount commensurate with the cost of the service performed. Other ports wished to eliminate the current procedures and adopt less costly methods of verification.

While the issuance of delivery verification certificates is clearly not an essential Customs function or requirement, Customs believes that it provides a valuable service to the trade community and therefore should be retained. If this service were to be discontinued, as suggested by some ports, there would be no practical means for the shipper to determine the date of landing and disposition of the merchandise. For example, the information may be required to satisfy the exporter's bond, obtain drawback from a foreign government, resolve disputes with the carrier over loss or damage to the merchandise or merely be required by a foreign government for statistical or other purposes.

After a thorough review of this matter, Customs was of the opinion that the present service of providing official certificates for the trade community should be continued. Accordingly, in a notice published in the **Federal Register** on June 23, 1983 (48 FR 28671), Customs proposed to amend § 24.12(a)(2), by increasing the certification fee from 20 cents to $4.00 which, at that time, was the average cost to Customs for processing all requests.

Discussion of Comments

Four comments were received in response to the notice. Three commenters suggested a dual fee system whereby certifications made at the time the entry documents are filed would have a lower fee than certifications made after goods have been cleared and entry documents filed. This suggestion was based on the fact that a certification made at the time of entry requires only a cursory review of the documents and a signature or stamp attesting to the disposition of the merchandise, whereas a certification made after filing requires document retrieval and research.

After consideration of these comments and further review of the matter, it was determined that the original proposal was not cost-effective as the expenses that Customs would incur in collecting the fees would be more than the fees themselves. Accordingly, by a notice published in the **Federal Register** on May 24, 1985 (50 FR 21455), Customs proposed a new fee schedule wherby the fee would be waived for delivery certifications requested at the time entry documents are filed. At this time, it is not cost-effective for Customs to collect a minimal certification fee. However, for certifications requested after the entry documents are filed, a fee of $10.00 for each hour or fraction thereof for time spent by each clerical, professional or supervisor in finding the documents will be charged, plus a charge of 15 cents per page for photocopying. Customs believes these charges are analogous to those found in § 1.6, Treasury Department Regulations (13 CFR 1.6), for finding records and information requested pursuant to the Freedom of Information Act (5 U.S.C. 552). These certification fees may also be charged pursuant to the User Charges Statute (31 U.S.C. 9701) which states that the head of each agency may prescribe regulations establishing the charge for any services provided by the agency based on the fair and actual costs to the Government. These fees, which must be paid prior to release of a certification, will be applied to all certifications requested after the entry documents are filed and will not be limited to those accomplished only on Customs Form 3227 and Commerce Form 647P.

Of the two comments received in response to the second notice, one was opposed. The opposing commenter suggested that when a copy of Customs Form (CF) 7501 is furnished to Customs with a request for delivery verification (after the entry summary was originally filed), it would not require retrieval and research and a $10.00 fee would not be realistic. The commenter also stated that not all districts are validating the customs broker copy as mandated by Manual Supplement 4400–11, dated April 20, 1983.

Customs cannot adopt the suggestion that official certifications should be provided without charge after filing of an entry summary if such request is accompanied by a copy of the CF 7501. Whether or not such a request is accompanied by a copy of a CF 7501, additional time and expenditure of manpower will occur when a request is made following entry summary filing. A verification at the time of entry summary filing is a routine matter in that all documentation is present to quickly determine the disposition of an entire shipment. With only a copy of a CF 7501, queries may be required and possibly retrieval of documents to assure the accuracy of an official Customs certification. Concerning the comment on validating a CF 7501, this is outside the purview of the proposal. However, Manual Supplement 4400–11, does not "mandate" validating CF 7501 copies. The Supplement states that to the extent *possible* and *necessary*, procedures will be established to date stamp entry summaries or provide a receipt for the summary filed. This is accomplished primarily to establish timely filing of entry summaries. Also, with Customs Automated Commercial System and Automated Broker Interface, individual validations are being phased out and replaced by system produced receipts for batch filed entry summaries.

Accordingly, after consideration of the comments received in response to the second notice, and further review of the matter, Customs has determined to adopt the proposed fee schedule.

Certification Fee Schedule

1. No fee will be charged for furnishing an official certificate if the request is made to Customs at the time the entry summary is filed.

2. A fee of $10.00 for each hour or fraction thereof for time spent by each clerical, professional or supervisor in finding the documents will be charged for furnishing an official certificate if the request is made to Customs after the entry summary is filed, plus a charge of 15 cents per page for photocopying. The fee must be paid before release of a certification.

These fees will remain in effect until changed by publication of a general notice in the **Federal Register** and the *Customs Bulletin*, as provided for in § 24.12(a)(2), Customs Regulations.

Executive Order 12291

Because this document will not result in a regulation which would be a "major rule" as defined by section 1(b) of E.O. 12291, a regulatory impact analysis and review is not required.

Regulatory Flexibility Act

Pursuant to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), it is certified that this amendment will not have a significant economic impact on a substantial number of small entities. Accordingly, it is not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

Drafting Information

The principal author of this document was Glen E. Vereb, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

List of Subjects in 19 CFR Part 24

Customs duties and inspections, Collections, Certification fees, and Imports.

PART 24—CUSTOMS FINANCIAL AND ACCOUNTING PROCEDURE

1. The general authority citation for Part 24 continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1202 (Gen. Hdnote 11), 1624; 31 U.S.C. 9701;

Section 24.12 also issued under 19 U.S.C. 1524; 46 U.S.C. 927.

2. Section 24.12(a)(2), Customs Regulations (19 CFR 24.12(a)(2)), is revised to read as follows:

§ 24.12 Customs fees; charges for storage.

(a) * * *

(2) No fee will be charged for furnishing an official certificate if the request is made to Customs at the time the entry summary is filed. However, Customs shall charge and collect a fee of $10.00 for each hour or fraction thereof for time spent by each clerical, professional or supervisor in finding the documents and furnishing an official certification if the request is made after the entry documents are filed, plus a charge of 15 cents per page for photcopying. The fee may be revised periodically by publication of a general notice in the **Federal Register** and *Customs Bulletin* setting forth the revised fee. The published revised fee shall remain in effect until changed.

* * * * *

Alfred R. De Angelus,

Acting Commissioner of Customs.

Approved: October 7, 1985.

David D. Queen,

Acting Assistant Secretary of the Treasury.

[FR Doc. 85-25888 Filed 10-29-85; 8:45 am]

BILLING CODE 4820-02-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 107

[Docket No. 83N-0270]

Nutrient Requirements for Infant Formulas

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is revising the infant formula nutrient requirements of the Infant Formula Act of 1980, based on the 1983 recommendations of the Committee on Nutrition of the American Academy of Pediatrics (CON/AAP). In developing this final rule, FDA also considered the Codex Alimentarius Commission's "Recommended International Standard for Infant Formula" (Codex standard). This final rule ensures that the nutrient levels required for infant formulas reflect the latest recommendations by CON/AAP and others and are adequate in meeting the normal infant's total nutritional needs.

EFFECTIVE DATE: This final rule will become effective on January 14, 1986, for all affected products initially introduced or initially delivered for introduction into interstate commerce on or after that date. Voluntary compliance may begin October 30, 1985.

FOR FURTHER INFORMATION CONTACT: Nicholas Duy, Center for Food Safety and Applied Nutrition (HFF-204), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202-245-3117.

SUPPLEMENTARY INFORMATION:

Background

In the **Federal Register** of April 11, 1984 (49 FR 14396), FDA published a proposed rule (21 CFR part 107, Subpart D) to codify without change most of the nutrients and nutrient levels specified in section 412(g) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 350a(g)) and to revise certain nutrient requirements based on recommendations of CON/AAP, the Codex standard for infant formulas, and other sources of information. The proposed rule would have (1) raised slightly the minimum levels for calcium and phosphorus, (2) set maximum levels for iron and iodine, (3) established the minimum level for niacin in units of niacin equivalents, and (4) required that any added vitamin K be in the form of phylloquinone.

Interested persons were given until June 11, 1984, to comment on the proposal. FDA received five letters, each containing one or more comments, from a consumer, a trade organization, and manufacturers. All comments supported the proposal at least in part, and some comments made suggestions. Some of the comments addressed issues not raised by the proposal, such as the infant formula quality control regulations (21 CFR Part 106), the infant formula labeling regulations (21 CFR Part 107, Subpart B), and the adoption of the Codex Standard requirements dealing with the pesticide residues, microbiological quality, and other contaminants. These comments are not discussed herein.

The final rule is based on the proposal, with two changes suggested by the comments. FDA has raised slightly the proposed maximum level for iron, and has not adopted the proposed minimum level for niacin in units of niacin equivalents.

A summary of pertinent comments and the agency's response follows:

Vitamins

1. One comment suggested simplification and clarification of the proposed requirement for the addition of vitamin B_6 (pyridoxine). Proposed § 107.100 (a) and (d) specified a minimum level of 35 micrograms of B_6 for the first 1.8 grams of protein per 100 kilocalories and at least 15 additional micrograms of vitamin B_6 for each gram of protein in excess of 1.8 grams of protein per 100 kilocalories. The comment suggested simply providing for B_6 at a level of at least 15 micrograms for each gram of protein.

The agency disagrees with this comment and has not made the change in the final rule, because the "simplification" would reduce the minimum level of B_6 required from 35 micrograms per 100 kilocalories to 27 micrograms per 100 kilocalories. Prior to the proposal, CON/AAP specifically reviewed the vitamin B_6 requirement and recommended to the agency that the minimum level required by the Infant Formula Act of 1980, which was not changed by the proposed requirements, "* * * is the minimum level that will provide good growth and development in healthy full term infants * * *" and that a distinct hazard may be encountered below these levels. FDA agrees with CON/AAP's recommendation and has, therefore, not reduced the minimum level proposed for vitamin B_6.

2. Several comments objected to establishing the minimum level for niacin in terms of niacin equivalents. The present minimum level is expressed in terms of micrograms of niacin. The reasons for the objections are: (1) Manufacturers would have to analyze for the two components that comprise niacin equivalents, niacin and tryptophan, rather than just analyzing for niacin which is sufficient to meet present requirements; (2) analyses for tryptophan would require procedures that are laborious and unreliable; (3) CON/AAP recommendations specified a minimum requirement of either 250 micrograms of niacin *or* 0.8 milligram niacin equivalents; and (4) CON/AAP considers the protein level in infant formulas as providing "* * * the tryptophan that supplies the [necessary] niacin equivalents. The Committee (CON/AAP) feels a specific recommendation for niacin is desirable."

The agency agrees and has eliminated this proposed requirement from the final rule. The requirement of this final rule with respect to expression of the minimum level of niacin, therefore, does

not revise the requirements of the Infant Formula Act of 1980.

Minerals

3. Several comments suggested a maximum level of 3 milligrams of iron per 100 kilocalories in lieu of the proposed maximum level of 2.5 milligrams per 100 kilocalories. The comments indicated that the amount of iron presently added to infant formulas will result in levels that occasionally exceed the proposed 2.5-milligram maximum level. Consequently, the comments stated that, if a 2.5-milligram per 100 kilocalorie maximum were imposed, manufacturers would be required to lower the fortification rate of infant formulas when no safety concerns have been identified at the existing level of fortification.

The agency agrees and has made this change in § 107.100(a) of the final rule.

4. Two comments suggested that the proposed maximum level for iodine of 75 micrograms per 100 kilocalories be postponed until a joint FDA/industry study of analytical methods is completed and it is shown that appropriate methodology exists for iodine. The comments indicated that available analytical methods, especially when applied to soy-based infant formulas, do not have the necessary accuracy and precision to determine the level of iodine present.

The agency disagrees with the contention that the proposed maximum level for iodine of 75 micrograms per 100 kilocalories should be postponed until the completion of a joint FDA/industry study of the analytical methods for iodine. It is agency policy to take into consideration the accuracy and precision of the methodology used before any regulatory action is recommended. The accuracy and precision of available methods are always taken into account whenever maximum or minimum levels for substances are set. In this case, a minimum level for iodine (5 micrograms per 100 kilocalories) has been in effect since 1971. Agency experience for these years has shown the methodology to be sufficiently precise and accurate to make the determination that an infant formula meets or does not meet the minimum level of iodine required. There is no indication that any additional difficulties are involved in determining that a product does or does not exceed a maximum level over those encountered in determining the presence of a minimum level. In addition, the joint FDA/industry study referred to in the comments is a review of methodology used for determining all nutrients required for infant formulas, not just iodine. The purpose of the review is to identify methodology that can be applied uniformly by industry and FDA. Although the review may result in the identification of better methodologies across-the-board, in the interim, it is necessary to set standards under the Infant Formula Act based on the best currently available information.

5. One comment suggested that the requirement for iodine (I_2) be expressed as iodide (I^-) because (1) the nutrient is primarily present in infant formulas in the form of iodide, (2) manufacturers generally test for iodide, and (3) this change in nomenclature would be consistent with the nomenclature used for chloride.

The agency disagrees with this comment. FDA has required, for many years, that this nutrient be declared by the name iodine for all foods with nutrition labeling (21 CFR 101.9(c)(7)(iv)), and for infant formula (21 CFR 107.10 and former 21 CFR 105.65(c)(5)). Consequently, consumers have become accustomed to this nutrient being declared as iodine and any change would be both confusing to the consumer and inconsistent with the nomenclature required for other foods. Therefore, the agency has retained the requirement that this nutrient be declared as iodine (I_2).

Proposed Effective Date

6. One comment suggested that the agency set one effective date for all labeling changes currently under consideration in this final rule and in the final rule for infant formula labeling (21 CFR Part 107, Subpart B).

The agency agrees and has provided for an effective date of January 14, 1986, which is the effective date for the infant formula labeling regulations (21 CFR Part 107, Subpart B).

FDA does not believe that this effective date will pose problems for the infant formula industry, as information available to the agency indicates that all currently marketed products are already in compliance with the final rule. If any manufacturer believes that it will be unable to comply with the final rule by the effective date, it may petition the agency for a specific period of additional time. FDA will consider such requests on a case-by-case basis.

Economic Considerations

In accordance with Executive Order 12291, FDA has examined the economic impacts of this final rule. In a previous action the agency determined that the economic impacts of the regulations governing quality control and labeling of exempt and nonexempt infant formula were not major as defined by the order. The agency has also considered the cumulative economic effects of these various documents. The combined effects of these regulations do not constitute a major rule under any of the criteria specified by Executive Order 12291.

Furthermore, in accordance with the Regulatory Flexibility Act, the agency has considered the effect that this final rule and the regulations on quality control, labeling of infant formulas, and exempt infant formula would have on small entities, including small businesses, and has concluded that it is unlikely that any small firm will bear excessive or unreasonable burdens as a result of the combined effects of each of these regulations. Therefore, the agency certifies in accordance with section 605(b) of the Regulatory Flexibility Act that no significant economic impact on a substantial number of small entities will result from this action.

Environmental Considerations

The agency has previously considered the potential environmental effects of this rule as announced in the proposed rule (April 11, 1984; 49 FR 14396). The agency is not aware of any new information that would affect the agency's previous determination that there is no significant impact on the human environment and that an environmental impact statement is not required. The agency has, however, amended its environmental assessment and finding of no significant impact to reflect changes in the proposed rule resulting from comments submitted to the agency. The agency's amended environmental assessment and finding of no significant impact may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 107

Food labeling, Infant formula, Nutrition requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act, Part 107 is amended as follows:

PART 107—INFANT FORMULA

1. The authority citation for 21 CFR Part 107 is revised to read as follows:

Authority: Secs. 201 (n) and (aa), 403(a) and (j), 412, 701, 52 Stat. 1041 as amended, 1047–1048 as amended, 1055–1056 as amended, 94 Stat. 1190–1193 (21 U.S.C. 321 (n) and (aa), 343 (a) and (j), 350a, 371); 31 CFR 5.11; § 107.100 issued only under secs. 201(aa), 412, 701(a) 52 Stat. 1055, 94 Stat. 1190–1193 (21 U.S.C. 321(aa), 350a, 371(a)); 21 CFR 5.11.

2. By adding new Subpart D to read as follows:

Subpart D—Nutrient Requirements

§ 107.100 Nutrient specifications.

(a) An infant formula shall contain the following nutrients at a level not less than the minimum level specified and not more than the maximum level specified for each 100 kilocalories of the infant formula in the form prepared for consumption as directed on the container:

Nutrients	Unit of measurement	Minimum level	Maximum level
Protein	Grams	1.8	4.5
Fat	do	3.3	6.0
	Percent calories	30	54
Linoleic acid	Milligrams	300	
	Percent calories	2.7	
Vitamins			
Vitamin A	International Units	250	750
Vitamin D	do	40	100
Vitamin E	do	0.7	
Vitamin K	Micrograms	4	
Thiamine (vitamin B_1)	do	40	
Riboflavin (vitamin B_2)	do	60	
Vitamin B_6	do	35	
Vitamin B_{12}	do	0.15	
Niacin[1]	do	250	
Folic acid (folacin)	do	4	
Pantothenic acid	do	300	
Biotin [2]	do	1.5	
Vitamin C (ascorbic acid)	Milligrams	8	
Choline[2]	do	7	
Inositol [2]	do	4	
Minerals			
Calcium	do	60	
Phosphorus	do	30	
Magnesium	do	6	
Iron	do	0.15	3.0
Zinc	do	0.5	
Manganese	Micrograms	5	
Copper	Micrograms	60	
Iodine	do	5	75
Sodium	Milligrams	20	60
Potassium	do	80	200
Chloride	do	55	150

[1] The generic term "niacin" includes niacin (nicotinic acid) and niacinamide (nicotinamide).
[2] Required only for non-milk-based infant formulas.

In addition to the specifications established in the table in this paragraph for vitamins and minerals, the following also apply:

(b) Vitamin E shall be present at a level of at least 0.7 International Unit of vitamin E per gram of linoleic acid.

(c) Any vitamin K added shall be in the form of phylloquinone.

(d) Vitamin B_6 shall be present at a level of at least 15 micrograms of vitamin B_6 for each gram of protein in excess of 1.8 grams of protein per 100 kilocalories of infant formula in the form prepared for consumption as directed on the container.

(e) The ratio of calcium to phosphorus in infant formula in the form prepared for consumption as directed on the container shall be no less than 1.1 and not more than 2.0.

(f) Protein shall be present in an amount not to exceed 4.5 grams per 100 kilocalories regardless of quality, and not less than 1.8 grams per 100 kilocalories of infant formula in the form prepared for consumption as directed on the container when its biological quality is equivalent to or better than that of casein. If the biological quality of the protein is less than that of casein, the minimum amount of protein shall be increased proportionately to compensate for its lower biological quality. For example, an infant formula containing protein with a biological quality of 75 percent of casein shall contain at least 2.4 grams of protein (1.8/0.75). No protein with a biological quality less than 70 percent of casein shall be used.

Dated: October 7, 1985.

Frank E. Young,

Commissioner of Food and Drugs.

Margaret M. Heckler,

Secretary of Health and Human Services.

[FR Doc. 85-25875 Filed 10-29-85; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 442

[Docket No. 85N-0466]

Antibiotic Drugs; Cefotaxime Sodium Injection

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the antibiotic drug regulations to provide for the inclusion of accepted standards for a new dosage form of cefotaxime sodium, cefotaxime sodium injection. The manufacturer has supplied sufficient data and information to establish its safety and efficacy.

DATES: Effective October 30, 1985; comments, notice of participation, and request for hearing by November 29, 1985; data, information, and analyses to justify a hearing by December 30, 1985.

ADDRESS: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Joan M. Eckert, Center for Drugs and Biologics (HFN-815), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4290.

SUPPLEMENTARY INFORMATION: FDA has evaluated data submitted in accordance with regulations promulgated under section 507 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 357), as amended, with respect to a request for approval of a new dosage form of cefotaxime sodium, cefotaxime sodium injection. The agency has concluded that the data supplied by the manufacturer concerning this antibiotic drug are adequate to establish its safety and efficacy when used as directed in the labeling and that the regulations should be amended in Part 442 (21 CFR Part 442) to provide for the inclusion of accepted standards for the product.

Environmental Impact

The agency has determined under 21 CFR 25.24(c)(6) (April 26, 1985; 50 FR 16636) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Submitting Comments and Filing Objections

This final rule announces standards that FDA has accepted in a request for approval of an antibiotic drug. Because this final rule is not controversial and because when effective it provides notice of accepted standards, notice and comment procedure and delayed effective date are found to be unnecessary and not in the public interest. The final rule, therefore, is effective October 30, 1985. However, interested persons may, on or before November 29, 1985, submit written comments to the Dockets Management Branch (address above). Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Any person who will be adversely affected by this final rule may file objections to it and request a hearing. Reasonable grounds for the hearing must be shown. Any person who decides to seek a hearing must file: (1) On or before November 29, 1985, a written notice of participation and request for hearing, and (2) on or before December 30, 1985, the data, information, and analyses on which the person relies to justify a hearing, as specified in 21 CFR 314.300. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a

genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for hearing that no genuine and substantial issue of fact precludes the action taken by this order, or if a request for hearing is not made in the required format or with the required analyses, the Commissioner of Food and Drugs will enter summary judgment against the person(s) who request(s) the hearing, making findings and conclusions and denying a hearing. All submissions must be filed in three copies, identified with the docket number appearing in the heading of this order and filed with the Dockets Management Branch.

The procedures and requirements governing this order, a notice of participation and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and grant or denial of a hearing are contained in 21 CFR 314.300.

All submissions under this order, except for data and information prohibited from public disclosure under 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 442

Antibiotics, Cepha.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, Part 442 is amended as follows:

PART 442—CEPHA ANTIBIOTIC DRUGS

1. The authority citation for 21 CFR Part 442 continues to read as follows:

Authority: Sec. 507, 59 Stat. 463 as amended (21 U.S.C. 357); 21 CFR 5.10.

2. By adding new § 443.13 to read as follows:

§ 442.13 Cefotaxime sodium.

(a) *Requirements for certifications*—(1) *Standards of identity, strength, quality, and purity.* Cefotaxime sodium is the sodium salt of 5-thia-1-azabicyclo[4.2.0]oct-2-ene-2-carboxylic acid, 3-[(acetyloxy)methyl]-7-[[(2-amino-4-thiazolyl) (methoxyimino)acetyl]amino]-8-ox-o, [6*R*-[6α,7#(*Z*)]]-. It is so purified and dried that:

(i) Its potency is not less than 855 micrograms and not more than 1,002 micrograms of cefotaxime per milligram on an anhydrous basis.

(ii) Its moisture content is not more than 6.0 percent.

(iii) Its pH in an aqueous solution is not less than 4.5 and not more than 6.5.

(iv) It gives a positive identity test.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on the batch for potency, moisture, pH, and identity.

(ii) Samples, if required by the Director, Center for Drugs and Biologics: 10 packages, each containing approximately 500 milligrams.

(b) *Tests and methods of assay*—(1) *Potency.* Use either of the following methods; however, the results obtained from the hydroxylamine colorimetric assay shall be conclusive.

(i) *Microbiological agar diffusion assay.* Proceed as directed in § 436.105 of this chapter, preparing the sample for assay as follows: Dissolve an accurately weighed sample in sufficient 1.0 percent potassium phosphate buffer, pH 6.0 (solution 1), to obtain a stock solution of convenient concentration. Further dilute an aliquot of the stock solution with solution 1 to the reference concentration of 2.0 micrograms of cefotaxime per milliliter (estimated).

(ii) *Hydroxylamine colorimetric assay.* Proceed as directed in § 442.40(b)(1)(ii), except prepare the working standard and sample solutions and calculate the potency of the sample as follows:

(*a*) *Preparation of the working standard solution.* Dissolve and dilute an accurately weighed portion of the cefotaxime working standard in sufficient distilled water to obtain a concentration of 1 milligram of cefotaxime per milliliter.

(*b*) *Preparation of sample solution.* Dissolve and dilute an accurately weighed portion of the sample in sufficient distilled water to obtain a concentration of 1 milligram of cefotaxime per milliliter (estimated).

(*c*) *Calculation.* Calculate the cefotaxime content in micrograms per milligram as follows:

$$\text{Micrograms of cefotaxime per milligram of sample} = \frac{A_u \times P_s}{A_s \times W_u}$$

where:

A_u = Absorbance of sample solution;
P_s = Potency of working standard solution in micrograms per milliliter;
A_s = Absorbance of working standard solution; and
W_u = Milligrams of sample per milliliter of sample solution.

(2) *Moisture.* Proceed as directed in § 436.201 of this chapter.

(3) *pH.* Proceed as directed in § 436.202 of this chapter, using an aqueous solution containing 100 milligrams per milliliter.

(4) *Identity.* Proceed as directed in § 436.323 of this chapter, except prepare spotting solutions as follows: Prepare solutions of the sample and working standard, each containing 1 milligram of cefotaxime per milliliter in distilled water.

3. By redesignating § 442.213 as § 442.213a and by adding new §§ 442.213 and 442.213b to read as follows:

§ 442.213 Cefotaxime injectable dosage forms.

§ 442.213a Sterile cefotaxime sodium.

* * * * *

§ 442.213b Cefotaxime sodium injection.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Cefotaxime sodium injection is a frozen aqueous solution of cefotaxime sodium with one or more suitable and harmless buffer substances in an isosmotic diluent. Each milliliter contains cefotaxime sodium equivalent to either 20 milligrams or 40 milligrams of cefotaxime per milliliter. Its cefotaxime content is satisfactory if it is not less than 90 percent and not more than 110 percent of the number of milligrams of cefotaxime that it is represented to contain. It is sterile. It is nonpyrogenic. Its pH is not less than 5.0 and not more than 7.5. It passes the identity test. The cefotaxime sodium used conforms to the standards prescribed by § 442.13(a)(1).

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The cefotaxime sodium used in making the batch for potency, moisture, pH, and identity.

(*b*) The batch for potency, sterility, pyrogens, pH, and identity.

(ii) Samples, if required by the Director, Center for Drugs and Biologics:

(*a*) The cefotaxime sodium used in making the batch: 10 packages, each containing approximately 500 milligrams.

(*b*) The batch:

(*1*) For all tests except sterility: A minimum of 10 immediate containers.

(*2*) For sterility testing: 20 immediate containers, collected at regular intervals throughout each filling operation.

(b) *Test and methods of assay.* Thaw the sample as directed in the labeling. The sample solution used for testing must be at room temperature.

(1) *Potency.* Use either of the following methods; however, the results obtained from the hydroxylamine colorimetric assay shall be conclusive.

(i) *Microbiological agar diffusion assay.* Proceed as directed in § 436.105 of this chapter, preparing the sample for assay as follows: Using a suitable hypodermic needle and syringe, remove an accurately measured representative portion from each container and dilute with sufficient 1 percent potassium phosphate buffer, pH 6.0 (solution 1), to give a stock solution of convenient concentration. Further dilute an aliquot of the stock solution with solution 1 to the reference concentration or 2.0 micrograms of cefotaxime per milliliter (estimated).

(ii) *Hydroxylamine colorimetric assay.* Proceed as directed in § 436.205 of this chapter, preparing the sample as follows: Using a suitable hypodermic needle and syringe, remove an accurately measured representative portion from each container and dilute with distilled water to give a stock solution of convenient concentration. Further dilute with distilled water to the prescribed concentration.

(2) *Sterility.* Proceed as directed in § 436.20 of this chapter, using the method described in paragraph (e)(1) of that section.

(3) *Pyrogens.* Proceed as directed in § 436.32(a) of this chapter, except inject a sufficient volume of the undiluted solution to deliver 50 milligrams of cefotaxime per kilogram.

(4) *pH.* Proceed as directed in § 436.202 of this chapter, using the undiluted solution.

(5) *Identity.* Proceed as directed in § 436.323 of this chapter, except prepare spotting solutions as follows: Prepare solutions of the sample and working standard, each containing 1 milligram of cefotaxime per milliliter in distilled water.

Dated: October 23, 1985.

Sammie R. Young,

Deputy Director, Office of Compliance.

[FR Doc. 85-25809 Filed 10-29-85; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 913

Approval of Permanent Program Amendments From the State of Illinois Under the Surface Mining Control and Reclamation Act of 1977

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule.

SUMMARY: OSM is announcing the approval of amendments to the Illinois permanent regulatory program (hereinafter referred to as the Illinois program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

By letter dated December 23, 1983, Illinois submitted to OSM proposed requirements for the training and certification of blasters working in surface coal mining operations. Revised rules were provided on March 29, 1985 and a policy statement was provided on August 16, 1985. OSM published notices in the **Federal Register** on January 25, 1984, May 1, 1985 and September 12, 1985, announcing receipt of the amendments and inviting public comment on the adequacy of the proposed amendments (49 FR 3093), (50 FR 18536), and (50 FR 37318). The final comment period closed September 27, 1985.

After providing opportunity for public comment and conducting a thorough review of the program amendments, the Director of OSM has determined that the amendments meet the requirements of SMCRA and the Federal regulations. Accordingly, the Director is approving the program amendments. The Federal regulations at 30 CFR Part 913 which codify decisions on the Illinois program are being amended to implement this action.

This final rule is being made effective immediately in order to expedite the State program amendment process and encourage States to bring their programs into conformity with the Federal standards without undue delay; consistency of the State and Federal Standards is required by SMCRA.

EFFECTIVE DATE: October 30, 1985.

FOR FURTHER INFORMATION CONTACT: Mr. James F. Fulton, Director, Springfield Field Office, Office of Surface Mining, 600 East Monroe Street, Room 20, Springfield, Illinois 62701; Telephone: (217) 492-4495.

SUPPLEMENTARY INFORMATION:

I. Background

The Illinois program was conditionally approved by the Secretary of the Interior on June 1, 1982. Information pertinent to the general background, revisions, modifications, and amendments to the proposed permanent program submission, as well as the Secretary's findings, the disposition of comments and a detailed explanation of the conditions of approval of the Illinois program, can be found in the June 1, 1982 **Federal Register** (47 FR 23858).

At the time of the Secretary's approval of the Illinois program, OSM had not yet promulgated Federal rules governing the training and certification of blasters. Therefore, the State was not required to include such requirements in its program. However, in the notice announcing conditional approval of the Illinois program, the Secretary specified that Illinois would be required to adopt such provisions following promulgation of the Federal Standards (47 FR 23858, June 1, 1982). On March 4, 1983, OSM issued final rules effective April 14, 1983, establishing the Federal standards for the training and certification of blasters at 30 CFR Chapter VII Subchapter M (48 FR 9486).

II. Discussion of the Amendment

By letter dated December 23, 1983, Illinois submitted proposed regulations which would establish requirements for the training and certification of blasters working in surface coal mining operations. The new requirements were set forth under Part 1850—Training, Examination and Certification of Blasters.

OSM announced receipt of the amendments and initiated a public comment period on January 25, 1984 (49 FR 3093). The comment period ended February 24, 1984.

During review of the amendments, OSM identified three concerns:

(1) The proposed Illinois rules do not provide that the regulatory authority may require periodic re-examination, training or other demonstration of continued blaster competency;

(2) Illinois' proposed rules do not contain counterparts to all of the courses required for blaster training in 30 CFR 850.13(b); and

(3) The proposed Illinois' rules do not require the blaster to take every reasonable precaution to protect his certificate from loss, theft or unauthorized duplication.

OSM notified Illinois about these concerns by letter dated April 25, 1984. On May 25, 1984, Illinois responded by

agreeing to amend its blaster training and certification rules to answer OSM's concerns. Illinois also proposed to make minor editorial changes and correct typographical errors. The State completed its changes on February 15, 1985, and submitted the amended rules to OSM on March 29, 1985.

On May 1, 1985, OSM announced it was reopening and extended the public comment period through May 31, 1985, on the resubmitted Illinois blaster training and certification rules (50 FR 18536). During OSM's review of the resubmitted regulations, it identified three additional areas of concern. These were that Illinois has no requirement for a course on the handling, transportation and storage of explosives, and Illinois did not require training in secondary blasting applications and in blasting schedules. Illinois was notified of OSM's concerns on June 25, 1985. The State responded in a letter dated August 16, 1985.

On September 12, 1985, OSM announced that it was reopening and extending the comment period on Illinois' response of August 16, 1985. The notice published in the **Federal Register** (50 FR 37318, September 12, 1985) announced receipt of Illinois' policy statement and invited public comment on the adequacy of the proposed amendments as modified. The policy statement clarified that Illinois' training program contained the required coursework on handling and storage of explosives, secondary blasting application and blasting schedules. The notice stated that a public hearing would be held only if requested. Since there were no requests for a hearing, one was not held. The public comment period closed September 27, 1985.

III. Director's Findings

The Director finds, in accordance with SMCRA and 30 CFR 732.17 and 732.15, that the program amendments submitted by Illinois on December 23, 1983, and modified on March 29, 1985 and August 16, 1985, meet the requirements of SMCRA and 30 CFR Chapter VII, as discussed below.

The Illinois rules at Illinois Administrative Code (IAC) Part 1850 establish requirements concerning the training, examination and certification of blasters working in surface coal mining operations.

IAC 1850.13 reflects the training requirements set forth in 30 CFR 850.13. This section outlines the required courses for the training of blasters, and is no less effective than the Federal regulations. IAC 1850.14 establishes an examination for blasters given periodically as determined by the regulatory authority. This section is no less effective than the Federal regulations at 30 CFR 850.14.

IAC 1850.15 outlines the application needed for certification as well as the requirements for certification. This section sets forth the length of time a certificate is valid. IAC 1850.16 sets forth the regulations for denial, suspension, revocation and other administrative functions.

IAC 1850.17 establishes procedures for administrative and judicial review of decisions taken under this part. These three sections taken together reflect the requirements of 30 CFR 850.15 and are no less effective than the Federal regulations.

Therefore, the Director finds that the Illinois rules are no less effective than the Federal regulations.

IV. Public Comment

Only one comment was received during the public comment periods on the proposed Illinois program amendments for training and certification of blasters working in surface coal mine operations.

The Department of Mines and Minerals submitted a comment dated September 23, 1985, urging the Office of Surface Mining to approve the proposed amendments. The State maintained that it had proposed an adequate blaster training and certification program and allowed for public participation in the promulgation of the proposed amendments. With this notice the Director is approving the Illinois amendments.

V. Director's Decision

The Director, based on the above findings, is approving the December 23, 1983 amendments to the Illinois program as modified on March 29, 1985 and August 16, 1985. The Director is amending Part 913 of 30 CFR Chapter VII to reflect approval of the above State program modification.

VI. Additional Determinations

1. Compliance with the National Environmental Policy Act

The Secretary has determined that, pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. Executive Order No. 12291 and the Regulatory Flexibility Act

On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule will not impose any new requirements; rather, it will ensure that existing requirements established by SMCRA and the Federal rules will be met by the State.

3. Paperwork Reduction Act

This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 913

Coal mining Intergovernmental relations, Surface mining, Underground mining.

Dated: October 23, 1985.

Jed D. Christensen,

Acting Director, Office of Surface Mining.

PART 913—ILLINOIS

30 CFR Part 913 is amended as follows:

1. The authority citation for Part 913 continues to read as follows:

Authority: Pub. L. 95–87, Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 *et seq.*).

2. 30 CFR 913.15 is amended by adding a new paragraph (g) as follows:

Section 913.15 Approval of Regulatory Program Amendments.

* * * * *

(g) The following amendments submitted to OSM on December 23, 1983, and modified on March 29, 1985 and August 16, 1985, are approved effective October 30, 1985. Illinois Administrative Code Part 1850.

[FR Doc. 85–25830 Filed 10–29–85; 8:45 am]

BILLING CODE 4315-05-M

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30 CFR Part 913

Permanent State Regulatory Program of Illinois; Consideration of Modifications of Deadline for Conditions of Approval

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule.

SUMMARY: The Office of Surface Mining (OSM) is announcing the Secretary of

the Interior's decision to extend the deadline for Illinois to meet two conditions of approval of its State permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Condition (b) concerns covering the pit floor and highest coal seam with water and condition (c) concerns sedimentation ponds.

EFFECTIVE DATE: October 30, 1985.

FOR FURTHER INFORMATION CONTACT: Mr. James F. Fulton, Director, Springfield Field Office, Office of Surface Mining, 600 East Monroe Street, Room 20, Springfield, Illinois 62701; Telephone: (217) 492–4495.

SUPPLEMENTARY INFORMATION:

Background

The Illinois program was conditionally approved by the Secretary of the Interior on June 1, 1982 (47 FR 23858). Information pertinent to the general background, revisions, modifications and amendments to the proposed program submission, as well as the Secretary's finding, the disposition of comments, and a detailed explanation of the conditions of approval can be found in the June 1, 1982 Federal Register.

Under 30 CFR 732.13(j), the Secretary may conditionally approve a State permanent regulatory program which contains minor deficiencies where the deficiencies are of such a size and nature as to render no part of the program incomplete, the State is actively proceeding with steps to correct the deficiencies, and the State agrees to correct the deficiencies according to a schedule set forth in the notice of conditional approval. The schedule is established in consultation with the State based on the time required for changes to be adopted under State procedures or legislative schedules.

In accepting the Secretary's conditional approval, Illinois agreed to satisfy conditions (a), (d), and (e) by December 1, 1982 and conditions (b) and (c) by June 1, 1983. Conditions (a), (d) and (e) have been removed (48 FR 23412, May 25, 1983, and 48 FR 51619, November 10, 1983). On May 23, 1983, Illinois requested a six-month extension of the June 1, 1983 deadline to satisfy conditions (b) and (c). On August 19, 1983, OSM: announced the decision to extend the deadline to December 1, 1983 (48 FR 37625).

On December 1, 1983, Illinois requested a further extension of the deadline for satisfying conditions (b) and (c), until June 1, 1984. In its request, the State pointed to certain developments in the litigation on approval of the Illinois program. The State noted that the United States District Court for the Central District of Illinois had granted, on November 30, 1983, the Secretary's motion to remand the *Illinois South Project* v. *Hodel*, (Civ. No. 82–2229) case to the Secretary for review in light of legal developments that have occurred since the approval date. Conditions (b) and (c) concern subjects that are directly at issue in the litigation and which may be affected by the Secretary's review on remand. In order to avoid rulemaking proceedings which may prove to be unnecessary, the State requested a six-month extension of the December 1, 1983 deadline. On February 22, 1984, OSM announced the decision to extend the deadline to June 1, 1984 (49 FR 6487).

On May 31, 1984, Illinois requested a further extension of the deadline, until November 30, 1984. The State noted that the conditions are directly affected by two cases which are still unresolved—Illinois South Project v. *Hodel* and *Illinois Department of Mines and Minerals* v. *Hodel*. The State indicated that it had hoped that the cases would have been resolved by June 1, 1984, but as they have not been, Illinois requested that possibly unnecessary rulemaking proceedings be delayed for six months. In the interim Illinois stated that it would continue to enforce its regulations in accordance with the Federal regulations. On August 24, 1984, OSM announced the decision to extend the deadline to November 30, 1984 (49 FR 33645).

On November 28, 1984, Illinois requested a further extension of the deadline until May 30, 1985. The State noted that the remaining conditions were and remain directly affected by the cases which are still unresolved: *Illinois South Project et al.* v. *Hodel* and the Federal District Court Court Case of the *Illinois Department of Mines and Minerals* v. *Hodel*. On March 11, 1985, OSM granted an extension to Illinois to May 30, 1985 (50 FR 9621).

Condition (b) stipulates that Illinois must amend its program to require a cover of the pit floor and highest coal seam with a minimum of ten meters (33 feet) of water, and that pending completion of the above, Illinois may not use its authority to approve covering with less than 10 meters of water or the approval will terminate. Condition (c) stipulates that Illinois must amend its program to demonstrate that Illinois understands that at the present time the best technology currently available for sediment control is sedimentation ponds and should Illinois wish to approve any other technology, the State will first send the proposal to OSM for review and approval as either an experimental practice or a program amendment. Furthermore, pending completion of the above Illinois may not use its authority to approve siltation structures other than sedimentation ponds or the approval will terminate.

Extension of the Deadline

In the July 30, 1985 Federal Register, OSM announced Illinois' request for another extension of the deadline until July 31, 1986 (50 FR 30862). The State noted that both conditions were still directly affected by litigation and that oral briefings in one case were scheduled for October 1985. A decision in either case is not imminent. In the interim, Illinois has stated its intention to continue to enforce its regulations in accordance with Federal regulations. The comment period on the proposal was opened for 30 days ending on August 29, 1985.

Public Comment

No public comments were received during the comment period.

Secretary's Determination

The Secretary has determined that an extension of the deadline for Illinois to satisfy conditions (b) and (c) is warranted. As noted above, since Illinois has agreed to operate its program in accordance with the terms of the conditions until such time as its rules are amended there will be no substantial effect in the regulation of surface coal mining operations in Illinois.

However, the Secretary will only extend the deadline until March 30, 1986. In response to OSM's May 21, 1985 letter requiring changes to the Illinois program, Illinois indicated that it would be completely revising its regulations and would submit them to OSM on or before March 30, 1986. Extending the deadline for meeting the conditions until that same date will enable Illinois to coordinate that rulemaking effort with the larger undertaking.

Procedural Matters

1. Compliance with the National Environmental Policy Act

The Secretary has determined that, pursuant to section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. Executive Order No. 12292 and the Regulatory Flexibility Act

On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from sections 3, 4, 7,

and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule will not impose any new requirements; rather, it will ensure that existing requirements established by SMCRA and the Federal rules will be met by the State.

List of Subject in 30 CFR Part 913

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

Dated: October 23, 1985.

Jed D. Christensen,

Acting Director, Office of Surface Mining.

PART 913—ILLINOIS

1. The authority citation for 30 CFR Part 913 continues to read as follows:

Authority: Pub. L. 95-87, Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 *et seq.*).

§ 913.11 [Amended]

2. In § 913.11, paragraphs (b) and (c) are amended by substituting "March 30, 1988" for "May 30, 1985" each time it appears.

[FR Doc. 85-25831 Filed 10-29-85; 8:45 am]

BILLING CODE 4315-05-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[PP 4E3125/R800; PH-FRL 2915-8]

Pesticide Tolerance for N,N-Diethyl-2-(1-Naphthalenyloxy) Propionamide

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for residues of the herbicide *N,N*-diethyl-2-(1-naphthalenyloxy) propionamide (napropamide) in or on the raw agricultural commodity pomegranates. This regulation, to establish a maximum permissible level for residues of the herbicide in or on the commodity, was requested in a petition by the Interregional Research Project No. 4 (IR-4).

EFFECTIVE DATE: October 30, 1985.

ADDRESS: Written objections, identified by the document control number [PP 4E3125/R800], may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3709, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: By mail: Donald Stubbs, Emergency Response and Minor Use Section (TS-767C), Registration Division, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.
Office location and telephone number: Rm. 716B, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-1192).

SUPPLEMENTARY INFORMATION: EPA issued a proposed rule, published in the **Federal Register** of September 4, 1985 (50 FR 35844), which announced that the Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, submitted pesticide petition 4E3125 to EPA on behalf of Dr. Robert H. Kupelian, National Director, IR-4 Project and the Agricultural Experiment Station of California proposing the establishment of a tolerance for residues of the herbicide *N,N*-diethyl-2-(1-naphthalenyloxy) propionamide in or on the raw agricultural commodity pomegranates at 0.1 part per million (ppm). The petitioner proposed further that use of the herbicide napropamide on pomegranates be limited to use west of the Rocky Mountains only based on the geographic representation of the residue data submitted.

There were no comments or requests for referral to an advisory committee received in response to the proposed rule

The data submitted in the petition and other relevant material have been evalauted and discussed in the proposed rule. Based on the information and data considered, the Agency concludes that the tolerance will protect the public health. Therefore, the tolerance is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: October 16, 1985.

Steven Schatzow,

Director, Office of Pesticide Programs.

Therefore, 40 CFR Part 180 is amended as follows:

PART 180—[AMENDED]

1. The authority citation for Part 180 continues to read as follows:

Authority: 21 U.S.C. 346a.

2. Section 180.328 is amended by designating the current paragraph and list of tolerances as paragraph (a) and adding a new paragraph (b) to read as follows:

§ 180.328 N,N-diethyl-2-(1-naphthalenyloxy) propionamide; tolerances for residues.

* * * * *

(b) Tolerances with regional registration are established for residues of the herbicide *N,N*-diethyl-2-(1-naphthalenyloxy) propionamide in or on the following raw agricultural commodities:

Commodities	Parts per million
Pomegranates	0.1

[FR Doc. 85-25522 Filed 10-29-85; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

43 CFR Part 2

Privacy Act of 1974; Implementation

AGENCY: Office of the Secretary, Interior.

ACTION: Final rule.

SUMMARY: The Interior Department revises its regulations on the implementation of the Privacy Act of

1974, as amended, to conform to amendments to the Act made by the National Archives and Records Administration Act of 1984.

EFFECTIVE DATE: November 29, 1985.

FOR FURTHER INFORMATION CONTACT: David R. DeAngelis, 202-343-6191.

SUPPLEMENTARY INFORMATION: The Department's regulations published in 43 CFR Part 2, Subpart D, provide guidelines and procedures for implementing the provisions of the Privacy Act of 1974. The Act was amended by the National Archives and Records Administration Act of 1984 (Pub. L. 98-497) to provide, *inter alia*, for disclosures from Privacy Act systems of records to the Archivist of the United States or a designee of the Archivist, in lieu of the Administrator of the General Services Administration, for historical records preservation purposes (5 U.S.C. 552a(b)(6)). The revisions to the Department's regulations published in 43 CFR Part 2, Subpart D, will incorporate the changes made by Section 107(g) of Pub. L. 98-497.

Because the regulations pertain primarily to internal Departmental guidelines and procedures on the implementation of the Privacy Act of 1974, the changes being made will not have a substantial impact on the public. However, the public interest will be served by accelerated publication of the revised rules so that current and up-to-date guidelines are available, not only for Departmental officials to use in administering the provisions of the Privacy Act, but also to inform members of the public. Also, the public interest will be served by publishing these proposed changes as final rules and eliminating the redundant **Federal Register** publication costs involved in a proposed rulemaking and public comment procedure. For the foregoing reasons, and since these changes are strictly administrative in nature and pertain to this agency's procedures and practices, the proposed rulemaking process is determined to be unnecessary and impractical.

The Department of the Interior has determined that this document is not a major rule under E.O. 12291 and certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.).

This rule does not contain information collection requirements which required approval by the Office of Management and Budget under 44 U.S.C. 3501 et seq.).

The author of this document is Mr. David R. DeAngelis, Office of Information Resources Management.

List of Subjects in 43 CFR Part 2

Administrative practice and procedure, Classified information, Freedom of information, Privacy.

Dated: October 22, 1985.

Joseph E. Doddridge, Jr.,

Deputy Assistant Secretary of the Interior.

For the reasons set out in the preamble, 43 CFR Part 2, Subpart D, is amended as set forth below.

PART 2—[AMENDED]

1. The authority citation for Part 2 is revised to read as follows:

Authority: 5 U.S.C. 301, 552 and 552a; 31 U.S.C. 9701; and 43 U.S.C. 1460, unless otherwise noted.

2. 43 CFR Part 2 is amended by revising paragraph (c)(4) of § 2.56 to read as follows:

§ 2.56 Disclosure of records

* * * * *

(c) * * *

(4) To the National Archives and Records Administration as a record which has sufficient historical or other value to warrant its continued preservation by the United States Government, or for evaluation by the Archivist of the United States or the designee of the Archivist to determine whether the record has such value;

* * * * *

[FR Doc. 85-25820 Filed 10-29-85; 8:45 am]

BILLING CODE 4310-10-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Child Support Enforcement

45 CFR Parts 305 and 306

Child Support Enforcement Program; Medical Support Enforcement

Correction

In FR Doc. 85-24638 beginning on page 41887 in the issue of Wednesday, October 16, 1985, make the following corrections:

§ 305.56 [Corrected]

1. On page 41894, third column, in § 305.56(b), first line, "of" should read "the".

Subpart A—[Corrected]

2. On page 41895, first column, amendatory instruction numbered 11 should have read as follows:

"11. A new heading, Subpart A—Optional Cooperative Agreements, is added after § 306.1. Sections 306.2 through 306.40 are designated as Subpart A."

BILLING CODE 1505-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 654 and 671

[Docket No. 41049-5104]

Fishery Conservation and Management; Domestic Regulations

Correction

In FR Doc. 85-23258 appearing on page 39696 in the issue of Monday September 30, 1985, make the following corrections:

PARTS 654 AND 671—[CORRECTED]

In the third column, amendatory instruction 2, the sections to be revised, listed as "§ 654.9" and "§ 671.9" should have read "§ 654.8" and "§ 671.7" respectively.

BILLING CODE 1505-01-M

Proposed Rules

Federal Register
Vol. 50, No. 210
Wednesday, October 30, 1985

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 TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 85-NM-113-AD]

Airworthiness Directives; Boeing Model 737 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes to adopt an aiwrorthiness directive (AD) that would require the addition of tether straps to limit the opening motion of the escape slide cover on the aft doors of Model 737 airplanes. During recent testing, it was revealed that, with rapid door opening, the escape slide cover can swing open far enough to allow the girt bar stowage bracket to hook in the doorway, temporarily arresting the door opening motion. This condition could cause dealy in an emergency evacuation.

DATES: Comments must be received on or before December 23, 1985.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 85-NM-113-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124-2207. The information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Jeff Gardlin, Airframe Branch, ANM-120S; telephone (206) 431-2932. Mailing Address: FAA, Northwest Mountain Region, 17900 Pacific Highway South C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 85-NM-113-Ad, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion

During recent escape slide certification testing on Model 737 airplanes, it was discovered that, during rapid door opening, the aft door escape slide cover can swing open far enough to allow the girt bar stowage bracket to hook in the doorway. Further testing revealed that, when the door is opened rapidly, the slide pack cover swings open farther than normal. Deployment of the escape slide is normal and is not affected; however, if the girt bar stowage bracket hooks in the doorway, door opening motion is stopped until opening pressure is relaxed on the door, allowing the escape slide cover to fall closed. The door can then continue to be opened normally. This situation could cause a delay during an emergency evacuation. Boeing Service Bulletin 737-25A1182, Revision 1, Part II, describes the installation of straps on the aft door escape slide covers to limit their opening motion.

Since a situation exists that could cause a delay in an emergency evacuation, an AD is proposed to require escape slide cover modification of Model 737 airplanes in accordance with Boeing Service Bulletin 737-25A1182, Revision 1, Part II.

It is estimated that approximately 440 airplanes of U.S. registry would be affective by this Ad. Approximately 4 manhours would be required to modify each airplane and the average labor charge would be $40 per manhour. Based on these figures the total cost impact of this AD on U.S. operators is estimated to be $70,400.

For the reasons discussed above, the FAA has determined that this document: (1) Involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities because few, if any, Boeing Model 737 airplanes are operated by small entities. A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend Section 39.13 of Part 39 of the Federal Aviation Regulations as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89

2. By adding the following new airworthiness directive:

Boeing: Applies to Boeing Model 737–100, –200 and –300 airplanes as specified in Boeing Service Bulletin 737–25A1182, dated September 24, 1985, certificated in any category. To correct aft door emergency opening characteristics, accomplish the following within 6 months after the effective date of this amendments, unless previously accomplished:

A. Install escape slide cover restraining straps in accordance with Boeing Service Bulletin 737–25A1182, Revision 1, Part II, dated September 24, 1985, or later FAA–approved revisions.

B. An alternate means of compliance which provides an acceptable level of safety may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and/or modifications required by this AD.

All persons affected by this proposal who have not already received this document from the manufacturer may obtain copies upon request to the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124–2207. This document may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

Issued in Seattle, Washington, on October 23, 1985.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 85–25812 Filed 10–29–85; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 39

[Docket No. 85–ANE–21]

Airworthiness Directives; Pratt & Whitney Aircraft JT9D–3A, –7, –7H, –7A, –7AH, –7F, –7J, –20, –59A, –70A, –7Q, and –7Q3 Series Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt an airworthiness directive (AD) that would require replacement of the low pressure turbine (LPT) vane antirotation pins, fabricated from stainless steel, with stronger LPT antirotation pins fabricated from nickel alloy on certain Pratt & Whitney Aircraft (PWA) JT9D series turbofan engines. It will also require the incorporation of additional nickel alloy antirotation pins at the 4th, 5th, and 6th stage stator locations of the turbine section on certain other PWA JT9D series turbofan engines. The proposed AD is needed to prevent uncontained engine failures in the LPT section, initiated by structural failures of the antirotation pins.

DATES: Comments must be received on or before January 16, 1986.

ADDRESSES: Comments on the proposal may be mailed in duplicate to: Federal Aviation Administration, New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 85–ANE–21, 12 New England Executive Park, Burlington, Massachusetts 01803, or delivered in duplicate to Room 311 at the above address.

Comments delivered must be marked: Docket No. 85–ANE–21.

Comments may be inspected at the New England Regional Office, Office of the Regional Counsel, Room 311, between the hours of 8:00 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

The applicable Service Bulletins (SB) may be obtained from Pratt & Whitney Aircraft, Publication Department, P.O. Box 611, Middletown, Connecticut 06457. Copies of the SBs are contained in the Rules Docket No. 85–ANE–21 in the Office of the Regional Counsel, New England Region, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803.

FOR FURTHER INFORMATION CONTACT: Chris Gavriel, Engine Certification Branch, ANE–141, Engine Certification Office, Aircraft Certification Division, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803, telephone (617) 273–7084.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Director before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket, at the address given above, for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of the proposed AD, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice, must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 85–ANE–21". The postcard will be date/time stamped and returned to the commenter.

The FAA has determined that the stainless steel (AMS 5735) antirotation pins in the LPT section on PWA JT9D–3A,–7, –7H, –7A, –7AH, –7F, –7J, and –20 series turbofan engines have failed due to shear distress induced by gas loads. This type of failure can result in LPT case opening and liberation of internal LPT components due to rotation and loss of location of the LPT vanes. There have been 24 antirotation pin initiated failures to date of which three were uncontained. Since this condition is likely to exist or develop on other engines of the same type design, the proposed AD would require replacement of the stainless (AMS 5735) antirotation pins with nickel alloy (AMS 5660/5661) antirotation pins per PWA SB 5292, Revision 3, dated June 24, 1985.

The FAA has also determined that the current number of antirotation pins, in the 4th, 5th, and 6th stage locations of the turbine section, on PWA JT9D–59A, –70A, –7Q, and –7Q3 series turbofan engines, is inadequate to sustain existing gas loads. There have been seven antirotation pin initiated failures to date, of which one was uncontained. Since this condition is likely to exist or develop on other engines of the same type design, the proposed AD would require the incorporation of additional antirotation pins in the 4th, 5th, and 6th stage stator location, per PWA SB 5507, Revision 3, dated December 5, 1984.

Conclusion

The FAA has determined that this proposed regulation involves 2205 JT9D engines installed on Boeing 747 series aircraft, 75 JT9D engines installed on McDonnell Douglas DC–10 series 40 aircraft, and 60 JT9D engines installed on Airbus Industries A300 aircraft, and the approximate total cost is $7,901,400. It is also determined that few, if any, small entities within the meaning of the Regulatory Flexibility Act will be affected since the rule affects only operators using Boeing 747, McDonnell Douglas DC–10 and Airbus Industries aircraft in which the JT9D engines are installed, none of which are believed to be small entities. Therefore, I certify that this action (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) if promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified under the caption **"FOR FURTHER INFORMATION CONTACT".**

List of Subjects in 14 CFR Part 39

Engines, Air Transportation, Aircraft, Aviation Safety, Incorporation by Reference.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me the FAA proposes to amend Part 39 of the Federal Aviation Regulations (FAR) as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.85.

2. By adding the following new AD:

Pratt & Whitney Aircraft: Applied to Pratt & Whitney Aircraft (PWA) JT9D-3A, -7, -7H, -7A, -7AH, -7F, -7J, -20, -59A, -70A, -7Q, and -7Q3 series turbofan engines.

Compliance is required at separation or removal of the LPT rotor from the LPT case and vane assembly, but not later than December 31, 1989, unless already accomplished.

To prevent LPT case penetration as a result of antirotation pin failures, accomplish the following:

(a) Replace all stainless steel (AMS 5735) LPT antirotation pins with nickel alloy (AMS 5660/5661) LPT antirotation pins on PWA JT9D-3A, -7, -7H, -7A, -7AH, -7F, -7J, and -20 series turbofan engines, in accordance with the Accomplishment Instructions contained in PWA SB (SB) 5292, Revision 3, dated June 24, 1985, or FAA approved equivalent.

(b) Incorporate additional LPT antirotation pins in the 4th, 5th, and 6th stage stator locations on PWA JT9D-59A, -70A, -7Q, and -7Q3 series turbofan engines, in accordance with the Accomplishment Instructions contained in the PWA SB 5507, Revision 3, dated December 5, 1984, or FAA approved equivalent.

Upon request, an equivalent means of compliance may be approved by the Manager, Engine Certification Office, Aircraft Certification Division, New England Region, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803.

Aircraft may be ferried in accordance with the provisions of FAR 21.197 and 21.199 to a base where the AD can be accomplished.

Upon submission of substantiating data by an owner or operator through an FAA maintenance inspector, the Manager, Engine Certification Office, New England Region, may adjust the compliance time specified in this AD.

The FAA will request the premission of the **Federal Register** to incorporate by reference the manufacturer's SB identified and described in this document.

Issued in Burlington, Massachusetts, on October 18, 1985.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 85-25813 Filed 10-29-85; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 74

[Docket No. 85N-0323]

FD&C Yellow No. 5

Correction:

In FR Doc. 85-21080 beginning on page 35841 in the issue of Wednesday, September 4, 1985, make the following correction.

On page 35842, third column, in § 74.705(b), third line from the end of the paragraph, "15 parts" should read "1 part".

BILLING CODE 1505-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 906

Colorado Permanent Regulatory Program; Review of State Program Amendment

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Reopening of public comment period.

SUMMARY: OSM is reopening the period for review and comment on amendments submitted by the State of Colorado to its permanent regulatory program (hereinafter referred to as the Colorado program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Specifically, OSM is reopening the comment period to allow the public sufficient time to consider and comment on modifications submitted by Colorado by letters dated March 8, 1985 and October 2, 1985 to amendments originally submitted on August 28, 1984 and March 12, 1985 (49 FR 38653-38654 and 50 FR 16311-16321). The amendments involve definitions and requirements concerning coal exploration, permit application information needs, prime farmland, confidentiality, mapping, inspection and enforcement, civil penalty assessments, declartory orders, and performance standards pertaining to roads, revegetation, land use, temporary cessation of operations, fish and wildlife, topsoil, use of explosives and the treatment of drilled holes and underground openings.

This notice sets forth the times and locations that the Colorado program and proposed amendments are available for public inspection and the comment period during which interested persons may submit written comments on the proposed amendments.

DATE: Written comments not received on or before 4:00 p.m. on November 29, 1985 will not necessarily be considered in the review process.

ADDRESSES: Written comments should be mailed or hand-delivered to Mr. Robert Hagen, Director, Albuquerque Field Office, Office of Surface Mining Reclamation and Enforcement, 219 Central Ave., NW., Albuquerque, New Mexico 87102.

Copies of the Colorado program, the proposed amendments and modifications to the program, and all written comments received in response to this notice will be available for public review at the State regulatory authority office and the OSM offices listed below, Monday through Friday 8:00 a.m. to 4:00 p.m., excluding holidays. Each requestor may receive, free of charge, one copy of the proposed amendments and modifications by contacting the OSM Albuquerque Field Office.

Office of Surface Mining Reclamation and Enforcement, Albuquerque Field Office, 219 Central Avenue, NW., Albuquerque, New Mexico 87102. Telephone: (505) 766-1492.

Office of Surface Mining Reclamation and Enforcement, Administrative Record Office, 1100 "L" Street NW., Washington, DC 20240 Telephone: (202) 343-4855.

Colorado Department of Natural Resources, Mined Land Reclamation Division, 1313 Sherman Street, Denver, Colorado 80203.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Hagen, Director, Albuquerque Field Office, Office of Surface Mining Reclamation and Enforcement, 219 Central Avenue, NW., Albuquerque, New Mexico 87102. Telephone: (505) 766-1492.

SUPPLEMENTARY INFORMATION: On December 15, 1980, the Secretary of the

Interior approved the Colorado program, subject to the correction of 45 deficiencies. Information pertinent to the general background, revisions and amendments to the Colorado program submission, as well as the Secretary's findings, the disposition of comments, and a detailed explanation of the conditions of approval can be found in the December 15, 1980 **Federal Register** (45 FR 82173–82214). Subsequent actions concerning the conditions and program amendments are identified at 30 CFR 906.11, 960.15 and 906.16.

On August 28, 1984, Colorado submitted a proposed amendment revising various provisions of the Colorado Code of Regulations concerning coal exploration; permit application requirements relating to soil resources; and performance standards relating to topsoil, treatment of drilled holes and underground openings, use of explosives, and temporary cessation of operations. On October 1, 1984, OSM announced receipt of the amendments and opened the public comment period (49 FR 38653–38654). On February 4, 1985, OSM notified the State of the deficiencies found in the amendments and provided an opportunity for the State to submit further rule changes, policy statements, legal opinions or other evidence to show that the State's proposed modifications were no less effective than the Federal requirements.

On March 8, 1985, Colorado responded to OSM's concerns by proposing additional changes to the coal exploration regulations and by providing additional information concerning the proposed changes to the topsoil and temporary cessation of operations rules. OSM found that this response did not fully satisfy all the identified deficiencies, and so notified the State by letter of May 21, 1985, which also provided the State another opportunity to correct these problems.

On March 12, 1985, Colorado submitted additional proposed amendments revising various provisions of the Colorado Code of Regulations concerning prime farmland, roads, mapping, revegetation, land use, fish and wildlife, inspection and enforcement, civil penalities, declaratory orders and permit application information requirements. On April 25, 1985, OSM announced receipt of the proposed amendments and opened the public comment period (50 FR 16311–16312). On August 22, 1985, OSM notified the State of the deficiencies found in proposed amendments and provided an opportunity for the State to submit additional materials demonstrating that the proposed modifications were no less effective than the Federal requirements.

This letter also revised the deficiencies identified in the August 28, 1984 amendment package, as listed in the letters of February 4, 1985 and May 21, 1985. At the State's request, the contents of this letter were further discussed at a meeting on August 29, 1985. By letter dated October 2, 1985, Colorado subsequently submitted additional proposed rule changes, policy statements, legal opinions and other responses regarding mapping, topsoil, land use, blasting, coal exploration, revegetation, prime farmland, archaeological resources, confidentiality, and fish and wildlife requirements. The submittal also included material relative to revegetation success standards and methods of determining revegetation success.

The proposed amendments, modifications, clarifications and related materials are available for review at the locations listed under "**ADDRESSES.**" In accordance with the provisions of 30 CFR 732.17, OSM is now seeking comments from the public on the adequacy of the modifications, explanations and other materials submitted by Colorado on March 8, 1985 and October 2, 1985. If the Director determines that these materials satisfy all applicable requirements, the proposed amendments will be approved and will become part of the Colorado program.

Procedural Requirements

1. Compliance With the National Environmental Policy Act

The Secretary has determined that, pursuant to section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. Executive Order No. 12291 and the Regulatory Flexibility Act

On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from section 3, 4, 7 and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a regulatory impact analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule will not impose any new requirements; rather, it will ensure that existing requirements established by SMCRA and the Federal rules will be met by the State.

3. Paperwork Reduction Act

This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 906

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

Dated: October 23, 1985.

Len Richeson,

Acting Assistant Director, Program Operations.

[FR Doc. 85–25832, Filed 10–29–85; 8:45 am]

BILLING CODE 4310-05-M

30 CFR Part 917

Public Comment and Opportunity for Public Hearing on a Modification to the Kentucky Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule.

SUMMARY: OSM is announcing procedures for the public comment period and for a public hearing on the substantive adequacy of certain program amendments submitted by the Commonwealth of Kentucky as a modification to the Kentucky permanent regulatory program (hereinafter referred to as the Kentucky program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

The amendments pertain to: definitions, small operator assistance, permitting, inspection and enforcement, topsoil, surface and ground water monitoring, disposal of excess spoil, stabilization of surface areas and auger mining. The amendments pertaining to surface and ground water monitoring supersede emergency regulations submitted to OSM on May 20, 1985. Receipt of the emergency regulations was announced in the **Federal Register** on July 11, 1985 (50 FR 28222). That **Federal Register** notice also announced receipt of the amendment concerning disposal of excess spoil. This notice reopens the comment period on those rules to allow for consideraton of modifications to the amendment.

This notice sets forth the times and locations that the Kentucky program and the proposed amendment are available for public inspection, the comment

period during which interested persons may submit written comments on the proposed program elements, and the procedures that will be followed regarding the public hearing.

DATES: Written comments not received on or before November 29, 1985, will not necessarily be considered.

If requested, a public hearing on the proposed modifications will be held on November 25, 1985, beginning at 10:00 a.m. at the location shown below under **"ADDRESSES."**

ADDRESSES: Written comments should be mailed or hand delivered to: W.H. Tipton, Director, Lexington Field Office, Office of Surface Mining, 340 Legion Drive, Suite 28, Lexington, Kentucky 40504.

If a public hearing is held its location will be at: The Harley Hotel, 2143 North Broadway, Lexington, Kentucky 40505.

FOR FURTHER INFORMATION CONTACT: W.H. Tipton, Director, Lexington Field Office, 340 Legion Drive, Suite 28, Lexington, Kentucky 40504; Telephone: (606) 233-7327.

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures

Availability of Copies

Copies of the Kentucky program, the proposed modifications to the program, a listing of any scheduled public meetings and all written comments received in response to this notice will be available for review at the OSM Offices and the Office of the State regulatory authority listed below, Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding holidays.

Lexington Field Office, Office of Surface Mining, 340 Legion Drive, Suite 28, Lexington, Kentucky 40504.

Office of Surface Mining, Reclamation and Enforcement, Room 5124, 1100 L Street, NW., Washington, DC 20240.

Bureau of Surface Mining, Reclamation and Enforcement, Capitol Plaza Tower, Third Floor, Frankfort, Kentucky 40601.

Pursuant to 30 CFR 732.17(h)(2)(ii), each requestor may receive, free of charge, one single copy of the proposed amendment by contacting OSM's Lexington Field Office listed Under "ADDRESSES".

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commentor's recommendations. Comments received after the time indicated under "DATES" or at locations other than the Lexington, Kentucky Field Office will not necessarily be considered and included in the Administrative Record for the final rulemaking.

Public Hearing

Persons wishing to comment at the public hearing should contact the person listed under **"FOR FURTHER INFORMATION CONTACT"** by the close of business ten working days before the date of the hearing. If no one requests to comment at the public hearing, the hearing will not be held.

If only one person requests to comment, a public meeting, rather than a public hearing, may be held and the results of the meeting included in the Administrative Record.

Submission of written statements at the time of the hearing is requested and will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to comment have been heard. Persons in the audience who have not been scheduled to comment and wish to do so will be heard following those scheduled. The hearing will end after all persons scheduled to comment and persons present in the audience who wish to comment have been heard.

Public Meeting

Persons wishing to meet with OSM representatives to discuss the proposed amendment may request a meeting at the OSM office listed in **ADDRESSES** by contacting the person listed under **"FOR FURTHER INFORMATION CONTACT"**.

All such meetings are open to the public and if possible, notices of meetings will be posted in advance in the Administrative Record. A written summary of each public meeting will be made a part of the Administrative Record.

II. Background on the Kentucky State Program

On December 30, 1981, Kentucky resubmitted its proposed regulatory program to OSM. On April 13, 1982, following a review of the proposed program as outlined in 30 CFR Part 732, the Secretary approved the program subject to the correciton of 12 minor deficiencies. The approval was effective upon publication of the notice of conditional approval in the May 18, 1982 **Federal Register** (47 FR 21404-21435).

Information pertinent to the general background on the Kentucky State program, including the Secretary's findings, the disposition of comments and a detailed explanation of the conditions of approval of the Kentucky program can be found in the May 18, 1982, **Federal Register** notice.

III. Submission of Program Amendments

On August 13, 1985, Kentucky submitted amendments to its regulations pertaining to definitions, small operator assistance, permitting requirements, inspection and enforcement, topsoil, surface and ground water monitoring, disposal of excess spoil, stabilization of surface areas and auger mining. These regulation changes were submitted, in part, in response to a letter from the Director, OSM, which identified areas of the Kentucky program needing revision. The changes pertaining to surface and ground water monitoring at 405 KAR 7:020, 405 KAR 8:030, 405 KAR 8:040, 405 KAR 16:110 and 405 KAR 18:110 supersede emergency regulations that were submitted previously to OSM. OSM had announced a comment period and opportunity for a public hearing on the emergency rules in the **Federal Register** on July 11, 1985 (50 FR 28222). This **Federal Register** notice supersedes the July 11, 1985 notice for the proposed emergency rules pertaining to surface and ground water monitoring. The rules pertaining to disposal of excess spoil were submitted to modify amendments that were previously submitted to OSM and announced in the same July 11, 1985 **Federal Register** notice. This notice reopens the comment period on those excess spoil rules, and announces the comment period and opportunity for a public hearing for the other amendments. Briefly, the proposed modifications and cites are:

1. Kentucky proposes to amend the definitions for "aquifer," "coal processing waste," "historically used for cropland," "soil horizons," "B horizon," "spoil," "topsoil," and "underground development waste," and to add new definitions for "coal mine waste," "excess spoil," "refuse pile," "E horizon," and "water transmitting zone," and a new abbreviation at 405 KAR 7:020.

2. Kentucky proposes to amend provisions governing small operator assistance, including eligibility and applicant liability criteria, 405 KAR 7:080.

3. Changes are proposed for permitting requirements for geologic and hydrologic information, ground water and surface water information, alternative water supply information, land use information, mining and reclamation, blasting, and protection of the hydrologic balance. 405 KAR 8:030 and 405 KAR 8:040.

4. Kentucky proposes to amend its general provisions for inspection and enforcement, including criteria for timing and conduct of inspections, frequency of inspections, aerial inspections, records of inspection and penalties and sanctions. 405 KAR 12:010.

5. Kentucky proposes to amend enforcement provisions pertaining to notice of noncompliance and order for remedial measures, orders for cessation and immediate compliance, notice of inspection of noncompliance, service of notices and orders, expiration (of orders), suspension and revocation of permits and exploration approvals, and inability to comply (with notices or orders). 405 KAR 12:020.

6. Kentucky proposes to amend topsoil requirements including general requirements, provisions for removal, storage and redistribution of topsoil, and application of nutrients and soil amendments. 405 KAR 16:050 and 405 KAR 18:050.

7. Kentucky proposes changes for surface and ground water monitoring requirements at 405 KAR 16:110 and 18:110.

8. Kentucky proposes to amend its general provisions for disposal of excess spoil, and provisions on valley fills and head-of-hollow fills, rock-core chimney drains, end-dumped fills and disposal on existing benches. 405 KAR 16:130 and 405 KAR 18:130. Kentucky also proposes to add a paragraph on disposal of underground development waste to require disposal in accordance with 405 KAR 18:140 and 405 KAR 18:160. 405 KAR 18:130.

9. Kentucky proposes amendments to its requirements for stabilization of surface areas. 405 KAR 16:170 and 405 KAR 18:170.

10. Kentucky proposes to modify its requirements for auger mining at 405 KAR 20:030.

Therefore, the Director, OSM is seeking public comment on the adequacy of the proposed program amendments. Comments should specifically address the issue of whether the proposed amendments are in accordance with SMCRA and no less effective than its implementing regulations.

IV. Additional Determinations

1. Compliance With the National Environmental Policy Act

The Secretary has determined that, pursuant to section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. Executive Order No. 12291 and the Regulatory Flexibility Act

On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from sections 3, 4, 7 and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, for this action, OSM is exempt from the requirement to prepare a Regulatory Impact Analysis, and this action does not require regulatory review by OMB.

The Department of the Interior has determined that this rule would not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule would not impose any new requirements; rather, it would ensure that existing requirements established by SMCRA an the Federal rules would be met by the State.

3. Paperwork Reduction Act

This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 917

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

Dated: October 23, 1985.

Jed D. Christensen,

Acting Director, Office of Surface Mining.

[FR Doc. 85-25833 Filed 10-29-85; 8:45 am]

BILLING CODE 4310-05-M

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30 CFR Part 935

Public Comment Procedures and Opportunity for Public Hearing on Proposed Modification to the Ohio Permanent Regulatory Program Under the Surface Mining Control and Reclamation Act of 1977

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule.

SUMMARY: OSM is announcing procedures for a public comment period and for requesting a public hearing on the substantive adequacy of a program amendment submitted by Ohio to satisfy a condition of the Secretary of the Interior's approval of the State's permanent regulatory program (hereinafter referred to as the Ohio program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

The amendment submitted consists of proposed changes to the Ohio statute intended to satisfy condition (h)(1) demonstrating how its bonding system would assure timely reclamation on the site of operations for which the bond is forfeited.

This notice sets forth the times and locations that the Ohio program and proposed amendment will be available for public inspection, the comment period during which interested persons may submit written comments on the proposed amendment, and the procedures that will be followed for the public hearing.

DATES: Written comments from the public received later than 4:30 p.m., November 29, 1985 will not necessarily be considered in the decision on whether the proposed amendment should be approved and incorporated into the Ohio regulatory program. A public hearing on the proposed amendment has been scheduled for November 25, 1985. Any person interested in speaking at the hearing should contact Ms. Nina Rose Hatfield at the address or telephone number listed below no later than November 14, 1985. If no person has contacted Ms. Hatfield by that date to express an interest in the hearing, the hearing will be cancelled. If only one person requests an opportunity to speak at the public hearing, a public meeting, rather than a hearing, may be held and the results of the meeting included in the Administrative Record.

ADDRESSES: The public hearing is scheduled for 1:00 p.m., in Room 202, Columbus Field Office, 2242 South Hamilton Road, Columbus, Ohio 43227.

Written comments and requests for an opportunity to speak at the hearing should be directed to Ms. Nina Rose Hatfield, Field Office Director, Columbus Field Office, Office of Surface Mining, Room 202, 2242 South Hamilton Road, Columbus, Ohio 43227; Telephone: (614) 866-0578.

Copies of the Ohio program, the proposed modifications to the program, a list of any scheduled public meetings, and all written comments received in response to this notice will be available for public review at the OSM Field Office listed above and at the OSM Headquarters Office and the Office of the State regulatory authority listed below, during normal business hours Monday through Friday, excluding holidays.

Office of Surface Mining, Room 5124, 1100 "L" Street, NW., Washington, DC 20240

Ohio Division of Reclamation, Building B-3, Fountain Square, Columbus, Ohio 43224

FOR FURTHER INFORMATION CONTACT: Ms. Nina Rose Hatfield, Director, Columbus Field Office, Office of Surface Mining, Room 202, 2242 South Hamilton Road, Columbus, Ohio 43232; Telephone: (614) 866-0578.

SUPPLEMENTARY INFORMATION:

I. Background on the Ohio Program

The Ohio program was approved effective August 16, 1982, by notice published in the August 10, 1982 **Federal Register** (47 FR 34688). The approval was conditioned on the correction of 28 minor deficiencies contained in 11 conditions. Information pertinent to the general background, revisions, modifications, and amendments to the Ohio program submission, as well as the Secretary's findings, the disposition of comments, and a detailed explanation of the conditions of approval of the Ohio program can be found in the August 10, 1982 **Federal Register.**

On January 6, 1983, Ohio submitted materials to OSM intended to, among other things, satisfy condition (h). On May 24, 1983, OSM published a final rule in the **Federal Register** announcing removal of a number of conditions including (h)(2) and (h)(3), but found that condition (h)(1) was not fully satisfied. Condition (h)(1) requires the State to revise its bonding system to provide assurance of more timely reclamation at the site of all operations upon which bond has been forfeited and to assure there are sufficient funds to finance the alternate bonding program. The Secretary established a deadline of August 8, 1983, for the State to meet condition (h)(1).

On July 26, 1983, the Chief of the Ohio Division of Reclamation wrote to OSM requesting that Ohio be granted an extension of time to meet several conditions including (h)(1). On October 11, 1983, after providing public notice and an opportunity to comment, OSM announced the Secretary's decision to extend the deadline for Ohio to satisfy these conditions. The Secretary extended the deadline for condition (h)(1) until Febraury 8, 1984 (48 FR 46027).

Despite the extension, Ohio submitted a proposed program amendment to satisfy condition (h)(1) on August 1, 1983. On March 13, 1984, the Secretary determined that the modification did not fully satisfy the condition, and extended the deadline for Ohio to satisfy the condition until April 15, 1984 (47 FR 9418).

The deadline for this condition was extended on July 5, 1984 to April 30, 1985 (49 FR 27505). The State requested an additional extension to September 30, 1985. The extension was approved June 21, 1985 (50 FR 25709).

II. Submission of Revisions

By letter dated September 16, 1985, the Ohio Department of Natural Resources submitted to OSM a proposed amendment to satisfy condition (h)(1). The proposal amendment, Amended Substitute House Bill No. 238 (H.B. 238), contains a number of provisions designed to address condition (h)(1).

Specifically, H.B. 238 includes a severance tax and acreage fee increase along with the requirement to divide the revenue and forfeited permits into two separate categories known as Phase I and Phase II forfeitures. Phase I forfeitures are those on lands affected under a permit issued after April 10, 1972, and before September 1, 1981 on which an operator has defaulted. Phase II forfeitures are those affecting permits issued on or after September 1, 1981, on which the operator has defaulted. The proposed amendment also specifies the type and amount of funding available to reclaim these two types of forfeitures.

The full text of the program amendment submitted by Ohio is available for public inspection at the addresses listed above. Upon request to OSM's Field Office Director, each person may receive, free of charge, one single copy of the proposed amendment. The Director now seeks public comment on whether the proposed amendment is no less stringent than SMCRA and no less effective than the Federal regulations. If approved the amendment will become part of the Ohio program and condition (h)(1) will be removed.

Procedural Matters

1. Compliance with the National Environmental Policy Act

The Secretary has determined that, pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. Executive Order No. 12291 and the Regulatory Flexibility Act

On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from sections 3, 4, 7 and 8 of Executive Order 12291 for actions directly related to approval or conditions approval of State regulatory programs. Therefore, for this action OSM is exempt from the requirement to prepare a Regulatory Impact Analysis and this action does not require regulatory review by OMB.

The Department of the Interior has determined that this rule would not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule would not impose any new requirements; rather, it would ensure that existing requirements established by SMCRA and the Federal rules would be met by the State.

3. Paperwork Reduction Act

This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 935

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

Dated: October 23, 1985.

Jed D. Christensen,

Acting Director, Office of Surface Mining.

[FR Doc. 85-25834 Filed 10-29-85; 8:45 am]

BILLING CODE 4310-05-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[PP 3E2929/P378; PH-FRL 2916-2]

Pesticide Tolerances for Glyphosate

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes that tolerances be established for the combined residues of the herbicide glyphosate and its metabolite in or on certain raw agricultural commodities. The proposed regulation to establish a maximum permissible level for residues of the herbicide in or on the commodities was requested in a petition submitted by the Interregional Research Project No. 4 (IR-4).

DATE: Comments, identified by the document control number [PP 3E2929/P378], must be received on or before November 14, 1985.

ADDRESS: By mail, submit written comments to: Information Services Section, Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

In person, bring comments to: Rm 236, CM # 2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI).

Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 236 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Donald Stubbs, Emergency Response and Minor Use Section (TS-767C), Registration Division, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 716B, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-1806).

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, has submitted pesticide petition (PP) 3E2929 to EPA on behalf of Dr. Robert H. Kupelian, National Director, IR-4 Project and the Agricultural Experiment Stations of California and Puerto Rico.

This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of tolerances for the combined residues of the herbicide glyphosate (*N*-(phosphonomethyl)-glycine), and its metabolite aminomethylphosphonic acid in or on the raw agricultural commodities acerola, figs, kiwifruit and olives at 0.2 part per million (ppm).

The data submitted in the petition and other relevant material have been evaluated. The pesticide is considered useful for the purpose for which the tolerances are sought. The toxicological data considered in support of the proposed tolerances include a 26-month rat feeding study with a no-observed-effect level (NOEL) of 31 milligrams (mg)/kilogram (kg)/day (highest dose tested) and no observed oncogenic effects under the conditions of the study; a 3-generation rat reproduction study with a NOEL of 10 mg/kg/day; a rat teratology study which was negative for teratogenic effects at 3,500 mg/kg/day and a fetotoxic NOEL of 1,000 mg/kg/day; a rabbit teratology study, negative at 350 mg/kg/day with a fetotoxic NOEL of 350 mg/kg/day; a rec-assay (*B. subtillis*) which was not mutagenic up to 2,000 micrograms of test material per disk; an Ames test with negative results for all four strains of *Salmonella* tested; a reverse mutation study which was negative for mutagenicity; and a mouse dominant lethal assay, negative at 2,000 mg/kg.

A 2-year chronic feeding/oncogenicity study in CD-1 mice has been completed and reviewed by the Agency. Feeding levels in this study were 1,000, 5,000 and 30,000 ppm (50, 250 and 1,500 mg/kg), respectively. The NOEL for chronic effects has been established at 5,000 ppm. The Agency is concerned with the presence of renal tubule adenomas in male mice in this study. Because these renal tubule adenomas are small and might not be detected by the usual pathological procedures, the Agency has requested additional sectioning of new blocks of male mouse kidneys from the study to provide data for an oncogenic determination. When these data are available, the Agency will be able to more fully assess the oncogenic potential of glyphosate in CD-1 male mice.

In the interim, the Agency considers the evidence for oncogenicity to be extremely limited and, based on available data, does not expect any significant risk from the dietary level of glyphosate to which humans are likely to be exposed from the proposed and established uses of glyphosate.

The acceptable daily intake (ADI), based on the rate reproduction study (NOEL of 10 mg/kg/day) and using a 100-fold safety factor, is calculated to be 0.1 mg/kg of body weight (bw)/day. The maximum permitted intake (MPI) for a 60-kg human is calculated to be 6.0 mg/day. The theoretical maximum residue contribution (TMRC) from existing tolerances for a 1.5-kg daily diet is calculated to be 1.3643 mg/day; the current action will increase the TMRC by 0.00036 mg/day (0.025 percent). Published tolerances utilize 22.74 percent of the ADI; the current action will utilize an additional 0.01 percent. The available toxicity data are adequate to support the proposed tolerance since the proposed uses will result in an insignificant increase in the current TMRC to the human diet. As stated in the **Federal Register** of May 11, 1979 (44 FR 27932), the "Agency will generally consider as insignificant an increase in the TMRC of 1.0 percent of less."

The nature of the residues is adequately understood and an adequate analytical method, gas chromatography using a photometric detector, is available for enforcement purposes. No detectable residues on *N*-nitrosoglyphosate, a contaminant of glyphosate, are expected to be present in the raw agricultural commodities for which the tolerances are being established. There are presently no actions pending against the continued registration of glyphosate.

Based on the data and information considered, and the fact that currently established tolerances for meat and milk are adequate to cover any residues resulting from use as animal feed, the Agency concludes that the proposed tolerances would protect the public health. Therefore, it is proposed that the tolerances be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request within 15 days after publication of this notice in the **Federal Register** that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act. As provided for in the Administrative Procedures Act [5 U.S.C. 553(d)(3)], the comment period time is shortened to less than 30 days because of the necessity to expeditiously provide a means of control of emerged annual and perennial weeds now prevalent in the crop vineyards and orchards.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number, [PP 3E2929/P378]. All written comments filed in response to this petition will be available in the Information Services Section, at the address given above from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a signficant economic inpact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Date: October 18, 1985.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR Party 180 be amended ad follows:

PART 180—[AMENDED]

1. The authority citation for Part 180 continues to read as follows:

Authority: 21 U.S.C. 346a.

2. Section 180.364 is amended by adding, and alphabetically inserting, the following raw agricultural commodities to paragraph (a) to read as follows:

§ 180.364 Glyphosate; tolerances for residues.

(a) * * *

Commodities	Parts per million
Acerola	0.2
* * * * *	
Figs	0.2
* * * * *	
Kiwifruit	0.2
* * * * *	
Olives	0.2
* * * * *	

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40 CFR Parts 797 and 799

[OPTS-42071; TSH-FRL 2905-5]

Octamethylcyclotetrasiloxane; Proposed Test Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Under section 4 of the Toxic Substances Control Act (TSCA), EPA is proposing that manufacturers and processors conduct chemical fate and environmental effects tests for octamethylcyclotetrasiloxane (OMCTS, CAS No. 556-67-2). The proposed testing includes: Biodegradation studies and a number of environmental effects studies including acute toxicity studies in fish, invertebrates, amphipods, oysters, and algae; chronic toxicity studies in fish and invertebrates; bioconcentration potential in fish and oysters; and a mallard reproduction test. This notice constitutes EPA's response to the Interagency Testing Committee's (ITC) designation of OMCTS for priority testing consideration.

DATES: Submit written comments on or before December 30, 1985. If persons request time for oral comment by December 16, 1985, EPA will hold a public meeting on this proposed rule in Washington, DC. For further information on arranging to speak at the meeting see Unit IX of this preamble.

ADDRESS: Submit written comments, identified by the document control number (OPTS-42071), in triplicate to: TSCA Public Information Office (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-108, 401 M St., SW., Washington, DC 20460.

A public version of the administrative record supporting this action (with any confidential business information deleted) is available for inspection at the above address from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: Edward A. Klein, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Rm. E-543, 401 M St., SW., Washington, DC 20460, Toll free: (800-424-9065), In Washington, DC: (554-1404), Outside the USA: (Operator—202-554-1404).

SUPPLEMENTARY INFORMATION: EPA is issuing a proposed test rule under section 4(a) of TSCA in response to the ITC's designation of octamethylcyclotetrasiloxane for chemical fate and environmental effects testing consideration.

I. Introduction.

A. ITC Recommendation

TSCA (Pub. L. 94-469, 90 Stat. 2003 *et seq.*; 15 U.S.C. 2601 *et seq.*) established the ITC under section 4(e) to recommend to EPA a list of chemicals to be considered for testing under section 4(a) of the Act.

The ITC designated octamethylcyclotetrasiloxane (OMCTS) (CAS No. 556-67-2) for priority consideration for chemical fate and environmental effects tests in its 15th Report, published in the **Federal Register** of November 29, 1984 (49 FR 46931). The ITC recommended that OMCTS be tested for chemical fate including water solubility, octanol/water partition coefficient, and biodegradation studies. It also recommended a tiered series of ecological effects tests including acute toxicity testing of several species using measured concentrations of OMCTS. The ITC further recommended that chronic toxicity studies in aquatic organisms be required conditional upon review of the results of the acute tests.

The ITC's testing recommendations were based upon a steadily increasing U.S. production volume (between 20 and 25 million pounds by one major manufacturer in 1982). While about 80 percent of OMCTS is consumed as a chemical intermediate in the production of various silicone polymers, the remainder is used in a variety of non-consumptive applications from cosmetic or medicinal bases to ingredients in polishes and cleaners. The uses of the polymers themselves are myriad. The multiple uses of OMCTS and its polymers indicate that release and environmental exposure to silicones are extensive. Polyorganosiloxanes have been found in effluents from waste treatment plants, in sediment cores, in river water, and in fish. Computer simulation models (EXAMS and ENPART) predict that OMCTS will partition to the atmosphere and to soils (Refs. 1 and 2). However, very few experimental data have been collected to verify these predictions, or to assess the degree of persistence. Therefore, the chemical properties and environmental fate of OMCTS need to be delineated. The ITC further stated that although a number of tests to determine the acute toxicity to fish and other aquatic organisms have been submitted, none of these tests used measured concentrations of OMCTS; therefore, the interpretation and validity of these tests should be questioned. The ITC recommended that the acute toxicity to fish, aquatic invertebrates, and algae be retested and that concentrations of OMCTS be measured during the course of these studies.

No health effects tests were recommended by the ITC. According to the ITC, commercial products containing OMCTS have been tested extensively in microbiological and tissue culture systems, in standard laboratory mammals (rats, rabbits, etc.), and also in human volunteers with no adverse effects.

B. Test Rule Development Under TSCA

Under section 4(a)(1) of TSCA, EPA must require testing of a chemical substance to develop appropriate test data if the Administrator finds that:

(A)(i) the manufacture, distribution in commerce, processing, use, or disposal of a chemical substance or mixture, or that any combination of such activities, may present an unreasonable risk of injury to health or the environment.

(ii) there are insufficient data and experience upon which the effects of such manufacture, distribution in commerce, processing, use, or disposal of such substance or mixture or of any combination of such activities on health or the environment can reasonably be determined or predicted, and

(iii) testing of such substance or mixture with respect to such effects is necessary to develop such data; or

(B)(i) a chemical substance or mixture is or will be produced in substantial quantities,

and (I) it enters or may reasonably be anticipated to enter the environment in substantial quantities or (II) there is or may be significant or substantial human exposure to such substance or mixture.

(ii) there are insufficient data and experience upon which the effects of the manufacture, distribution in commerce, processing, use, or disposal of such substance or mixture or of any combination of such activities on health or the environment can reasonably be determined or predicted, and

(iii) testing of such substance or mixture with respect to such effects is necessary to develop such data.

EPA uses a weight-of-evidence approach in making a section 4(a)(1)(A)(i) finding; both exposure and toxicity information are considered in determining whether available data support a finding that the chemical may present an unreasonable risk. For the finding under section 4(a)(1)(B)(i), EPA considers only production, exposure and release information to determine whether there is or may be substantial production and significant or substantial human exposure or substantial release to the environment. For the findings under sections 4(a)(1)(A)(ii) and 4(a)(1)(B)(ii), EPA examines toxicity and fate studies to determine whether existing information is adequate to reasonably determine or predict the effects of human exposure to, or environmental release of, the chemical. In making the finding under section 4(a)(1)(A)(iii) or 4(a)(1)(B)(iii) that testing is necessary, EPA considers whether ongoing testing will satisfy the information needs for the chemical and whether testing which the Agency might require would be capable of developing the necessary information.

EPA's process for determining when these findings apply is described in detail in EPA's first and second proposed test rules as published in the **Federal Register** of July 18, 1980 (45 FR 48524) and June 5, 1981 (46 FR 30300). The section 4(a)(1)(A) findings are discussed in 46 FR 48524 and 46 FR 30300, and the section 4(a)(1)(B) findings are discussed in 45 FR 30300.

In evaluating the ITC's testing recommendations concerning OMCTS, EPA considered all available relevant information including the following: information presented in the ITC's report recommending testing consideration; production volume, use, exposure, and release information reported by manufacturers of OMCTS under the TSCA section 8(a) Preliminary Assessment Information Rule (40 CFR Part 712); health and safety studies submitted under the TSCA section 8(d) Health and Safety Data Reporting Rule (40 CFR Part 716) concerning OMCTS; and published and unpublished data available to the Agency. Based on its evaluation, as described in this proposed rule, EPA is proposing chemical fate and environmental effects testing requirements for OMCTS under section 4(a)(1)(A) and under section 49(a)(1)(B). By these actions, EPA is responding to the ITC's designation of OMCTS for priority testing consideration.

II. Review of Available Data

A. Profile, Production and Use

Octamethylcyclotetrasiloxane (OMCTS) is a silicone compound, better known by industry as D_4 because of its tetrameric structure. OMCTS is a colorless oily liquid with little solubility in water (less than 0.5 ppm) (Refs. 3 and 4) and a marked tendency to partition away from water and nonorganic materials into organic materials present in water or soil and sediments (K_{ow} = 4.45; K_{oc} = 3.8) (Refs. 5 through 7). OMCTS is relatively volatile (VP = 1 mm hg at 20°C) (Ref. 8) and will evaporate from water or soil surfaces into the atmosphere where it is destroyed by both hydroxyl free-radicals as well as singlet oxygen atoms from ozone. The atmospheric half-life is dependent upon the dominant reactive species; however, it has been estimated at around 13 days (Refs. 9 through 12).

The production volume of OMCTS has risen dramatically in the last decade. The TSCA Inventory reported 1977 production levels of 1 to 10 million pounds (Ref. 13). By 1982, production had increased to 20 to 25 million pounds (Ref. 14). Aggregate production and importation figures for 1984, from confidential business information submitted under section 8(a) of TSCA, are between 110 to 130 million pounds.

OMCTS is synthesized from a mixture of chloromethyl-silanes, which are themselves synthesized at the same manufacturing facilities (Refs. 15 and 16). To obtain a particular siloxane, e.g. OMCTS, the precursor silane is separated and purified from this mixture by fractional distillation procedures. The purified silane is then hydrolyzed to form the cyclic siloxane or silicone, which is then collected by fractional distillation. Side products and any unreacted silanes are recycled back into the production process. With careful recycling, there is no appreciable loss of either OMCTS or other reactants or products. Gas-liquid chromatography is used to verify the absence of OMCTS in waste material as well as the purity of the final OMCTS produced. This is the standard method of siloxane manufacture employed by all producers; the only difference among the companies is their choice of catalysts employed in the reactions.

About 80 percent of the OMCTS produced or imported is used on-site as an intermediate in the production of polydimethylsiloxane (PDMS) polymers of different viscosities (Refs. 8, 14, and 17). The silicone products manufactured include dispersible surface-active agents, propellants, lubricants, caulks, sealants (especially for high temperature or outdoor use), automobile transmission seals, hoses, wire coatings, and various rubber products such as spark plug cables or the flexible portion of gas masks (Refs. 8, 14, 17). Some companies produce a full range of polymers; other have a more restricted line but produce large volumes of these.

OMCTS that is not channeled into polymer production (about 20 percent) is used as part of formulations containing from 3 to 95 percent of OMCTS (Refs. 8, 14, and 18). These include bases or aerosols for spray cleaners and polishes, as well as an anticaking agent in pesticides. It is used in paper and textile sizing, in detergent manufacture, in industrial cleaning solutions, and as a surfactant in waste water treatment plants. For example, General Electric AF60® defoamer (30 percent OMCTS) is used in ink and water based paint manufacture. Dow Corning Antifoam A® (10 percent OMCTS) is employed as a surfactant in sewage treatment plants (Ref. 14). OMCTS is specifically chosen in most of these formulations because it is volatile and will evaporate readily.

B. Release and Exposure

The diverse and substantial consumer use of OMCTS-containing products, both non-TSCA as well as TSCA regulated (such as cleaners, polishes, and antifoam agents in a variety of chemical and biological processes), indicates that it has been and will continue to be released over wide geographical areas in low but constant levels. The ITC was not concerned at this time with consumer (or general population) exposure or with exposure in the workplace. Commercial products containing OMCTS have been tested extensively in microbiological and tissue culture systems, in standard laboratory mammals (rats, rabbits, monkeys, etc.), and also in human volunteers with no adverse health effects (Ref. 8). However, the ITC was concerned about possible environmental effects resulting from such large scale use.

The amount of OMCTS which is released to the environment as a result of manufacturing is small; release levels have been submitted as confidential

business information. All plant processes are closed, and, as far as possible, OMCTS is retrieved and recycled. Small amounts of volatile siloxanes are lost when process vents are scrubbed. The process water and waste material that are not recycled are treated on-site. Solid waste is incinerated or transported to landfill sites (Refs. 15 and 16).

Because of the volatile nature of OMCTS, it is expected that all of the OMCTS channeled into non-polymer uses (about 25 million pounds) is released to the environment. There are no data that actually quantify OMCTS levels in the general environment. However, industry, just prior to publication of this proposed rule, submitted a study focusing on environmental levels of OMCTS, which will be evaluated with other public comments to the proposed rule.

The available reports detail concentrations of total extractable organic silicones using atomic absorption with a nitrous oxide flame atomizer. Because the detection level of silicon for this method is approximately 0.5 ppm, large samples were concentrated to allow quantification at ppb levels. Pellenbarg (Ref. 19) reported levels of silicones in filter cake, sludge, and aqueous effluent from the Blue Plains wastewater treatment plant in Washington, D.C. Average values were 36.2 parts per million (ppm), 96.1 ppm, and 0.0045 ppm, respectively. Surface sediments of the Potomac River near Washington contained from 0.46 to 3.07 ppm. The higher values were associated with sediments near the treatment plant.

In a 1982 study, Pellenbarg measured silicones in the aqueous surface microlayer of Chesapeake Beach, MD, and the Delaware Bay (Ref. 20). Levels obtained ranged from 24 to 41 parts per billion (ppb) and 23 to 44 ppb, respectively. Organosilicone content of sediment cores from the Delaware Bay ranged from below detection limits to 1.2 ppm. Sediment samples taken from the upper reaches of the Chesapeake Bay to its mouth contained silicone levels from 0.2 to 36.1 ppm. Generally sediments with the higher silicone levels were found in the northern part of the Bay. Where flocculation might occur (promoting settling of particulates containing silicones), values were frequently found in the higher ranges. Higher sedimentary silicone content was found where the shallow upper Bay gives way to the deeper Chesapeake Channel. This region traps sediment moving towards the ocean from such potential urban silicone sources as Baltimore. However, it was not possible to clearly define the effect of urban (and sewage treatment plant effluents) on sedimentary silicone content.

Several sites were sampled by Pellenbarg near a primary dump site in the New York Bight. Organic silicone content of sediments ranged from below the detection limit (not given) to 47.9 ppm (Ref. 21).

Other studies report organosiloxanes in effluents and sludges in Japan (Refs. 22 and 23). Waste from four dyeing factories gave an average value of 0.3 ppm and 2,400 ppm for effluent and sludge, respectively. Sewage treatment plant waste contained 10 ppb (effluent) and 144 ppm (sludge); a wastewater plant effluent contained 3.6 ppb organosilicones. Other studies by Watanabe quantified organosilicones in river waters (13 ppb, 54 ppb), river sediments (1.3 ppm, 5.8 ppm), and sewage sludge (8.5 ppm). Some of the levels for aqueous siloxanes in these Japanese studies are high compared to Chesapeake Bay values. Therefore, these studies do not really confirm the levels reported by Pellenbarg.

Besides evidence of exposure in the Cheaspeake Bay area and in Japan, a paper by de Groot reports ppb levels of OMCTS in Rhine River water (Ref. 24).

A potentially significant point source of environmental exposure results from the use of silicone-containing antifoaming agents in waste treatment plants. For example, Dow Corning Antifoam A® contains 10 percent OMCTS (Ref. 14). During the period October 1977 to October 1978, about 113,000 pounds of antifoam (Dearex 1150®) was purchased by the Blue Plains treatment plant (Ref. 25). If Dearex 1150®(formulation not obtainable (Ref. 26)) contained the same level of OMCTS as Antifoam A®, this implies that 11,300 pounds of OMCTS would be potentially released to the environment from this one plant, either through volatilization in the aeration procedure or by binding to the treated sludge. It is notable that, in several of the studies, organosilicone samples have been associated with, or collected near, waste treatment facilities.

C. Chemical Fate

The persistence of OMCTS (or its polymers) trapped in soils, sediments, and sludges is not well defined. There is general disagreement over the potential for OMCTS to biodegrade. There are several studies on record to measure the biological oxygen demand (BOD) of OMCTS and other polydimethsiloxanes in soils. (Refs. 27 through 29). However the results of these studies are questionable: The negative findings for OMCTS biodegradability may result from OMCTS insolubility in the system tested. Likewise the volatility may affect the results. Industry contends that OMCTS is not biodegradable to any appreciable extent. Since water-soluble methyl siloxanols (which are similar to OMCTS) have no BOD, industry contends that OMCTS solubility or insolubility is not a crucial factor in testing OMCTS for BOD (Refs. 30 and 31). Industry further suggests that OMCTS is too volatile to survive aeration processing in sewage waste treatment plants and would therefore not be present in lagoon sludges. Thus, it would not be found in the sediments of waste-receiving streams or rivers. Industry suggests that the BOD of OMCTS is of academic interest only (Refs. 30 and 31). However other studies of organosiloxanes suggest a potential to biodegrade (Ref. 32). It has been shown that dimethylsilicones can methylate mercury in abiotic systems (Ref. 33). This suggests a potential for OMCTS to act as a methyl donor in a degradative system and perhaps in a biodegradative system. Thus, the data available are questionable, the results are inconclusive, and the persistence of OMCTS in soils, sludges, and sediments cannot be assessed.

Knowledge of the degradation rate of OMCTS in the atmosphere and the persistence or nonpersistence of OMCTS in soils is not by itself enough to assess environmental levels of this silicone. Very little is known about the percentage of OMCTS released directly or indirectly, *e.g.*, through aeration processes in sewage treatment plants, to the atmosphere, and the percentage that is sorbed to sludges or soils or deposited in solid waste disposal sites. Additional data are needed to assess the environmental distribution of this chemical.

D. Environmental Effects

While a number of environmental effects studies have been conducted using either OMCTS itself or one of the formulations containing OMCTS, very few of these studies can be used to assess risk to the environment. In many of these studies, no account was taken of the solubility in water or the volatility of OMCTS, and the resultion data are of little value in characterizing the environmental hazard potential of OMCTS. In other cases the design of the study itself was not appropriate to the testing question being asked.

1. *Acute toxicity.* a. *Fish.* Static studies (96-hr) are available for bluegill sunfish (*Lepomis marochirus*), rainbow trout (*Salmo gairdneri*), and mummichogs (*Fundulus heteroclitus*)

using TX–1283 (a composite of 75 to 80 percent OMCTS and 20 to 25 percent other siloxanes) (Ref. 33). The 96–hour median tolerance limit (TL_{50}) is reported as greater than 1,000 ppm for these species. However, the results are compromised because, while the compound was added at specified concentrations, no measurements were made during the experiment. Moreover, unless TX–1283 (added far in excess of its water solubility) forms an emulsion stable over 96 hours, which is unlikely, the resulting two-phase system will not provide data that can be extrapolated to other systems. A third defect in experimental design is a lack of concern for the volatility of OMCTS. Because of these deficiencies, the studies are not satisfactory.

b. *Aquatic invertebrates.* The static acute toxicity of OMCTS to *Daphnia* was investigated using a range of test concentrations up to 1,000 ppm OMCTS (Ref. 34). The 72–hour median lethal concentration (LC_{50}) was reported as 23.44 ppm. However, the actual concentrations of OMCTS to which *Daphnia* were exposed were not measured. Therefore, while OMCTS induced lethality at the lower end of the nominal concentrations range tested, the actual lethal OMCTS level is not known and could be below the solubility limit of 0.5 ppm. Static tests of TX–1283 (75–80 percent OMCTS) using the same type protocol were also run on shore crabs and grass shrimp. No lethality was seen (Ref. 33).

c. *Other organisms.* OMCTS toxicity to insects and mites was investigated using standard screening procedures. No toxicity was shown at concentrations of 1,000 ppm (Ref. 35). As well, OCMTS is reported to have had no effect on growth of blue-green algae at concentrations up to 2,000 ppm (Ref. 36). As in other studies, there was no control over volatilization and no measured OMCTS levels, therefore these studies should be repeated.

2. *Chronic toxicity.* There was no information on the chronic toxicity of OMCTS to the environment.

3. *Bioconcentration in fathead minnow.* Information was submitted on three bioconcentration tests with fathead minnows (Refs. 37and 38). These tests have been reviewed by the Agency (Ref. 39). Two tests were static tests in which fish were exposed to nominal OMCTS concentrations. Based upon the high log P, the relatively high vapor pressure, and the low water solubility of OMCTS, these static tests were not appropriate, and the reported results confirmed this. A 14-day flow-through test was subsequently done, however the test protocol was seriously flawed and did not follow minimum good laboratory practice guidelines. Because of the shortcomings in experimental design in all three tests, they are considered screening tests. However, the results are sufficient to demonstrate that OMCTS is highly bioconcentrated by fish and that depuration is not rapid.

Based upon the available information, these data are not sufficient to accurately estimate the steady-state bioconcentration factor (BCF) of OMCTS in fish and the time to 50 and 90 percent depuration. These data are sufficient however to demonstrate that OMCTS is rapidly bioconcentrated in fish and that the level of bioconcentration is very high, on the order of 10,000. These data also indicate that OMCTS is not rapidly excreted or metabolized by fish.

III. Findings for Chemical Fate and Environmental Effects

EPA is basing its proposed testing of OMCTS on the authority of sections 4(a)(1)(A) and 4(a)(1)(B) of TSCA. The Agency finds that the use and disposal of OMCTS may present an unreasonable risk of toxicity to the environment. A preliminary bioconcentration study reveals an extremely high BCF in fathead minnows on the order of 10,000. This raises concern that OMCTS may bioaccumulate and may pose acute and/or chronic toxicity hazards in organisms up the trophic chain. There are no other environmental effects data confirming or disputing this finding. The Agency finds that data are insufficient to reasonably determine or predict environmental toxicity effects as a result of use and disposal of OMCTS, and that testing is necessary to develop such data. EPA is therefore proposing that testing be conducted to develop these data under TSCA section 4(a)(1)(A).

EPA finds that OMCTS is produced and imported in substantial quantities and that substantial environmental release of OMCTS occurs. Annual production of OMCTS has risen in the last decade from 1 million to over 100 million pounds per year, and production is expected to continue to increase. EPA finds that the available data are insufficient to reasonably determine or predict the chemical fate and environmental effects of OMCTS release to the environment in the use and disposal of products containing this chemical and that testing is necessary to develop such data.

Although chemical fate testing for water solubility and for the octanol/water partition coefficient were proposed by the ITC, the Agency, after a review of the data, has determined that valid experimental values for these two parameters now exist. Thus, no further testing in this area is necessary.

The Agency finds that there are not satisfactory data available on the biodegradation of OMCTS in soils and sediments. Moreover, there is strong disagreement in the scientific community over whether or not OMCTS would be biodegradable, although little testing itself has been done. Because OMCTS binds strongly to soils and sediments, with demonstrated levels ranging from 1 to 100 ppm, and because the persistence of OMCTS in these soils cannot be determined, a battery of soil biodegradation tests is needed for EPA to adequately assess the chemical fate of OMCTS.

EPA has reviewed and evaluated the existing acute toxicity data for aquatic organisms. In all acute toxicity experiments, levels of OMCTS were based on nominal rather than measured concentrations. With the high volatility and low water solubility of OMCTS, and in light of the duration of some of these experiments (48 to 96 hours), EPA finds these data inadequate to evaluate the acute toxicity of OMCTS.

EPA also finds that in addition to the studies recommended by the ITC, other acute toxicity studies of aquatic vertebrates, invertebrates, and algae are needed to completely assess the acute toxicity of OMCTS. As well, a sediment toxicity test using the invertebrate amphipod *Rhepoxynius* is needed, because PDMS (presumably including OMCTS) is found in ppm levels in aquatic sediments and sludges.

EPA finds that there are no chronic toxicity data for aquatic species available on OMCTS. A bioaccumulation test in fathead minnow has been submitted by industry. This study was reviewed by the Agency; the results, while preliminary, indicate a high potential for bioconcentration (yielding a bioconcentration factor (BCF) on the order of 10,000). To adequately assess the chronic effects of OMCTS to the environment and the possible entry of OMCTS into the food chain via bioaccumulation mechanisms, the Agency finds data are needed to evaluate both the chronic toxicity potential and the bioconcentration potential of OMCTS.

IV. Proposed Rule

A. Proposed Testing and Test Standards

On the basis of the findings given above for chemical fate and environmental effects testing (Unit III), EPA is proposing the following chemical fate and environmental effects tests be

conducted in accordance with specific test guidelines set forth in Title 40 of the Code of Federal Regulations as enumerated below. Test methods under new Parts 796,797 and 798 were published in the **Federal Register** of September 27, 1985 (50 FR 39252). Chemical fate testing of OMCTS shall be conducted to determine: (1) The biodegradability in water, using the eco-core method described by Bourquin et al. (Ref. 40); (2) the aerobic and anaerobic biodegradability in soil, using the guideline entitled "Inherent Biodegradability in Soil" Specified in 40 CFR § 796.3400; and (3) the biodegradability in sludge systems, using the guideline entitled "Inherent Biodegradability: Modified SCAS (Semi-continuous activated sludge) Test for low water soluble compounds" specified in 40 CFR § 796.3341 which appears in the **Federal Register** with the proposed rule for pentabromoethylbenzene and a copy of which is in the docket for OMCTS.

Environmental effects testing of OMCTS shall be conducted to determine: (1) The acute toxicity to the aquatic vertebrates: *Pimephales promelas* (fathead minnow), *Salmo gairdneri* (rainbow trout), *Lepomis macrochirus* (blue gill sunfish), *Cyprinodon variegatus* (sheepshead minnow), and *Menidia peninsulae* (silversides), using flow-through systems with concentrations of OMCTS measured at several intervals during the testing period (due to the volatility of the test substance). The guideline entitled "Fish Acute Toxicity Test", specified in 40 CFR 797.1400, as modified in this proposal, shall be used. (2) The acute toxicity to the invertebrate *Daphnia magna* or *D. pulex*, using flow-through systems with concentrations of OMCTS measured at several intervals during the testing period. The guideline entitled "Daphnid Acute Toxicity Test", specified in 40 CFR § 797.1300, shall be used. (3) The acute toxicity to the invertebrate *Mysidopsis bahia* (mysid shrimp), using flow-through systems with concentrations of OMCTS measured at several intervals during the testing period. The guideline entitled "Mysid Shrimp Acute Toxicity Test", specified in 40 CFR § 797.1930, shall be used. (4) The acute toxicity to the invertebrate *Crassostrea virginica* (oyster), using flow-through systems with concentrations of OMCTS measured at several intervals during the testing period. The guideline entitled "Oyster Acute Toxicity Test", specified in 40.CFR 797.1800, shall be used. (5) The acute toxicity to a freshwater alga, *Selenastrum capricornutum*, and a saltwater alga, *Skeletonema costatum*, using the test guideline entitled "Algal Acute Toxicity Test", specified in 40 CFR 797.1050, and as modified in § 799.1300 (e)(5)(i)(B) shall be used. Concentrations of OMCTS shall be measured at several intervals during the testing period. (6) The marine sediment toxicity to the amphipod (*Rhepoxynius abronius*) using OMCTS-spiked clean sediments having low, medium, and high clay content according to the method of R.C. Swartz et al., "Phoxocephalid Amphipod Bioassay for Marine Sediment Toxicity," as published in the American Society for Testing and Materials Special Technical Publication 854, R.D. Cardwell et al. (eds.), American Society for Testing and Materials, Philadelphia, 1985, pp. 284–307.

EPA is also proposing that: (7) The most sensitive fish (i.e., the fish with the lowest LC_{50} as determined by the above proposed acute toxicity test) be tested for chronic toxicity, using the guideline entitled "Fish Early Life Stage Toxicity Test" specified in 40 CFR 797.1600. Measured concentrations of OMCTS and flow-through systems as specified for the acute toxicity tests shall be employed. (8) The invertebrate *Daphnia* shall be tested to determine the chronic toxicity of OMCTS, using the guideline entitled "Daphnid Chronic Toxicity Test" specified in 40 CFR 797.1330. Measured concentrations of OMCTS and flow-through systems as specified for the acute toxicity tests shall be used. (9) The invertebrate *Mysidopsis bahia* (mysid shrimp) shall be tested to determine the chronic toxicity of OMCTS, using the guideline entitled "Mysid Shrimp Chronic Toxicity Test" specified in 40 CFR 797.1950. Measured concentrations of OMCTS and flow-through systems as specified for the acute toxicity tests shall be used.

EPA further proposes (10) a bioconcentration test in fathead minnow *(Pimephales promelas)* using the guideline entitled "Fish Bioconcentration Toxicity Test" specified in 40 CFR 797.1520, and (11) a bioconcentration test in oyster *(Crassostrea virginica)* using the guideline entitled "Oyster Bioconcentration Test" specified in 40 CFR 797.1830. Measured concentrations of OMCTS and flow-through systems as specified for the acute toxicity tests shall be used. In addition to the potential to bioaccumulate, EPA is concerned that OMCTS may enter the food chain. Since OMCTS may affect avian species in a different manner than aquatic vertebrates or mammals, the Agency is proposing (12) a reproduction test in Mallard ducks, using the guideline entitled "Mallard Reproduction Test" specified in 40 CFR 797.2150.

Further, the following performance criteria shall be met, whether open or closed sytems, static or flow-through methods are used: (1) In all tests CTS levels shall be monitored (measured) immediately prior to the start of the testing period, at a minimum of six intervals during the testing period, and at the end of the test. (2) In the aquatic toxicity tests the level of OMCTS as measured shall be maintained at a level greater than or equal to the initial concentration measured at the beginning of the testing period.

The Agency is proposing that the above referenced chemical fate and environmental effects test guidelines and other cited method be considered the test standards for the purposes of the proposed tests for OMCTS. The test guidelines for chemical fate and aquatic toxicity testing specify generally accepted minimal conditions for determining chemical fate and toxicity to aquatic organisms for substances like OMCTS to which aquatic life is expected to be exposed. The Agency's review of the guidelines, which occurs on a yearly basis according to the process described in 47 FR 41857 (September 22, 1982), has found no reason to conclude that these protocols need to be modified significantly.

EPA intends to propose shortly in a separate **Federal Register** notice certain revisions to these TSCA Test Guidelines to provide more explicit guidance on the necessary minimum elements for each study. In addition, these revisions will avoid repetitive chemcial-by-chemical changes to the guidelines in their adoption as test standards for chemical-specific test rules. EPA is proposing that these modifications be adopted in the test standards for OMCTS.

The proposed eco-core method of Bourquin et al. for testing the biodegradability of OMCTS in water specifies generally accepted minimal conditions. The Agency believes that this test reflects current state-of-the-art methods for testing the fate of OMCTS in aquatic systems.

The ASTM guideline specifies, in EPA's judgement, minimal test conditions and practices for acceptable investigations of the acute sediment toxicity of OMCTS to marine amphipods. Although the Agency has not published a test guideline for sediment toxicity, the ASTM testing procedure reflects the current state-of-the-art for such testing and is being proposed as an acceptable method of

testing OMCTS sediment toxicity to benthic invertebrates.

B. Test Substance

EPA is proposing that OMCTS of 99.0 percent purity be used as the test substance. OMCTS of this purity is commercially available at nominal cost. EPA has specified a highly pure substance for testing because the Agency is interested in evaluating the effects attributable to OMCTS itself.

C. Persons Required To Test

Section 4(b)(3)(B) specifies that the activities for which the Agency makes section 4(a) findings (manufacture, processing, distribution, use and/or disposal) determine who bears the responsibility for testing. Manufacturers are required to test if the findings are based on manufacturing ("manufacture" is defined in section 3(7) of TSCA to include "import"). Processors are required to test if the findings are based on processing. Both manufacturers and processors are required to test if the findings are based on use, distribution, or disposal.

Because EPA has found that there are insufficient data and experience to reasonably determine or predict the effect of the use and disposal of OMCTS on the environment, EPA is proposing that persons who manufacture and/or process, or who intend to manufacture and/or process, OMCTS at any time from the effective date of the final test rule to the end of the reimbursement period be subject to the testing requirements contained in this proposed rule. The end of the reimbursement period will be 5 years after the last final report is submitted.

Because TSCA contains provisions to avoid duplicative testing, not every person subject to this rule must individually conduct testing. Section 4(b)(3)(A) of TSCA provides that EPA may permit two or more manufacturers or processors who are subject to the rule to designate one such person or a qualified third person to conduct the tests and submit data on their behalf. Section 4(c) provides that any person required to test may apply to EPA for an exemption from the requirement. EPA promulgated procedures for applying for TSCA section 4(c) exemptions in 40 CFR Part 790.

When both manufacturers and processors are subject to a test rule, EPA expects that manufacturers will conduct the testing and that processors will ordinarily be exempted from testing. As described in 40 CFR Part 790, processors will be granted an exemption automatically without filing application if manufacturers perform all of the required testing. Manufacturers are required to submit either a letter of intent to perform testing or an exemption application within 30 days after the effective date of the test rule.

EPA is not proposing to require the submission of equivalence data as a condition for exemption from the proposed testing for OMCTS. As noted in Unit IV.B above, EPA is interested in evaluating the effects attributable to OMCTS itself and have specified a relatively pure substance for testing.

Manufacturers and processors who are subject to this test rule must comply with the test rule development and exemption procedures in 40 CFR Part 790 for single-phase rulemaking.

D. Reporting Requirements

EPA is proposing that all data developed under this rule be reported in accordance with its TSCA Good Laboratory Practice (GLP) standards that appear in 40 CFR Part 792.

In accordance with 40 CFR Part 790 under single-phase rulemaking procedures, test sponsors are required to submit individual study plans at least 30 days prior to the initiation of each study.

EPA is required by TSCA section 4(b)(1)(C) to specify the time period during which persons subject to a test rule must submit test data. The Agency is proposing specific reporting requirements for each of the proposed test standards as follows:

1. The biodegradation tests shall be completed, and the final reports submitted to EPA within one year of the effective date of the final test rule. Quarterly progress reports shall be required.

2. The acute toxicity tests in aquatic vertebrates, aquatic invertebrates, and in algae shall be completed, and the final reports submitted to EPA within one year of the effective date of the final test rule. Quarterly progress reports shall be required.

3. The sediment toxicity test with *Rhepoxynius abronius* shall be completed, and the final report submitted to EPA within one year of the effective date of the final test rule. Quarterly progress reports shall be required.

4. The aquatic vertebrate and invertebrate chronic toxicity tests shall be completed, and the final reports submitted to EPA within two years of the effective date of the final test rule. Quarterly progress reports shall be required.

5. The bioconcentration tests in fish and oyster shall be completed, and the final reports submitted to EPA within one year of the effective date of the final test rule. Quarterly progress reports shall be required.

6. The reproduction test in Mallard ducks shall be completed, and the final reports submitted to EPA within eighteen months of the effective date of the final test rule. Quarterly progress reports shall be required.

TSCA section 14(b) governs Agency disclosure of all test data submitted pursuant to section 4 of TSCA. Upon receipt of data required by this rule, the Agency will publish a notice of receipt in the **Federal Register** as required by section 4(d).

Persons who export a chemical substance or mixture that is subject to a section 4 test rule are subject to the export reporting requirements of section 12(b) of TSCA. Final regulations interpreting the requirements of section 12(b) are in 40 CFR Part 707 (45 FR 82844; December 16, 1980). In brief, as of the effective date of the final test rule, an exporter of OMCTS must report to EPA the first annual export or intended export of OMCTS to any one country. EPA will notify the foreign country concerning the test rule for the chemical.

E. Enforcement Provisions

The Agency considers failure to comply with any aspect of a section 4 rule to be a violation of section 15 of TSCA. Section 15(1) of TSCA makes it unlawful for any person to fail or refuse to comply with any rule or order issued under section 4. Section 15(3) of TSCA makes it unlawful for any person to fail or refuse to: (1) Establish or maintain records; (2) submit reports, notices, or other information; or (3) permit access to or copying of records required by the Act or any regulation or rule issued under TSCA.

Additionally, TSCA section 15(4) makes it unlawful for any person to fail or refuse to permit entry or inspection as required by section 11. Section 11 applies to any "establishment, facility, or other premises in which chemical substances or mixtures are manufactured, processed, stored, or held before or after their distribution in commerce * * *." The Agency considers a testing facility to be a place where the chemical is held or stored, and therefore, subject to inspection. Laboratory inspections and data audits will be conducted periodically in accordance with the authority and procedures outlined in TSCA section 11 by duly designated representatives of the EPA for the purpose of determining compliance with any final rule for OMCTS. These inspections may be conducted for purposes which include verification that testing has begun, that

schedules are being met, and that reports accurately reflect the underlying raw data and interpretations and evaluations to determine compliance with TSCA GLP standards and the test standards established in the rule.

EPA's authority to inspect a testing facility also derives from section 4(b)(1) of the TSCA, which directs EPA to promulgate standards for the development of test data. These standards are defined in section 3(12)(B) of TSCA to include those requirements necessary to assure that data developed under testing rules are reliable and adequate, and to include such other requirements as are necessary to provide such assurance. The Agency maintains that laboratory inspections are necessary to provide this assurance.

Violators of TSCA are subject to criminal and civil liability. Persons who submit materially misleading or false information in connection with the requirement of any provision of this rule may be subject to penalties which may be calculated as if they never submitted their data. Under the penalty provision of section 16 of TSCA, any person who violates section 15 could be subject to a civil penalty of up to $25,000 for each violation with each day of operation in violation constituting a separate violation. This provision would be applicable primarily to manufacturers or processors that fail to submit a letter of intent or an exemption request and that continue manufacturing or processing after the deadlines for such submissions. Knowing or willful violations could lead to the imposition of criminal penalties of up to $25,000 for each day of violation and imprisonment for up to 1 year. In determining the amount of penalty, EPA will take into account the seriousness of the violation and the degree of culpability of the violator as well as all the other factors listed in section 16. Other remedies are available to EPA under section 17 of TSCA, such as seeking an injunction to restrain violations of TSCA section 4.

Individuals as well as corporations could be subject to enforcement actions. Sections 15 and 16 of TSCA apply to "any person" who violates various provisions of TSCA. EPA may, at its discretion, proceed against individuals as well as companies themselves. In particular, this includes individuals who report false information or who cause it to be reported. In addition, the submission of false, fictitious, or fraudulent statements is a violation under 18 U.S.C. 1001.

V. Issues for Comment

1. Because OMCTS is expected to partition strongly to sediment, the Agency believes that toxicity testing of benthic orgnisms *i.e.* vertebrates, invertebrates, or plants dwelling on bottom sediment or burrowing or rooting into the sediment itself, would be most appropriate in characterizing the environmental effects of aquatic releases of OMCTS. However except for sediment bioassays, such as the proposed test with *Rhepoxynius*, (which focuses on sediment toxicity rather than specific toxicity to benthic organisms) the Agency is not aware of any standard test methods for toxicity testing of benthic organisms exposed to sediment sorbed chemicals. The Agency solicits comments on the need for testing OMCTS toxicity to benthic organisms not only in the water column, but those dwelling in or on OMCTS—containing sediments and on the availability of appropriate test methods.

2. The Corps of Engineers and the USEPA Environmental Research Laboratory at Narragansett, RI, recently developed and validated a test method to determine acute and chronic toxicity to the epifaunal invertebrate *Mysidopsis* and to the infaunal invertebrate *Ampelisca*. The method is described in a draft technical report entitled "The Application of Population Responses for Evaluating the Effects of Dredged Material." The Agency requests comments on its appropriateness for testing OMCTS. A copy of the report is in the OPTS docket for this rulemaking.

3. For the marine sediment toxicity assay, the Agency believes that OMCTS-spiked sediment should be tested at levels representative of those reported in aquatic environmental studies discussed in Unit B. The Agency requests comments on the selection of numbers and levels of samples for testing.

4. EPA is not aware of a standard method to determine chronic toxicity to *Crassostrea virginica*, and the Agency welcomes information concerning the availability of such a method.

5. EPA requests comments on the suitability of the proposed biodegradation test methods in light of the volatile nature of OMCTS. Comments on protocol modification and/or the recommendation of other test methods designed for volatile materials would be welcome.

6. OMCTS is part of a family of silicone compounds (PDMS) including not only the tetramer OMCTS, but also the trimer and the pentamer. The trimer and pentamer are present as impurities at levels of 2 to 4 percent in commercial OMCTS. Also, the trimer and/or pentamer may be intentionally added by the manufacturer to adapt OMCTS for certain formulation characteristics. The Agency has proposed testing on pure OMCTS (99 percent purity), but it would welcome comments on whether the testing of formulations containing a significant amount of trimer and/or pentamer would be desirable and feasible.

7. The silicone polymers and manufactured from the three PDMS discussed in Unit V.6 above. Silicone polymers are of three classes: Fluids, elastomers, and resins. There are only minimal environmental and chemical fate data available on PDMS and silicone polymers. The Agency may propose additional testing in the future of other PDMS and the silicone polymers in order to characterize this group of chemicals. The Agency requests comment on this approach. Any further action would be proposed in a separate notice.

VI. Economic Analysis of Proposed Rule

To assess the economic impact of this rule, EPA has prepared an economic analysis that evaluates potential for significant economic impacts on the industry as a result of the required testing. The economic analysis estimates the costs of conducting the required testing and evaluates the potential for significant adverse economic impact as a result of these costs by examining four market characteristics of OMCTS: (1) Price sensitivity of demand, (2) industry cost characteristics, (3) industry structure, and (4) market expectations.

Total testing costs for the proposed rule for OMCTS are estimated to range from $60,200 to $181,200. The annualized test cost (using a cost of capital of 25 percent over a period of 15 years) range from $15,592 to $46,931. Based on the production volume range reported for 1984 under section 8(a) of TSCA, 110 million pounds to 130 million pounds, the unit test costs range from 0.014 to 0.043 cents per pound. Relative to a current list price of $2.07 per pound (00 percent purity) for OMCTS, these costs are equivalent to 0.007 to 0.02 percent of price.

Based on these costs and the market characteristics of OMCTS, the economic analysis indicates that the potential for significant adverse economic impact as a result of this test rule is low. This conclusion is based on the following observations:

1. The annual unit cost of the testing required in this rule is very low;

2. Demand for OMCTS appears relatively inelastic due to its dominant use as a captive intermediate; and

3. The market expectations for OMCTS are optimistic.

Refer to the economic analysis which is contained in the public record for this rulemaking for a complete discussion of test cost estimation and the potential for economic impact resulting from these costs.

VII. Availability of Test Facilities and Personnel

Section 4(b)(1) of TSCA requires EPA to consider "the reasonably foreseeable availability of the facilities and personnel needed to perform the testing required under the rule." Therefore, EPA conducted a study to assess the availability of test facilities and personnel to handle the additional demand for testing services created by section 4 test rules. Copies of the study, Chemical Testing Industry: Profile of Toxicological Testing, can be obtained through the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161, (703) 487–4650 (PB 82–140773). On the basis of this study, the Agency believes that there will be available test facilities and personnel to perform the testing in this proposed rule.

VIII. Availability of Test Guidelines

The following guidelines, study plans and other relevant sources of information cited in this rulemaking are available from the following sources: American Society for Testing and Materials (ASTM), 1916 Race Street, Philadelphia, PA 19103, (215–299–5400).

IX. Public Meetings

If persons indicate to EPA that they wish to present oral comments on this proposed rule to EPA officials who are directly responsible for developing the rule and supporting analyses, EPA will hold a public meeting subsequent to the close of the public comment period in Washington, DC. Persons who wish to attend or to present comments at the meeting should call the TSCA Assistance Office (TAO): Toll Free: (800–424–9065); In Washington, DC: (554–1404); Outside the U.S.A. (Operator—202–554–1404), by December 16, 1985. A meeting will not be held if members of the public do not indicate that they wish to make oral presentations. While the meeting will be open to the public, active participation will be limited to those persons who arranged to present comments and to designated EPA participants. Attendees should call the TAO before making travel plans to verify whether a meeting will be held.

Should a meeting be held, the Agency will transcribe the meeting and include the written transcript in the public record. 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.

X. Public Record

EPA has established a record for this rulemaking, (docket number OPTS—42071). This record contains the basic information considered by the Agency in developing this proposal, and appropriate **Federal Register** notices.

This record includes the following information:

A. Supporting Documentation

(1) **Federal Register** notices pertaining to this rule consisting of:

(a) Notice containing the ITC designation of OMCTS to the Priority List (49 FR 46931; November 29, 1984).

(b) Rules requiring TSCA section 8(a) and 8(d) reporting on OMCTS (49 FR 46739 and 46741; November 28, 1984).

(c) TSCA test guidelines cited as test standards for this rule.

(1) OMCTS economic analysis.

(2) ASTM sediment toxicity bioassay method cited as a test standard for this rule.

(3) Communications before proposal consisting of:

(a) Written public comments and letters.

(b) Contact reports of telephone conversations.

(c) Meeting summaries.

(5) Reports—published and unpublished factual materials.

B. References

(1) U.S. Environmental Protection Agency. Internal memorandum from Patricia Harrigan, Design and Development Branch, to Jeffrey Davidson, Test Rules Development Branch. Chemical Property and Environmental Behavior Estimates for Chemicals on the 15th ITC Priority List. November 29, 1984.

(2) U.S. Environmental Protection Agency. Computer printout: Graphic Exposure Modeling System (GEMS) EXAMS and ENPART models. Washington, D.C. Office of Toxic Substances, USEPA, 1985.

(3) Dow Corning Corporation. "Water Solubility of PDMS" Letter with attached studies from Cecil L. Frye to Martha G. Price, Environmental Protection Agency. December 12, 1984.

(4) Vogal, G.E., and F.O. Stark. "Mutual Solubilities in Water-Permethylsiloxane Systems." *J. Chem. Eng. Date* 9(4):555–601. October 1964.

(5) Bruggemen, W.A. *et al.* "Absorption and Retention of Polydimethylsiloxanes (Silicones) in Fish: Preliminary Experiments." *Toxicol. Environ. Chem.* 7(4):287–296. 1984.

(6) Dow Corning Corporation. Unpublished study of T.H. Lane and C.L. Frye. Letter with attached studies from Cecil L. Frye to Martha G. Price, Environmental Protection Agency. December 12, 1984.

(7) Kenaga, E.E. "Predicted Bioconcentration Factors and Soil Sorption Co-efficients of Pesticides and Other Chemicals." *Ecotoxicol. Environ. Safety.* 4:26–38. 1980.

(8) Interagency Testing Committee (ITC) Fifteenth Report to the Administrator and Request for comments. 49 FR 46931. November 29, 1984.

(9) Atkinson, R. "Predicting Gas Phase Organic Molecule Reaction Rates Using Linear Free Energy Correlations. I. O(^{3}P) and OH Addition and Abstraction Reactions." *J. Chem. Kinetics.* 12:761–785. 1980.

(10) Gay, B.W., Jr., and J.J. Bufalini. "Laboratory Reactivity Studies of Octamethylcyclotetrasiloxane." Environmental Sciences Research Laboratory, Research Triangle Park, NC. Submitted to EPA Region 2. March 1979.

(11) Dow Corning Corporation. "Photochemical Oxidation of Methylsilicon Moieties in the Gas Phase." Letter with attached studies from Cecil L. Frye to Martha G. Price, Environmental Protection Agency. December 12, 1984.

(12) Abe, Y. *et al* "Photolytic Oxidative Degradation of Octamethylcyclotetrasiloxane and Related Compounds." *J. Macromol. Sci.-Chem.* A16(2):461–471. 1981.

(13) U.S. Environmental Protection Agency. Computer printout: Production statistics for chemicals in the nonconfidential initial TSCA inventory. Retrieved January 1985. Washington, DC: Office of Pesticides and Toxic Substances. 1985.

(14) Dow Corning Corporation. Letter with attached studies from E.J. Hobbs to M. Grief, Chairman, Interagency Testing Committee. December 16, 1982.

(15) Browing, G.R. Silicone, Products Division, General Electric Co. Personal communication with M.G. Price, U.S. Environmental Protection Agency. February 20, 1985.

(16) General Electric Company. Polydimethylsiloxane fluids environmental impact analysis. 1977.

(17) Browning, G.R. Silicone Products Division, General Electric Co. Personal communication with M.G. Price, U.S. Environmental Protection Agency. May 23, 1985.

(18) General Electric Co. Silicone Products Data Sheet #CDS–4132. November 1980.

(19) Pellenbarg, R. "Environmental poly(organosiloxanes) (Silicones)." *Environ. Sci. & Technol.* 13(5):565–569. May 1979.

(20) Pellenbarg, R. "Silicones in Chesapeake Bay Sediments." *Marine Pollution Bulletin.* 13(12):427–429. 1982.

(21) Pellenbarg, R. "Silicones as Tracers for Anthropogenic Additions to Sediments." *Marine Pollution Bulletin.* 10:267–269. 1979.

(22) Watanabe, N. *et al.* "Distribution of Organosiloxanes (Silicones) in Water, Sediments and Fish from the Nagara River Watershed, Japan." *Sci. Total Environ.* 35:91–97. 1984.

(23) Watanabe, N. *et al.* "Determination of Trace Amounts of Siloxanes in Water, Sediments and Fish Tissues by Inductively Coupled Plasma Emission Spectrometry." *Sci. Total Environ.* 34:169–176. 1984.

(24) de Groot, R. "A method for a rapid semi-quantitative determination of gas-chromatographable organic matter in surface water." *H_2O*. 12 (15):333–336. 1979

(25) Bailey, Walter. Blue Plains Wastewater Treatment Plant. Summarized telephone conversation with J. Jackson, Syracuse Research Corporation, Syracuse, NY. March 12, 1985.

(26) A.F. Houghton, Valley Forge, PA. Summarized telephone conversation with J. Jackson, Syracuse Research Corporation, Syracuse, NY. March 12, 1985.

(27) Dow Corning Corporation. "Biochemical Oxygen Demand of Octamethylcyclotetrasiloxane." Letter with attached studies from Cecil L. Frye to Martha G. Price, Environmental Protection Agency. December 28, 1984.

(28) Dow Corning Corporation. "Biological Oxygen Demand of Tetramethyldisiloxanediol." Letter with attached studies from Cecil L. Frye to Martha G. Price, Environmental Protection Agency. December 12, 1984.

(29) Dow Corning Corporation. "Twenty Day Biochemical Oxygen Demand of Dimethylsilanediol with Bacterial Isolates Previously Exposed to Silicones." Letter with attached studies from Cecil L. Frye to Martha G. Price, Environmental Protection Agency. December 12, 1984.

(30) Dow Corning Corporation. Letter with attached studies from Cecil L. Frye to Martha G. Price, Environmental Protection Agency. December 12, 1984.

(31) Frye, Cecil L. Dow Corning Corporation. Presentation, USEPA Public Meeting, December 19, 1984.

(32) Bellama, J.M. Department of Chemistry, University of Maryland. Unpublished studies and personal communication with M.G. Price, U.S. Environmental Protection Agency. March 25, 1985.

(33) Dow Corning Corporation. "Four-day Static Aquatic Toxicity with TX–1283 in Freshwater and Saltwater Species." Letter with attached studies from Cecil L. Frye to Martha G. Price, Environmental Protection Agency. December 28, 1984.

(34) Dow Corning Corporation. "Acute toxicity test with *Daphnia magna*-Octamethylcyclotetrasiloxane." Letter with attached studies from Cecil L. Frye to Martha G. Price, Environmental Protection Agency. December 28, 1984.

(35) Dow Corning Corporation. "Primary Insecticidal and Miticidal Screening of Octamethylcyclo-tetrasiloxane." Letter with attached studies from Cecil L. Frye to Martha G. Price, Environmental Protection Agency. December 28, 1984.

(36) Dow Corning Corporation. "Algal assay-bottle Test: Octamethylcyclotetrasiloxane." Letter with attached studies from Cecil L. Frye to Martha G. Price, Environmental Protection Agency. December 28, 1984.

(37) Dow Corning Corporation. "Bioconcentration of Octamethylcyclotetrasiloxane in Fish." Letter with attached studies from Cecil L. Frye to Martha G. Price, Environmental Protection Agency. December 28, 1984.

(38) Dow Corning Corporation. Letter with attached tables of numerical data to supplement "Bioconcentration of Octamethylcyclotetrasiloxane in Fish" from Cecil L. Frye to Martha G. Price, Environmental Protection Agency. May 24, 1985.

(39) U.S. Environmental Protection Agency. Internal memorandum from S.J. Ells, Environmental Effects Branch, to M.G. Price, Test Rules Development Branch. Review of OMCTS Bioconcentration Study. June 6, 1985.

(40) Bourquin, A.W., Hood, M.A., Garnas, R.L. An artificial microbial ecosystem for determining effects and fate of toxicants in a salt-marsh environment. *Development in Industrial Microbiology* 18:185–191. 1977.

EPA will supplement this record with additional relevant information as it is received. Confidential Business Information (CBI), while part of the record, is not available for public review. A public version of the record, from which CBI has been deleted, is available for inspection in the OPTS Reading Rm. E–107, 401 M St., SW., Washington, D.C. from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

XI. Other Regulatory Requirements

A. Executive Order 12291

Under Executive Order 12291, EPA must judge whether a regulation is "Major" and therefore subject to the requirement of a Regulatory Impact Analysis. EPA has determined that this test rule is not major because it does not meet any of the criteria set forth in section 1(b) of the Order, i.e., it will not have an annual effect on the economy of at least $100 million, will not cause a major increase in prices, and will not have a significant adverse effect on competition or the ability of U.S. enterprises to compete with foreign enterprises.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (15 U.S.C. 601 *et seq.*, Pub. L. 96–354, September 19, 1980) EPA is certifying that this test rule, if promulgated, will not have a significant impact on a substantial number of small businesses because: (1) They are not expected to perform testing themselves, or to participate in the organization of the testing effort; (2) they will experience only very minor costs, if any, in securing exemption from testing requirements; and (3) they are unlikely to be affected by reimbursement requirements.

C. Paperwork Reduction Act

The information collection requirements contained in this rule have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, and have been assigned OMB number 2070–0033. 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 requirements.

List of Subjects

40 CFR Part 797

Testing, Environmental protection, Chemical fate, Environmental effects, Health effects, Chemicals.

40 CFR Part 799

Testing, Environmental protection, Hazardous material, Chemicals.

Dated: October 22, 1985.

John A. Moore,

Assistant Administrator for Pesticides and Toxic Substances.

PART 797—[AMENDED]

1. It is proposed that Part 797 be amended as follows:

a. The authority citation for Part 797 continues to read as follows:

Authority: 15 U.S.C. 2603.

b. In § 797.1400, paragraphs (d)(2)(vi)(B) and (d)(3)(ii) and (iii) are revised, to read as follows:

§ 797.1400 Fish acute toxicity test.

* * * * *

(d) * * *

(2) * * *

(vi) * * *

(B) The concentration of dissolved oxygen in the dilution water should be between 90 and 100 percent saturation; 9.8 to 10.9 mg/l for tests with trout, and 8.0 to 8.9 mg/l for tests with bluegill or fathead minnow at sea level. For silversides and sheepshead minnow assuming the salinity is 20 ppt and the tests are performed at sea level at 25 °C, then the dissolved oxygen content should be 6.6 to 7.4 mg/l. If necessary, the dilution water can be aerated before the addition of the test substance. All reconstituted water should be aerated before use. Buffered soft water should be aerated before but not after the addition of buffers.

(3) * * *

(ii) *Dissolved oxygen concentration.* (A) During static tests with rainbow trout the dissolved oxygen in each test chamber should be greater than 5.5 mg/l. In tests with bluegill and fathead minnows, the DO should be maintained above 4.5 mg/l. In tests with silversides and sheepshead minnows, the DO should be maintained above 3.7 mg/l.

(B) During flow-through tests the dissolved oxygen concentration should be maintained above 8.2 mg/l in tests with trout, above 6.6 mg/l in tests with

bluegills or fathead minnows, and above 5.5 mg/l in tests with silvesides and sheepshead minnows.

(iii) *Temperature.* The test temperature should be 22±1 °C for bluegill and fathead minnows, 12±1 °C for rainbow trout, and 25±1 °C for silversides and sheepshead minnows. The temperature should be measured at least hourly in one test chamber.

PART 799—[AMENDED]

2. It is proposed that 40 CFR Part 799 be amended as follows:

a. The authority citation for Part 799 continues to read as follows:

Authority: 15 U.S.C. 2603, 2611, 2625.

b. In Part 799 by adding new § 799.3100, to read as follows:

§ 799.3100 Octamethylcyclotetrasiloxane.

(a) *Identification of test substance.* (1) Octamethylcyclotetrasiloxane (CAS No. 556-67-2) (hereinafter "OMCTS") shall be tested in accordance with this section.

(2) Octamethylcyclotetrasiloxane of at least 99.0 percent purity shall be used as the test substance.

(b) *Persons required to submit study plans, conduct tests, and submit data.* All persons who manufacture (import) or process octamethylcyclotetrasiloxane other than as an impurity, after the effective date of this final rule December 13, 1985 to the end of the reimbursement period shall submit exemption applications, submit study plans, conduct tests (in accordance with Part 792 of this chapter), and submit data as specified in this section, Subpart A of this Part, and Part 790 of this chapter for single-phase rulemaking.

(c) *Performance critiera*—(1) In all testing required under this section, OMCTS levels shall be monitored (measured) immediately prior to the start of the testing period, at a minimum of six intervals during the testing period, and at the end of the test.

(2) In the aquatic toxicity testing required under paragraph (e) of this section, the level of OMCTS as measured shall be maintained at a level greater than or equal to the initial concentration measured at the beginning of the testing period.

(3) In the sediment toxicity testing required under paragraph (e)(6) of this section, clean sediments having low, medium, and high clay content shall be spiked with a minimum of three levels of OMCTS.

(d) *Chemical fate*—(1) *Biodegradation.*—(i) *Required testing.* Biodegradation testing in water shall be conducted with OMCTS in accordance with the method described in Bourquin et al., *Developments in Industrial Microbiology* 18: 185–191. 1977. The method is available from the Office of the **Federal Register** Information Center, 11th and L St., NW., Washington, D.C., and the OPTS Reading Room (docket no. OPTS-42071, Environmental Protection Agency, 401 M St., Washington, DC). This incorporation by reference was approved by the Director of the Federal Register on [date]. The method is incorporated as it exists on the effective date of this rule; a notice of any change will be published in the **Federal Register.**

(ii) *Reporting requirements.* (A) The biodegradation test in water shall be completed and the final report submitted to the Agency within one year of the effective date of the final rule.

(B) Quarterly progress reports shall be submitted to the Agency beginning 90 days after the effective date of the final test rule.

(2) *Inherent biodegradability in soil*—(i) *Required testing.* Inherent biodegradability in soil tests to assess aerobic and anaerobic biodegradability shall be conducted with OMCTS in accordance with § 796.3400 of this chapter.

(ii) *Reporting requirements.* (A) The inherent biodegradability in soil tests shall be completed and the final report submitted to the Agency within one year of the effective date of the final rule.

(B) Quarterly progress reports shall be submitted to the Agency beginning 90 days after the effective date of the final test rule.

(3) *Biodegradability in sludge systems*— (i) *Required testing.* Biodegradability tests in sludge systems shall be conducted with OMCTS in accordance with § 796.3341 of this chapter.

(ii) *Reporting requirements.* (A) The biodegradability tests in sludge systems shall be completed and the final results submitted to the Agency within one year of the effective date of the final rule.

(B) Quarterly progress reports shall be submitted to the Agency beginning 90 days after the effective date of the final test rule.

(e) *Environmental effects*—(1) *Fish acute toxicity.*—(i) *Required testing.* Fish acute toxicity tests shall be conducted with OMCTS using *Pimephales promelas* (fathead minnow), *Salmo gairdneri* (rainbow trout), *Lepomis macrochirus* (bluegill sunfish), *Cyprinodon variegatus* (sheepshead minnow), and *menidia peninsulae* (silversides) in accordance with § 797.1400 of this chapter.

(ii) *Reporting requirements.* (A) The fish acute toxicity tests shall be completed and the final report submitted to the Agency within one year of the effective date of the final rule.

(B) Quarterly progress reports shall be submitted to the Agency beginning 90 days after the effective date of the final test rule.

(2) *Daphnid acute toxicity*—(i) *Required testing.* The daphnid acute toxicity test shall be conducted with OMCTS using *Daphnia magna* or *D. pulex* in accordance with § 797.1300 of this chapter.

(ii) *Reporting requirements.* (A) a daphnid acute toxicity test shall be completed and the final report submitted to the Agency within one year of the effective date of the final rule.

(B) Quarterly progress reports shall be submitted to the Agency beginning 90 days after the effective date of the final test rule.

(3) *Mysid acute toxicity*—(i) *Required testing.* A mysid acute toxicity test shall be conducted with OMCTS using *Mysidopsis bahia* in accordance with § 797.1930 of this chapter.

(ii) *Reporting requirements.* (A) The mysid acute toxicity test shall be completed and the final report submitted to the Agency within one year of the effective date of the final rule.

(B) Quarterly progress reports shall be submitted to the Agency beginning 90 days after the effective date of the final test rule.

(4) *Oyster acute toxicity*—(i) *Required testing.* An oyster acute toxicity test shall be conducted with OMCTS using *Crassostrea virginica* in accordance with § 797.1800 of this chapter.

(ii) *Reporting requirements.* (A) The oyster acute toxicity test shall be completed and the final report submitted to the Agency within one year of the effective date of the final rule.

(B) Quarterly progress reports shall be submitted to the Agency beginning 90 days after the effective date of the final test rule.

(5) *Algal acute toxicity*—(i) *Required testing.* (A) Algal acute toxicity tests shall be conducted with OMCTS using *Selenastrum capricornutum* and *Skeletonema costatum* in accordance with § 797.1050 of this chapter and modifications specified in paragraph (e)(5)(i)(B) of this section.

(B) Modification. The requirement under § 797.1050 (c)(6)(i)(B) of this chapter is modified to require that the final separation of the algal cells from the test solution be done using an ultrafiltration (e.g. 0.45 micrometer pore size) technique.

(ii) *Reporting requirements.* (A) The algal acute toxicity tests shall be completed and the final report submitted

to the Agency within one year of the effective date of the final rule.

(B) Quarterly progress reports shall be submitted to the Agency beginning 90 days after the effective date of the final test rule.

(6) *Sediment toxicity*—(i) *Required testing.* A sediment toxicity test shall be conducted using OMCTS-spiked clean sediments having low medium, and high clay content according to the method of R.C. Swartz et al., "Phoxocephalid Amphipod Bioassay for Marine Sediment Toxicity," as published in the American Society for Testing and Materials Special Technical Publication 854, R.C. Cardwell et al. (eds.), American Society for Testing and Materials, Philadelphia, 1985, pp. 284–307 which is incorporated by reference. This document is available for inspection at both the Office of the Federal Register Information Center and the OPTS Reading Room (docket no. OPTS 42071). This incorporation by reference was approved by the Director of the Federal Register on (DATE). This material is incorporated as it exists on the date of approval, and a notice of any change will be published in the Federal Register.

(ii) *Reporting requirements.* (A) The sediment toxicity test shall be completed and the final report submitted to the Agency within one year of the effective date of the final rule.

(B) Quarterly progress reports shall be submitted to the Agency beginning 90 days after the effective date of the final test rule.

(7) *Fish chronic toxicity*—(i) *Required testing.* A fish chronic toxicity test shall be conducted with OMCTS using the most sensitive fish (with the lowest LC_{50}) from the acute toxicity testing conducted in accordance with paragraph (e)(i) of this section. The fish chronic toxicity test shall be conducted in accordance with § 797.1600 of this chapter.

(ii) *Reporting requirements.* (A) The fish chronic toxicity test shall be completed and the final report submitted to the Agency within two years of the effective date of the final rule.

(B) The protocol for the chronic study must be submitted within 30 days of the submission of the final report on the fish acute toxicity studies. Quarterly progress reports shall be submitted to the Agency beginning 90 days after submission of the study plan for this test.

(8) *Daphnid chronic toxicity*—(i) *Required testing.* A Daphnid chronic toxicity test shall be conducted with OMCTS using *Daphnia magna* or *D. pulex* in accordance with § 797.1330 of this chapter.

(ii) *Reporting requirements.* (A) The Daphnid chronic toxicity test shall be completed and the final report submitted to the Agency within two years of the effective date of the final rule.

(B) The protocol for the chronic study must be submitted within 30 days of the submission of the final report on the daphnid acute toxicity study. Quarterly progress reports shall be submitted to the Agency beginning 90 days after submission of the study plan for this test.

(9) *Mysid chronic toxicity*—(i) *Required testing.* A Mysid chronic toxicity test shall be conducted with OMCTS using *Mysidopsis bahia* (mysid shrimp) in accordance with § 797.1950 of this chapter.

(ii) *Reporting requirements.* (A) The mysid chronic toxicity test shall be completed and the final report submitted to the Agency within two years of the effective date of the final rule.

(B) The protocol for the chronic study must be submitted within 30 days of the submission of the final report on the mysid acute toxicity study. Quarterly progress reports shall be submitted to the Agency beginning 90 days after submission of the study plan for this test.

(10) *Bioconcentration in fish*—(i) *Required testing.* A bioconcentration test shall be conducted with OMCTS using *Pimephales promelas* (fathead minnow) in accordance with § 797.1520 of this chapter.

(ii) *Reporting requirements.* (A) The bioconcentration test shall be completed and the final report submitted to the Agency within one year of the effective date of the final rule.

(B) Quarterly progress reports shall be submitted to the Agency beginning 90 days after the effective date of the final test rule.

(11) *Bioconcentration in oyster*—(i) *Required testing.* A bioconcentration test shall be conducted with OMCTS using *Crassostrea virginica* (oyster) in accordance with § 797.1830 of this chapter.

(ii) *Reporting requirements.* (A) The bioconcentration test shall be completed and the final report submitted to the Agency within one year of the effective date of the final rule.

(B) Quarterly progress reports shall be submitted to the Agency beginning 90 days after the effective date of the final test rule.

(12) *Mallard reproduction*—(i) *Required testing.* A Mallard reproduction test shall be conducted with OMCTS in accordance with § 797.2150 of this chapter.

(ii) *Reporting requirements.* (A) The reproduction test shall be completed and the final report submitted to the Agency within eighteen months of the effective date of the final rule.

(B) Quarterly progress reports shall be submitted to the Agency beginning 90 days after the effective date of the final test rule.

(Information collection requirements have been approved by the Office of Management and Budget under control number 2070-0033.)

[FR Doc. 85-25791 Filed 10-29-85; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 85-317; RM-5053]

FM Broadcast Station in Trenton, GA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes the allotment of Channel 247A to Trenton, Georgia, as its first FM service, in response to a petition filed by Trenton Service Company, Inc.

DATE: Comments must be filed on or before December 17, 1985, and reply comments on or before January 2, 1985.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

The authority citation for Part 73 continues to read:

Authority: Secs. 4 and 303, 48 Stat. 1066, as amended, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply secs. 301, 303, 307, 48 Stat. 1081, 1082, as amended, 1083, as amended, 47 U.S.C. 301, 303, 307. Other statutory and executive order provisions authorizing or interpreted or applied by specific sections are cited to text.

Notice of Proposed Rulemaking

In the matter of amendment of § 73.202(b), Table of Allotments, FM Broadcast Stations. (Trenton, Georgia), MM Docket No. 85-317, RM-5053.

Adopted: October 15, 1985.
Released: October 24, 1985.

By the Chief, Policy and Rules Division.

1. The Commission herein considers a petition for rule making filed by Trenton Service Company, Inc. ("petitioner")

requesting the allotment of Channel 274A to Trenton, Georgia, as its first FM service. Petitioner stated its intention to apply for the channel. Channel 247A can be allotted to Trenton in compliance with the minimum distance separation requirements.[1]

PART 73—[AMENDED]

2. In view of the fact that the proposed allotment could provide a first FM service to Springfield, the Commission proposes to amend the FM Table of Allotments, § 73.202(b) of the Rules with regard to the following community:

City	Channel No.	
	Present	Proposed
Trenton, Georgia		247A

3. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be allotted.

4. Interested parties may file comments on or before December 17, 1985, and reply comments on or before January 2, 1986, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioners, or their counsel or consultant, as follows: Joseph C. Belisle, Law Office of Matthew L. Leibowitz, 3050 Biscayne Boulevard—Suite 501, Miami, Florida 33137.

5. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Allotments, § 73.202(b) of the Commission's Rules. See, *Certification that sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

6. For further information concerning this proceeding, contact Montrose H. Tyree, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division Mass Media Bureau.

Appendix

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the FM Table of Allotments, §§ 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which the Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed allotment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is allotted and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following precedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to allot a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments: Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, DC.

[FR Doc. 85-25886 Filed 10-29-85; 8:45 am]
BILLING CODE 6712-01-M

[1] The separation requirements are met based on the grant of a construction permit to Station WRSA, Decatur, Alabama, to increase its antenna height.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 285

[Docket No. 50718-5118]

Atlantic Tuna Fisheries

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

ACTION: Proposed rules.

SUMMARY: NOAA issues a proposed rule to place a minimum size limit of seven pounds (3.2 kg) on the landing of bigeye tuna in the Atlantic tuna fishery. This conservation measure prohibits the landing of bigeye tuna less than seven pounds as recommended by the

International Commission for the Conservation of Atlantic Tunas (Commission). The intended effect is to eliminate any advantage to identifying yellowfin as bigeye tuna by making size limit regulations identical for both species.

DATE: Written comments on the proposed rule must be received on or before November 29, 1985.

ADDRESS: Copies of the regulatory impact review prepared for this rule are available from and comments may be sent to James J. Morgan, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, CA 90731.

FOR FURTHER INFORMATION CONTACT: James J. Morgan, 213–548–2518.

SUPPLEMENTARY INFORMATION: The Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971 *et seq.*) authorizes the Secretary of Commerce (secretary) to implement the recommendations of the Commission.

The Commission at its 1979 annual meeting recommended that the size limit be the same for bigeye tuna and yellowfin tuna to eliminate any advantage to identifying yellowfin as bigeye since the two species are similar in appearance. On January 13, 1981 (46 FR 3025), regulations prohibited fishing for bigeye tuna (*Thunnus obesus*) weighing less than seven pounds round weight were published in the **Federal Register.** The prohibition against fishing for bigeye tuna less than seven pounds remained in effect until December 31, 1983.

Also adopted at the 1979 meeting was an incidental catch allowance of three percent by weight. This measure, in conjunction with the size limit, made regulations for bigeye tuna identical to those for yellowfin tuna. The incidental catch and landing restriction was implemented on January 13, 1981 (46 FR 3025). These restrictions did not contain an expiration date.

At its third special meeting in 1982, the Commission recommended that the minimum size limit for bigeye tuna be extended until the end of 1984 to allow more time for the results of research to become available. Although the Commission recommended that the size limit be extended until the end of 1984, the expiration date of the prohibition on fishing for small bigeye tuna was not removed from the U.S. regulations. At its fourth special meeting in 1984, the Commission recommended that the size limit on bigeye tuna remain in effect indefinitely. Now that the Commission has recommended that the size limit be extended indefinitely, an amendment to the regulations is being proposed to implement the Commission's recommendations and to conform the fishing restrictions to the limitations on the landing of yellowfin.

Classification

A draft regulatory impact review (RIR) was prepared which presents the effects of implementing the minimum size limit. Copies of the RIR are available at the above address. Based on the RIR, the Administrator, NOAA, determined that the rule is not major as defined by E.O. 12291. It also was determined that this action is not significant under the Regulatory Flexibility Act because it will not have a significant economic effect on a substantial number of small entities. The rule will not have an impact because it reflects current fishing practice in the industry and no bigeye tuna was harvested in 1983 and 1984.

Since these proposed regulations clarify and improve implementation of the Commission's recommendations without altering the management regime, they are excluded from the requirements of the National Environmental Policy Act and no environmental assessment or environmental impact statement has been prepared.

This rule has no information collection provision for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

List of Subjects in 50 CFR Part 285

Fish, Fisheries, Reporting and recordkeeping requirements.

Dated: October 25, 1985.

Carmen J. Blondin,

Deputy Assistant Administrator For Fisheries Resource Management, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR Part 285 is amended as follows:

PART 285—[AMENDED]

1. The authority citation for Part 285 continues to read as follows:

Authority: 16 U.S.C. 971 *et seq.*

§ 285.50 [Amended]

2. Section 285.50 is amended by removing the last sentence "The prohibition against fishing for bigeye tuna less than seven pounds is to remain in effect until December 31, 1983."

[FR Doc. 85–25912 Filed 10–29–85; 8:45 am]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 50, No. 210
Wednesday, October 30, 1985

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.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Committee on Judicial Review; Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of a meeting of the Committee on Judicial Review of the Administrative Conference of the United States, to be held at 9:30 a.m. Tuesday, November 12, 1985, at the offices of Cadwalader, Wickersham, & Taft, 1333 New Hampshire Avenue, NW., 7th Floor, Washington, DC. The committee will meet to continue discussion of a draft recommendation on administrative and judicial review in immigration proceedings based on a report by Professor Stephen Legomsky.

Attendance is open to the interested public, but limited to the space available. Persons wishing to attend should notify the Office of the Chairman of the Administrative Conference at least two days in advance. The committee chairman, if he deems it appropriate, may permit members of the public to present oral statements at the meeting; any members of the public may file a written statement with the committee before, during or after the meeting.

For further information concerning this meeting contact Mary Candace Fowler, Office of the Chairman, Administrative Conference of the United States, 2120 L Street, NW, Suite 500, Washington, DC (Telephone: 202–254–7065.) Minutes of the meeting will be available on request.

Dated: October 28, 1985.

Richard K. Berg,

General Counsel.

[FR Doc. 85–26016, Filed 10–29–85; 8:45 am]

BILLING CODE 6110–01–M

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Managment and Budget

October 25, 1985.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatments. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to povide the information; (8) An indication of whether section 3504(h) of Pub. L. 96–511 applies; (9) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Department Clearance Officer, USDA, OIRM, Room 404–W Admin. Bldg., Washington, DC 20250, (202) 447–2118.

Comments on any of the items listed should be submitted directly to: Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, Attn: Desk Officer for USDA.

If you anticipate commenting on a submission but find that preparation time will prevent you from doing so promptly, you should advise the OMB Desk Officer of your intent as early as possible.

Extension

• Agricultural Marketing Service
7 CFR, Part 54—Meat, Prepared Meats, and Meat Products (Grading, Certification, Standards)
LS–313 and LS–315
On occasion
Businesses or other for-profit; 15,755 responses; 349 hours; not applicable under 3504(h)
Eugene M. Martin, (202) 382–1246

• Agricultural Marketing Service
Poultry Market News Reports
PY–10, PY–17, PY–88, PY–90
Weekly; Monthly Businesses or other for-profit; Small businesses or organizations; 55,932 responses; 2,241 hours; not applicable under 3504(h)
Raymond Wruk, (202) 447–6911

• Agricultural Stabilization and Conservation Service
7 CFR Parts 724, 725, and 726
MQ–108
On occasion
Farms; 1,000 responses; 170 hours; not applicable under 3504(h)
Raymond S. Fleming, (202) 447–4318

• Forest Service
Fuelwood and Post Production in Selected States
Annually
Individuals or households; Small businesses or organizations; 8,052 reponses; 805 hours; not applicable under 3504(h)
James E Blyth, (612) 784–0315

• Forest Service
Insect and Disease Detection
FS–3400–1
On occasion
State or local governments; 1,050 responses; 263 hours; not applicable under 3504(h)
David Alligood, (703) 235–1554

• Soil Conservation Service
Application for Payment
SCS–FNM–141
On occasion
Individuals or households; Farms; Small businesses or organizations; 18,600 responses; 4,650 hours; not applicable under 3504(h)
Roy R. Twidt, (202) 447–4251

Reinstatement

• Farmers Home Administration
7 CFR 1940–G, Environmental Program
FmHA 1940–20
On occasion
Individuals or households; State or local governments; Farms; Businesses or other for-profit; Non-profit institutions; Small businesses or organizations; 7,995 responses; 75,095 hours; not applicable under 3504(h)
John Hansel, (202) 382–9647

Revision

• Agricultural Marketing Service
Navel Oranges Grown in Arizona and Designated Part of California—Marketing Order 907

Recordkeeping; On occasion; Weekly; Annually; Daily
Farms; Businesses or other for-profit; Small businesses or organizations; 155,817 responses; 21,603 hours; not applicable under 3504(h)
William J. Doyle, (202) 447–5975

• Agricultural Marketing Service
Valencia Oranges Grown in Arizona and Designate Part of California—Marketing Order 908
Recordkeeping; On occasion; Weekly; Annually
Farms; Businesses or other for-profit; 96,438 responses; 14,394 hours; not applicable under 3504(h)
William J. Doyle, (202) 447–5975

• Economic Research Service
Trucking of Fresh Produce and Ornamental from Florida Biennially
Small businesses or organizations; 2,600 responses; 300 hours; not applicable under 3504(h)
Edward I. Reinsel, (202) 786–3310

Donald E. Hulcher,
Acting Department Clearance Officer.
[FR Doc. 85–25879 Filed 10–29–85; 8:45 am]
BILLING CODE 3410–01–M

Agricultural Stabilization and Conservation Service

Feed Grain Donations for the Northern Cheyenne Reservation Indian Tribe in Montana

Pursuant to the authority set forth in section 407 of the Agricultural Act of 1949, as amended (7 U.S.C. 1427) and Executive Order 11336, I have determined that:

1. The chronic economic distress of the needy members of the Northern Cheyenne Indian Tribe of the Northern Cheyenne Reservation in Montana has been materially increased and become acute because of severe and prolonged drought, thereby creating a serious shortage of feed and causing increased economic distress. This reservation is designated for Indian use and is utilized by members of the Northern Cheyenne Tribe for grazing purposes.

2. The use of feed grain or products thereof made available by the Commodity Credit Corporation for livestock feed for such needy members of the tribe will not displace or interfere with normal marketing of agricultural commodities.

3. Based on the above determinations, I hereby declare the reservation and grazing lands of the tribe to be acute distress areas and authorize the donation of feed grain owned by the Commodity Credit Corporation to livestock owners who are determined by the Bureau of Indian Affairs, Department of the Interior, to be needy members of the tribes utilizing such lands. These donations by the Commodity Credit Corporation may commence upon signature of this notice and shall be made available through May 31, 1986, or such other date as may be stated in a notice issued by the Department of Agriculture.

Signed at Washington, D.C. on October 23, 1985.

Milton J. Hertz,
Acting Administrator, Agricultural Stabilization and Conservation Service.
[FR Doc. 85–25825 Filed 10–29–85; 8:45 am]
BILLING CODE 3410–05–M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket No. 37–85]

Foreign-Trade Zone 9, Honolulu, HI; Application for Subzone at Maui Pineapple Plant, Kahului

An application has been submitted to the Foreign-Trade Zones Board (the Board) on behalf of the State of Hawaii, grantee of Foreign-Trade Zone 9, by the Hawaii State Department of Planning and Economic Development, requesting special-purpose subzone status for the pineapple cannery of Maui Pineapple Co., Ltd., in Kahului, Hawaii, within the Kahului Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on October 18, 1985.

The Maui Pineapple plant is located on Kane Street at Kamehameha Avenue, Kahului, Maui. The 32-acre facility employs 900 persons and is used to manfuacture tin cans and produce canned pineapple. The fresh pineapple is of domestic origin. The tin plate used to make the cans has traditionally been sourced abroad. Some of the canned pineapple is exported.

Zone procedures would allow the company to take advantage of the same duty-free treatment that is in effect for foreign producers of canned pineapple with respect to tin plate. The duty rate for tin plate is 3.9 percent, whereas tin cans imported as containers with merchandise are dutiable only as part of the value of their contents. In the case of pineapple, foreign canners have an even greater cost advantage because the duties are specific, based on net weight, and the cans enter duty free. The Customs cost savings will help Maui Pineapple improve its international competitiveness. The only other domestic pineapple cannery, the Dole Processed Food Company facility in Oahu, was recently approved as a subzone (Board Order 308, 7/26/85).

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the application and report on the Board. The committee consists of: Dennis Puccinelli (Chairman), Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, DC 20230; George Roberts, District Director, U.S. Customs Service, Pacific Region, 335 Merchant, 228 Federal Bldg., P.O. Box 1641, Honolulu, HI 96808; and Colonel Michael M. Jenks, District Engineer, U.S. Army Engineer District, Honolulu, Building 290, Ft. Shafter, HI 96858.

Comments concerning the proposed subzone are invited in writing from interested persons and organizations. They should be addressed to the Board's Executive Secretary at the address below and postmarked on or before November 26, 1985.

A copy of the application is available for public inspection at each of the following locations.

Port Director's Office, U.S. Customs Service, 65 Wharf Street, P.O. Box 1458, Kahului, HI 96732
Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 1529, 14th and Pennsylvania, NW., Washington, DC 20230

Dated: October 23, 1985.

John J. Da Ponte, Jr.,
Executive Secretary.
FR Doc. 85–25877 Filed 10–29–85; 8:45 am]
BILLING CODE 3510–DS–M

International Trade Administration

Applications for Duty-Free Entry of Scientific Instruments; Stanford University et. al.

Pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897; 15 CFR Part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with § 301.5(a)(3) and (4) of the regulations and be filed within 20 days with the Statutory Import Pargrams Staff, U.S. Department of Commerce, Washington,

DC 20230. Applications may be examined between 8:30 A.M. and 5:00 P.M. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket No. 85-006R. Applicant: Stanford University, 851 Welch Road, Palo Alto, CA 94304. Instrument: Tritium Meter, Model WTM 5000. Original notice of this resubmitted application was published in the **Federal Register** of December 3, 1984.

Docket No. 85-143R. Applicant: Memorial Hospital for Cancer & Allied Diseases, 1275 York Avenue, New York, NY 10021. Instrument: Electron Microscope, Model EM 410LS. Original notice of this resubmitted application was published in the **Federal Register** of May 3, 1985.

Docket No. 85-052R. Applicant: Centers for Disease Control, 1600 Clifton Road, N.E., Atlanta GA 30333. Instrument: Mass Spectrometer and Data System, Models MM7070E and 11/250. Original notice of this resubmitted application was published in the **Federal Register** of January 8, 1985.

Docket No. 85-152R. Applicant: Illinois Environmental Protection Agency, 2200 Churchill Road, Springfield, IL 62706. Instrument: Conductivity Meter, Model EM 34-3 with Accessories. Original notice of this resubmitted application was published in the **Federal Register** of May 8, 1985.

Docket No. 85-292. Applicant: North Carolina Bapist Hospital, 300 South Hawthorne Road, Winston-Salem, NC 27103. Instrument: Lithotripter. Manufacturer: Dornier, West Germany. Intended use: The instrument is intended to be used for reseach on kidney stones and for educational purposes in the training of undergraduate and graduate medical students, nursing and allied health students and personnel.

Application received by Commissioner of Customs: September 20, 1985.

Docket No. 85-301. Applicant: University of Rhode Island, Graduate School of Oceanography, Narragansett, RI 02882. Instrument: Mass Spectrometer, Model MAT 251 with Accessories. Manufacturer: Finnigan, West Germany. Intended Use: The instrument will be used by a number of faculty and students for research and training purposes. The research projects will include the following:

(1) High resolution study of major late neogene paleoceanographic changes in the South Atlantic and South Pacific.

(2) Paleoenvironmental evolution of southern high-latitude oceans based on Deep-Sedimentary Sequences.

(3) Evolutionary processes in neogene planktonic foraminiferal lineage globorotalia (Globoconella).

(4) Burial of organic carbon and sulfur in Cretaceous marine sediments: Mass and isotopic balances.

(5) Gross photosynthesis rate using the reaction $CO_2 + H_2{}^{18}O \rightarrow {}^{18}O^{16}O + CH_2O$.

(6) The concentration and isotopic composition of O_2 in the Late Quaternary atmosphere.

(7) A detailed stable isotope study of Archaen and Proterozoic stromatolites.

(8) Oxygen isotope ratios in freshwater gastropods as Paleoclimatic indicators.

Application received by Commissioner of Customs: September 25, 1985.

(Catalog of Federal Domestic Assistance Progam No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 85-25881 Filed 10-29-85; 8:45 am]

BILLING CODE 3510-DS-M

[Case No. 641]

Peter K. Gopal and Semiconductor Systems International, Inc.; Order Imposing a Civil Penalty and Denying Export Privileges

A proceeding was initiated on February 16, 1983 against Peter K. Gopal and Semiconductor Systems International, Inc. (SSI) (hereinafter jointly referred to as respondents) 2361 Shoreside Court, Santa Clara, California 95051, by the issuance of a charging letter by the Director, Office of Export Enforcement (OEE), International Trade Administration, United States Department of Commerce (the Department). The Department received confirmation that the charging letter was delivered to the respondents by certified mail. The respondents were charged with violating the Export Administration Act of 1969, as amended (currently codified at 50 U.S.C. app. 2401-2420 (1982)) (the Act), and the Export Administration Regulations (currently codified at 15 CFR Parts 368-399 (1985)) (the Regulations).

In the charging letter, OEE alleged that respondent violated the Act and the Regulations by (1) exporting U.S.-origin integrated circuit design data and related goods to Austria and Switzerland without applying for and obtaining validated export licenses as required by § 372.1(b) of the Regulations, and (2) making false and misleading statements to officials of the United States government in connection with the preparation and use of export control documents relating to the export of such data and goods from the United States.

Respondents did not answer the charging letter as required by § 388.7 of the Regulations. Instead, respondents, through their legal counsel, engaged in settlement discussions with the Department of Commerce, initiated pursuant to a letter dated July 11, 1983. When settlement discussions reached a stand-still, the parties agreed, on December 9, 1983, that respondents would either respond to the Department's offer of settlement or answer the charging letter no later than January 14, 1984. On January 18, 1984, the Department was informed by a letter from the respondents' legal counsel that he had withdrawn from the case. The Department was informed that respondents would be appearing in the matter *pro se*.

In a letter dated January 31, 1984, the Department informed respondents that failure to answer the charging letter would be treated as a default under § 388.8 of the Regulations. However, in order to give respondents an opportunity to obtain new legal counsel, the Department extended the deadline for a response to February 29, 1984. The letter was sent certified mail, return receipt requested, and was returned as "unclaimed" on February 24, 1984. The Department then issued another letter on April 24, 1984, allowing respondents 20 days from the date of service of the letter to answer the original charging letter before the Department would seek a default judgment. This letter was hand-delivered to respondent Gopal and certified as such by an OEE Special Agent on May 21, 1984.[1] To date, respondents have not answered. Under the Regulations, failure to answer the charges contained in the charging letter constitutes an admission of those charges by respondents.

In accordance with § 388.8 of the Regulations, the Department submitted evidence to support the allegations contained in the charging letter. The undersigned Administration Law Judge considered the evidence, and my findings are detailed below.

From February to July 1978, Peter K. Gopal, acting individually and on behalf of SSI, exported from the United States to Austria and Switzerland four separate shipments of U.S.-origin goods and technical data. The Shipper's Export

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[1] As the owner of SSI, Gopal was served individually and for SSI. To the best of Department's knowledge, SSI has ceased to operate. However, the denial of export privileges should still include SSI since the company could resume operations in the future.

Control Declaration [an export control document under § 370.2 of the Regulations] accompanying each of the four shipments contained false and misleading information as to the true value of the goods being exported, in violation of the Regulations. The evidence shows that Gopal instituted a complex system that involved two separate sets of export documents for each shipment: one set contained true information which he kept for his own file, and one set contained false information which he used on the official documents. Moreover, two of the four shipments were effected by respondents without the required validated export licenses.

Based on the foregoing, I find that Peter K. Gopal and Semiconductor Systems International, Inc. engaged in export activities in violation of the Act and the Regulations, as alleged in the charging letter. I find that an Order denying export privileges to Peter K. Gopal and Semiconductor Systems International, Inc. for a period ending 20 years after the date of this Order is reasonably necessary to protect the public interest and to achieve effective enforcement of the Act and the Regulations. I further find it appropriate to impose a civil penalty of $40,000 on respondent, Gopal.

Therefore, pursuant to the authority delegated to me by Part 388 of the Regulations, it is Ordered:

I. Respondent Gopal is assessed a civil penalty pursuant to section 11(c)(1) of the Act, in the amount of $40,000. Said civil penalty shall be payable within 20 days from the service of this order in accordance with the attached instructions.

II. All outstanding validated export licenses in which any respondent appears or participates, in any manner or capacity, are hereby revoked and shall be returned forthwith to the Office of Export Administration for cancellation.

III. Respondents, their successors or assignees, officers, partners, representatives, agents, and employees hereby are denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction involving commodities or technical data exported from the United States in whole or in part, or to be exported, or that are otherwise subject to the Regulations. Without limitation of the generality of the foregoing, participation prohibited in any such transaction, either in the United States or abroad, shall include participation, directly or indirectly, in any manner or capacity: (a) As a party or as a representative of a party to a validated export license application, (b) in preparing or filing any export license application or reexport authorization, or any document to be submitted therewith, (c) in obtaining or using any validated or general export license or other export control document, (d) in carrying on negotiations with respect to, or in receiving, ordering, buying, selling, delivering, storing, using, or disposing of, in whole or in part, any commodities or technical data exported from the United States, or to be exported, and (e) in the financing, forwarding, transporting, or other servicing of such commodities or technical data. Such denial of export privileges shall extend only to those commodities and technical data which are subject to the Act and the Regulations.

IV. Such denial of export privileges shall extend not only to respondents, but also to their agents and employees and to any successors. After notice and opportunity for comment, such denial may also be made applicable to any person, firm, corporation, or business organization with which any respondent is now or hereafter may be related by affiliation, ownership, control, position of responsibility, or other connection in the conduct of export trade or related services.

V. No person, firm, corporation, partnership or other business organization, whether in the United States or elsewhere, without prior disclosure to and specific authorization from the Office of Export Administration, shall, with respect to U.S.-origin commodities and technical data, do any of the following acts, directly or indirectly, or carry on negotiations with respect thereto, in any manner or capacity, on behalf of or in any association with any respondent or any related party, or whereby any respondent or any related party may obtain any benefit therefrom or have any interest or participation therein, directly or indirectly: (a) Apply for, obtain, transfer, or use any license, Shipper's Export Declaration, bill of lading, or other export control document relating to any export, reexport, transshipment, or diversion of any commodity or technical data exported in whole or in part, or to be exported by, to, or for any respondent or any related party denied export privileges; or (b) order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance, or otherwise service or participate in any export, reexport, transshipment, or diversion of any commodity or technical data exported or to be exported from the United States.

VI. This Order is effective immediately. The denial of respondents' export privileges shall remain in effect for 20 years after the date of the Order.

VII. A copy of this Order shall be served upon respondents and shall be published in the Federal Register.

Dated: October 21, 1985.

Hugh J. Dolan,

Administrative Law Judge.

[FR Doc. 85-25868 Filed 10-29-85; 8:45 am]

BILLING CODE 3510-DT-M

[C-357-001]

Leather Wearing Apparel From Argentina; Initiation and Revised Preliminary Results of Administrative Review of Countervailing Duty Order

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice of Initiation and Revised Preliminary Results of Administrative Review of Countervailing Duty Order.

SUMMARY: In response to a request from a domestic interested party, the Department of Commerce has conducted an administrative review of the countervailing duty order on leather wearing apparel from Argentina. The review covers the period March 18, 1983 through June 30, 1983 and four programs.

As a result of the review, the Department has preliminarily determined the total bounty or grant for the period to be 5.00 percent *ad valorem*. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: October 30, 1985.

FOR FURTHER INFORMATION CONTACT: Peggy Clarke or Lorenza Olivas, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On March 18, 1983, the Department of Commerce ("the Department") published in the Federal Register (48 FR 11480) the countervailing duty order on leather wearing apparel from Argentina and announced its intent to conduct an administrative review of the order.

On May 14, 1984, the Department published in the Federal Register (49 FR 20348) the preliminary results of that review. We gave interested parties an opportunity to comment on the preliminary results. At the request of the Argentine government, an importer, Excelled Sheepskin and Leather Coat Corp., and a domestic interested party, the Amalgamated Clothing and Textile

Workers Union, AFC–CIO, we held a public hearing on June 28, 1984.

During the hearing, both the union and the importer requested that we verify the questionnaire response of the Argentine government. The Department subsequently verified the response and, as a result of the verification, the Department is now revising its preliminary results.

In accordance with § 355.10 of the Commerce Regulations, the union requested on September 17, 1985 that we continue the administrative review of this order. As required by section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department has now conducted that review.

Scope of the Review

Imports covered by the review are shipments of Argentine leather wearing apparel. These products include leather coats and jackets for men, boys, women, girls and infants, and other leather apparel products including leather vests, pants, and shorts. Also included are outer leather shells and parts and pieces of leather wearing apparel. Such merchandise is currently classifiable under items 791.7620, 791.7640, and 791.7660 of the Tariff Schedules of the United States Annotated.

The review covers the period March 18, 1983 through June 30, 1983 and four programs: (1) The reembolso; (2) an export tax on hides; (3) pre-export financing; and (4) incentives for exports from southern ports.

Analysis of Programs

As a result of our verification, we are revising our preliminary results for one program: The reembolso. Our preliminary results for the other programs remain the same.

(1) Reembolso

The reembolso is a cash rebate of taxes, paid upon exportation of merchandise as a percentage of the f.o.b. invoice price. Although the Government of Argentina rebates upon exportation ostensibly all indirect taxes borne by the exported product, the Tariff Act and the Commerce Regulations allow the rebate of only the following: (1) Indirect taxes borne by inputs that are physically incorporated in the exported product (*see* Annex 1.1 of part 355 of the Commerce Regulations), and (2) indirect taxes levied at the final stage (*see* Annex 1.2 of Part 355 of the Commerce Regulations). If the tax rebate upon export exceeds the total amount of allowable indirect taxes described above, the Department considers the difference to be an overrebate of indirect taxes and, therefore, a subsidy.

On July 6, 1982, the Argentine government lowered the reembolso rate to 5 percent for leather wearing apparel and to zero for parts and pieces thereof. The Argentine government submitted as a part of its pre-hearing brief an updated tax incidence study for the leather wearing apparel industry. At our verification, we attempted to verify both the industry-wide tax incidence (on which the tax study presumably was based) and the exporting firm's individual tax incidence during the review period. We were unable to verify either.

Therefore, we consider the entire reembolso on this merchandise to be an overrebate of indirect taxes. Since the firm, the sole exporter to the United States, exported only completed garments during the review period, we preliminarily find the benefit from this program to be 5.00 percent *ad valorem* during the period.

The Argentine government's Resolution M.E. 1090/84 eliminated the reembolso, effective October 29, 1984, for all products eligible for the five percent rate. Therefore, for purposes of the cash deposit of estimated countervailing duties, we preliminarily find the potential benefit to be zero.

(2) Export Tax on Hides

Resolution M.E. 1870 of October 28, 1980 established a 10 percent export tax on raw bovine hides. That level of tax remained in effect until July 7, 1982, when Resolution M.E. 8 raised the export tax to 25 percent. Exporters must pay the tax within eight working days of the date of shipment to avoid a penalty.

Section 771(5) of the Tariff Act states that domestic subsidies are countervailable "if provided or required by government action to a specific enterprise or industry, or group of enterprises or industries." We have previously stated (*see* final results of administrative review of countervailing duty order on non-rubber footwear from Argentina (49 FR 9922; March 16, 1984) that the Department believes that users of hides and leather encompass more than a group of industries within the meaning of section 771(5).

Moreover, as we have stated previously, even if we were to consider the users of leather to be a "specific group of enterprises or industries," we would still find the export tax not to be countervailable. (*Id.*)

(3) Pre-Export Financing

By law, exports of leather wearing apparel to the United States are ineligible for this program. We verified that the exporter did not use this program. Therefore, we preliminarily find no benefit from this program during the review period.

(4) Incentives for Exports from Southern Ports

By law, exports of leather wearing apparel are ineligible for this program. We verified that the exporter did not use this program. Therefore, we preliminarily find no benefit from this program during the review period.

Preliminary Results of the Review

As a result of our review, we preliminarily determine the total bounty or grant to be 5.00 percent *ad valorem* for the period of review. Accordingly, the Department intends to instruct the Customs Service to assess countervailing duties of 5.00 percent of the f.o.b. invoice price on any shipment entered, or withdrawn from warehouse, for consumption on or after March 18, 1983 and exported on or before June 30, 1983.

The Department intends to instruct the Customs Service not to collect a cash deposit of estimated countervailing duties, as provided by section 751(a)(1) of the Tariff Act on any shipments entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review. This deposit requirement shall remain in effect until publication of the final results of the next administrative review.

Interested parties may submit written comments, only on the revision of our findings for the reembolso and on the verification, within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 45 days after the date of publication or the first workday thereafter. Any request for an administrative protective order must be made no later than five days after the date of publication. The Department will publish the final results of this administrative review, including the results of its analysis of issues raised in any such written comments or at a hearing.

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 § 355.10 of the Commerce Regulations (19 CFR 355.10).

Dated: October 24, 1985.

Gilbert B. Kaplan,

Acting Deputy Assistant Secretary, Import Administration.

[FR Doc. 85–25893 Filed 10–29–85; 8:45 am]

BILLING CODE 3510–05–M

National Oceanic and Atmospheric Administration

National Advisory Committee on Oceans and Atmosphere; Meeting

October 24, 1985.

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. 1 (1982), as amended, notice is hereby given that the National Advisory Committee on Oceans and Atmosphere (NACOA) will hold a meeting on Thursday and Friday, November 14–15, 1985. The meeting will be held at the Town and Country Convention Center, 500 Hotel Circle, North, San Diego, California. The meeting will commence at 9:00 a.m. and end at 5:30 p.m. on November 14 and commence at 8:00 a.m. and end at 3:30 p.m. on November 15. The Committee, consisting of 18 non-Federal members appointed by the President from academia, business and industry, public interest organizations, and State and local governments was established by Congress by Pub. L. 95–63 on July 5, 1977. Its duties are to (1) undertake a continuing review, on a selective basis, of national ocean policy, coastal zone management, and the status of the marine and atmospheric science and service programs of the United States; (2) advise the Secretary of Commerce with respect to the carrying out of the programs administered by the National Oceanic and Atmospheric Administration; and (3) submit an annual report to the President and to Congress setting forth an assessment, on a selective basis, of the status of the Nation's marine and atmospheric activities, and submit such other reports as may from time to time be requested by the President or Congress.

The tentative agenda is as follows:

Thursday, November 14, 1985

Town and Country Convention Center, 500 Hotel Circle, North, San Diego, California

9:00 a.m.–11:30 a.m.—Plenary.
9:00 a.m.–9:30 a.m.—Announcements.
9:30 a.m.–10:30 a.m.—Guest Speaker: William Bishop, Acting Assistant Administrator for Environmental Satellite, Data and Information Service (NESDIS), National Oceanic and Atmospheric Administration (NOAA).
Topic: Roles and Missions of NESDIS.
10:30 a.m.–11:30 a.m.—Guest Speaker: William A. Nierenberg, Director, Scripps Institution of Oceanography.
Topic: Federal Roles in Ocean Science and Services.
- NOAA's Role.

11:30 a.m.–1:00 p.m.—Lunch
1:00 p.m.–5:30 p.m.—Plenary.
1:00 p.m.–2:30 p.m.—Topic A: NOAA's Relationships with users of ocean services.
Invited Participants:
- Fisheries (TBA).
- Other (TBA).

2:30 p.m.–3:30 p.m.—Committee Discussion of NOAA Study.
3:30 p.m.–5:30 p.m.—Topic B: NOAA's Relationships with:
- Oceanic Science Community.
- U.S. Navy.

Invited Participants:
- Walter E. Munk, Scripps Institution of Oceanography.
- Navy (TBA).

5:30 p.m.—Recess.

Friday, November 15, 1985

Town and Country Convention Center, 500 Hotel Circle, North, San Diego, California

8:00 a.m.–12:30 p.m.—Panel Meetings.
8:00 a.m.–10:30 a.m.—Panel 1: Roles and Missions of the National Ocean Service/National Marine Fisheries Service.
Speakers: (TBA).
Topic: Panel Work Session.
8:30 a.m.–10:30 a.m.—Panel 2: Roles and Missions of the National Weather Service.
Speakers: None.
Topic: Panel Work Session.
10:30 a.m.–12:30 p.m.—Panel 3: Roles and Missions of the National Environmental Data, and Information Services/Office of Oceanic and Atmospheric Research.
Speakers: None.
Topic: Panel Work Session.
Exclusive Economic Zone Panel Chairman: Lee Gerhard.
Speakers: None.
Topic: Panel Work Session.
12:30 p.m.–1:30 p.m.—Lunch.
1:30 p.m.–3:30 p.m.—Plenary.
- Panel Reports.
- Old Business.
- New Business.

3:30 p.m.—Adjourn.

The public is welcome at the sessions and will be admitted to the extent that seating is available. Persons wishing to make formal statements should notify the Chairman in advance of the meeting. The Chairman retains the prerogative to place limits on the duration of oral statements and discussions. Written statements may be submitted before or after each session.

Additional information concerning these meetings may be obtained through the Committee's Acting Executive Director, Amor L. Lane, whose mailing address is: National Advisory Committee on Oceans and Atmosphere, 3300 Whitehaven Street NW., Page Building #1, Suite 438, Washington, DC 20235. The telephone number is 202/653–7818.

Dated: October 25, 1985.

Amor L. Lane,

Acting Executive Director.

[FR Doc. 85–25890 Filed 10–29–85; 8:45 am]

BILLING CODE 3510-12-M

North Pacific Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The North Pacific Fishery Management Council's Bering Sea/Aleutian Islands and Gulf of Alaska groundfish plan teams will convene public meetings as follows:

Gulf of Alaska groundfish plan team

Will meet November 18–22, 1985, at the Northwest and Alaska Fisheries Center, National Marine Fisheries Service, 7600 Sand Point Way, Building 4, Room 2079, beginning at 9 a.m. on November 18 to finalize the status of stocks report for Gulf of Alaska groundfish and develop halibut prohibited species catch recommendations. For more information, contact Dr. Jim Balsiger at the Northwest and Alaska Fisheries Center, (206) 526–4248.

Bering Sea/Aleutian Islands Groundfish plan team

Will meet November 21–22, 1985, at the Northwest and Alaska Fisheries Center Building 4, Room 2143, to discuss Amendment 9 to the Bering Sea/Aleutian Islands Fishery Management Plan (FMP), partially approved by the Secretary of Commerce. The team also will review public comments on the proposed 1986 levels of total allowable catches. Reports on bycatch of king crab, salmon, and other fully-utilized species by joint ventures in the Bering Sea will be reviewed and discussed, as well as proposed amendments to the Bering Sea/Aleutian Islands FMP for the 1986 amendment cycle, and other issues related to Bering Sea/Aleutian Islands groundfish fisheries management. Team recommendations will be prepared also for Council consideration at the Council's December 9–13, 1985, meeting. For further information contact Jim Glock, North Pacific Fishery Management Council, 605 West 4th Avenue, P.O. Box 103136, Anchorage, AK 99510; telephone: (907) 274–4563.

Dated: October 24, 1985.

Richard B. Roe,

Director, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 85–25889 Filed 10–29–85; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Import Limits for Certain Cotton Textile Products Produced or Manufactured in Colombia

October 25, 1985.

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 October 31, 1985. For further information contact Nathaniel Cohen, Trade Reference Assistant, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212.

Background

Under the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of July 1 and August 11, 1982, as amended, between the Governments of the United States and Colombia, the United States has decided to control imports of cotton sheeting in Category 313, produced or manufactured in Colombia and exported during the twelve-month period which began on July 1, 1985 and extends through June 30, 1986. The letter to the Commissioner of Customs which follows this notice establishes the import level for this category.

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), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1985).

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

October 25, 1985.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229

Dear Mr. Commissioner: This letter amends, but does not cancel, the letter of June 27, 1985 which directed you to prohibit entry of certain cotton, wool and man-made fiber textile products, produced or manufactured in Colombia and exported during the twelve-month period which began on July 1 1985 and extends through June 30, 1986.

Effective on October 31, 1985, the letter of June 27, 1985 is hereby amended to include a restraint level of 14,604,583 square yards [1] for cotton textile products in Category 313.

Textile products in Category 313 which have been exported to the United States prior to July 1, 1985 shall not be subject to this directive.

Textile products in Category 313 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 Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 85–25878 Filed 10–29–85; 8:45 am]

BILLING CODE 3510-DR-M

Adjusting Import Restraint Limits for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in Taiwan; Correction

October 25, 1985.

On October 8, 1985, a notice was published in the **Federal Register** (50 FR 40989) which adjusted the restraint limits for various categories of cotton, wool and man-made fiber textile products, produced or manufactured in Taiwan and exported to the United States during the twelve-month period which began on January 1, 1985 and extends through December 31, 1985. In the letter to the Commissioner of Customs which followed that notice footnote 13 should be corrected to read as follows:

In Category 670, only T.S.U.S.A. numbers 706.4144, 706.4152 and 706.3420.

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 85–25879 Filed 10–29–85; 8:45 am]

BILLING CODE 3510-DR-M

Import Restraint Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Turkey

October 25, 1985.

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 October 31, 1985. For further information contact Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212.

On October 18, 1985 the Governments of the United States and the Republic of Turkey exchanged letters for a new bilateral textile agreement dating from January 1, 1985 and extending through December 31, 1987. The agreement establishes specific limits on plied acrylic yarn in Category 604pt. (only T.S.U.S.A. number 310.5049) and cotton sheeting in Category 313, produced or manufactured in Turkey and exported during the twelve month period which began on January 1, 1985 and extends through December 31, 1985. The letter from the Chairman of the Committee for the Implementation of Textile Agreements which follows this notice cancels the previously established level for these categories and directs the Commissioner of Customs to prohibit entry into the United States for consumption and withdrawal from warehouse for consumption of cotton and man-made fiber textiles and textile products in Categories 313 and 604pt. in excess of the newly agreed twelve-month limits.

The limits have not been adjusted to account for merchandise in these categories exported on and after January 1, 1985. These charges will be made as the data become available.

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), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (44 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1985).

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.

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

October 25, 1985.

Commissioner of Customs,
Department of the Treasury, Washington, D.C. 20229

[1] The level has not been adjusted to reflect any imports exported after June 30, 1985.

Dear Mr. Commissioner: This directive cancels and supersedes the directive of January 18 and May 7, 1985 which directed you to prohibit entry of cotton and man-made fiber textile products in Categories 313 and 604pt.[1], produced or manufactured in Turkey, in excess of the designated limits.

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 and Man-Made Fiber Textile Agreement of October 18, 1985, between the Governments of the United States and the Republic of Turkey; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on October 31, 1985, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton and man-made fiber textiles and textile products in Categories 313 and 604pt.[1], produced or manufactured in Turkey and exported during the twelve-month period which began on January 1, 1985 and extends through December 31, 1985, in excess of the following limits:

Category	12-month limit [1]
313	15,000,000 square yards.
604pt.[2]	650,000 pounds.

[1] The limits have not been adjusted to reflect any imports exported after December 31, 1984.
[2] In Category 604, only T.S.U.S.A. number 310.5049.

Textile products in Categories 313 and 604pt.[1] which have been exported to the United States prior to January 1, 1985 shall not be subject to this directive.

Textile products in Categories 313 and 604pt.[1] 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 restraint limits set forth above are subject to adjustment pursuant to the provisions of the bilateral agreement of October 18, 1985 between the Governments of the United States and the Republic of Turkey, which provide, in part that specific limits may be increased by designated percentages for swing, carryover and carryforward; however, carryforward will not be available in the final twelve-month agreement period.

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), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1985).

[1] In Category 604, only T.S.U.S.A. number 310.5049.

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 Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 85-25880 Filed 10-29-85; 8:45 am]

BILLING CODE 3510-DR-M

COMMITTEE FOR THE PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1986; Establishment; Correction

In FR Doc. 85-24406 appearing at page 41809 in the issue for Tuesday, October 15, 1985, make the following corrections:

1. On page 41810, second column, under CLASS 1025, Staff Section, second line, two-digit number reading "-91" should read "-01". Same column, under CLASS 1680, Wire Bundle Assemblies, fouth line, two-digit number reading "-00" should read "-01".

2. On page 41812, first column, under CLASS 6505, Iodine Ampoules, NF, second line, delete "-00-".

3. On page 41812, second column, mid-way down under Urinal, Incontinent, second line, two-digit number reading "-01" should read "-00".

4. On page 41812, third column, eleventh line from the top, insert "Gown, Operating, Surgical (IB)" as the next line.

5. On page 41813, second column, under CLASS 7210, Blanket, Bed/Bath (Flame Resistant), first line, two-digit number reading "-00" should read "-01".

6. On page 41813, third column, under Mattress, Innerspring, first line, three-digit number reading "-020" should read "-205".

7. On page 41814, second column, mid-way down under CLASS 7340, Medium Weight Plastic Cutlery, after the fourth line, insert "Army and Air Force Exchange Service only". Same column, under CLASS 7360, ninth line should read "Dining Packet (Dietetic) (IB)".

8. On page 41816, second column, under CLASS 7670, Microfiche, Subject Headings and Name, after the second line, insert "Library of Congress only". Same column, under CLASS 7690, Folder, Chapel Program, after the first line, insert "Wright Patterson AFB, OH only". Same column, under Illustrative Sheet, after the first line, insert "Wright Patterson AFB, OH only" as the next line.

9. On page 41817, third column, fifth line from the top, the next five lines two-digit number reading "-00" should read "-01". Same column, mid-way down under Wood Container, nine lines down, insert "Robins AFB, GA only" as the next line.

10. On page 41819, second column, under CLASS 8455, Medal and Medal Sets, first three-digit number reading "855" should read "8455".

11. On page 41820, first column, under CLASS 8915, Potatoes, White, Fresh, after the second line, insert "DLA in North Carolina and South Carolina only" as the next line.

C.W. Fletcher,

Executive Director.

[FR Doc. 85-25876 Filed 10-29-85; 8:45 am]

BILLING CODE 6822-33-M

COMMODITY FUTURES TRADING COMMISSION

Chicago Board of Trade; Proposed Amendment Relating To the Soybean Meal Futures Contract

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of proposed contract market rule change.

SUMMARY: The Chicago Board of Trade ("CBOT" or "Exchange") has submitted a proposal to amend Regulation 1291.01 of its soybean meal futures contract relating to the conditions and requirements applicable to the regularity of soybean meal shipping plants for purposes of delivery on the futures contract. The proposed amendment would require, as a condition of regularity, that a soybean meal shipping plant must not have been continuously out of operation for the two consecutive years prior to its application to the Exchange for regularity or renewal thereof. The Commodity Futures Trading Commission ("Commission") has determined that the proposal is of major economic significance and that, accordingly, publication of the proposal is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purposes of the Commodity Exchange Act.

DATE: Comments should be received on or before November 29, 1985.

ADDRESS: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity

Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581. Reference should be made to the CBOT soybean meal futures contract.

FOR FURTHER INFORMATION CONTACT: Fred Linse, Division of Economic Analysis, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581, (202) 254–7303.

SUPPLEMENTARY INFORMATION: A shipping plant having regular status on the CBOT is permitted to issue soybean meal shipping certificates for delivery on the futures contract. The current terms of CBOT Regulation 1291.01 specify various conditions that must be met by all soybean meal shipping plants which desire to be designated as regular for delivery by the Exchange for the soybean meal futures contract. The existing terms of Regulation 1291.01 stipulate a one-year term for the regular status of all plants so designated by the Exchange. This one-year term expires on June 30 of each year. The contract's current rules further provide that regular plants which seek to renew their regularity status must submit applications with the Exchange prior to June 1 of each year for the one-year period beginning July 1.

The proposed amendment would incorporate within the contract's existing regularity conditions a new condition which specifies that a plant seeking regularity (or renewal thereof) on the CBOT's soybean meal futures contract must not have been continuously out of operation in the two consecutive years preceding its application for regularity or renewal thereof with the CBOT. The Exchange proposes to apply the subject proposed amendment to all applications for regularity and renewals thereof received by the Exchange following its receipt of notice of Commission approval. For currently regular plants, all applications for renewal of regularity must be submitted to the Exchange prior to June 1, 1986. Consequently, the regular status of any plant which is not in compliance with the proposed new condition by June 1, 1986, will expire on June 30, 1986. The Exchange staff has represented that with respect to any shipping certificates issued by such plants which remain outstanding after June 30, 1986, existing CBOT Regulation 1294.01 would be applicable. Regulation 1294.01 provides that, if designation of a shipper as regular shall be revoked by the Board of Directors of the CBOT, the Board of Directors shall announce such revocation on the bulletin board of the Exchange and also the period of time, if any, during which the soybean meal shipping certificates issued by such shipper shall thereafter be deliverable in satisfaction of futures contracts in soybean meal under the CBOT's rules and regulations. Regulation 1294.01 further provides that, in the event of the revocation or expiration of the regularity of a soybean meal shipping plant, the shipper shall bear the cost of all expenses contingent upon obtaining, for the holders of such outstanding shipping certificates, new shipping certificates from other shippers who are regular for delivery.

In accordance with section 5a(12) of the Commodity Exchange Act, 7 U.S.C. 7a(12) (1982), the Commission has determined that the proposal submitted by the Chicago Board of Trade relating to its soybean meal futures contract is of major economic significance. The Commission is requesting comments concerning the subject proposed amendment. The Commission further requests that such comments, while considering the proposed amendment in general, should specifically address the proposed plan of implementation. The CBOT proposal will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581. Copies can be obtained through the office of the Secretariat by mail at the above address or by phone at (202) 254–6314.

Other materials submitted to the CBOT in support of the proposed amendment may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR Part 145 (1984)), except to the extent that they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9. Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Acts Compliance Staff of the Office of the Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views or arguments on the proposed amendment should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581 by (November 29, 1985.

Issued in Washington, DC on October 25, 1985.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 85–25948 Filed 10–29–85; 8:45 am]

BILLING CODE 6351–01–M

DEPARTMENT OF DEFENSE

Department of the Air Force

Finding of No Significant Impact (FONSI) Ground Wave Emergency Network (GWEN); Correction

On Friday, September 6, 1985, at 50 FR 36464, a Notice of Finding of No Significant Impact (FONSI); Ground Wave Emergency Network (GWEN) was published in the **Federal Register.**

In paragraph 1 under Description of Proposed Action and Alternatives, two of the three stages for acquisition of the program were inadvertently omitted. The sentence should read: The program will be acquired in these separate stages identified as: Initial Connectivity Capability (ICC), Thin Line Connectivity Capability (TLCC) and Final Operating Capability (FOC).

For further infomation, contact Mr. Al Scansaroli, Electronic Systems Division/DEP, Hanscom AFB, MA 01731.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 85–25918 Filed 10–29–85; 8:45 am]

BILLING CODE 3910–01–M

USAF Scientific Advisory Board; Meeting

October 10, 1985.

The USAF Scientific Advisory Board Aeronautical Systems Division (ASD) Advisory Group will hold meetings on December 5, 1985, from 8:00 a.m. to 4:30 p.m. and on December 6 from 8:00 a.m. 3:00 p.m., at Wright-Patterson Air Force Base, Ohio.

The purpose of this meeting is to hold discussions on selected Air Force Programs.

This meeting will involve discussions of classified defense matters listed in Section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (202) 697–4648.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 85–25919 Filed 10–29–85; 8:45 am]

BILLING CODE 3910–01–M

USAF Scientific Advisory Board; Meeting

October 15, 1985.

The USAF Scientific Advisory Board Tactical and Strategic Cross-Matrix Panels will meet November 18–22, 1985, from 8:00 A.M. to 5:00 P.M. each day at

Headquarters US Air Force Europe, Ramstein AB Germany, and at various other operating bases in Europe.

The purpose of this meeting is to receive briefings on the US Air Force mission in Europe and to determine how technology might be applied to enhance training and operational effectiveness.

This meeting will involve discussions of classified defense matters listed in Section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (202) 697-4648.

Patsy J. Conner,

Air Force Federal Register, Liaison Officer.

[FR Doc. 85-25920 Filed 10-29-85; 8:45 am]

BILLING CODE 3910-01-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[Docket No. ERA-FC-85-017; OFP Case No. 63027-9278-01,02,03,04-12]

Powerplant and Industrial Fuel Use; Huntsville, AL

AGENCY: Economic Regulatory Administration Energy.

ACTION: Notice of Acceptance of Petition for Exemption and Availability of Certification by the City of Huntsville, Alabama.

SUMMARY: On July 30, 1985, the city of Huntsville (Huntsville) filed a petition with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) requesting a permanent exemption from the prohibitions of Title II of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8301 *et seq.*) ("FUA" or "the Act") based on the lack of alternate fuel supply at a cost which does not substantially exceed the cost of using imported petroleum for four (4) package boilers to be located at its Refuse Fired Steam Plant in Huntsville, Alabama. Title II of FUA prohibits both the use of petroleum and natural gas as a primary energy source in any new major fuel burning installation (MFBI) consisting of a boiler. Final rules setting forth criteria and procedures for petitioning for exemptions from the prohibitions of Title II of FUA are found in 10 CFR Parts 500, 501, and 503. Final rules governing the exemption based on the lack of alternate fuel supply at a cost which does not substantially exceed the cost of using imported petroleum are found at 10 CFR 503.32.

The project for which the exemption is requested is a backup package boiler system consisting of four (4) oil/gas fired package boilers, each capable of 100,000 pounds per hour steam peak rating.

ERA has determined that the petition for exemption is sufficient to support an ERA determination, and it is therefore accepted pursuant to 10 CFR 501.3 and 501.63. ERA retains the right, however, to request additional relevant information from Huntsville any time during the proceeding as circumstances may require. A review of the petition is provided in the **SUPPLEMENTARY INFORMATION** section below.

As provided for in Sections 701 (c) and (d) of FUA and 10 CFR §§ 501.31 and 501.33, interested persons are invited to submit written comments in regard to this petition and any interested person may submit a written request that ERA convene a public hearing. The public file containing a copy of this Notice of acceptance and availability of Certification as well as other documents and supporting materials on this proceeding, is available upon request through DOE, Freedom of Information Reading Room, 1000 Independence Avenue, SW, Room 1E-190, Washington, DC 20585, from 9:00 a.m. to 4:00 p.m., Monday through Friday, except Federal holidays.

ERA will issue a final order granting or denying the petition for exemption from the prohibitions of the Act within six months after the end of the period for public comment and hearing, unless ERA extends such period. Notice of any such extension, together with a statement of reasons therefor, would be published in the Federal Register.

DATES: Written comments are due on or before December 16, 1985. A request for a public hearing must be made within this same 45-period.

ADDRESSES: Fifteen copies of written comments or a request for a public hearing shall be submitted to: Case Control Unit, Office of Fuels Programs, Room GA-045, Forrestal Building, 1000 Independence Avenue, SW, WAshington, DC 20585.

Docket ERA-FC-85-017 should be printed on the outside of the envelope and the document contained therein.

FOR FURTHER INFORMATION CONTACT:

George G. Blackmore, Office of Fuels Programs, Economic Regulatory Administration, 1000 Independence avenue, SW, Room GA-045, Washington, DC 20585, Telephone: (202) 252-1774.

Steven E. Ferguson, Esq., Office of General Counsel, Department of Energy, Forrestal Building, Room 6A-113, 1000 Independence Avenue, SW, Washington, DC 20585, Telephone: (202) 252-6947.

SUPPLEMENTARY INFORMATION: Title II of FUA prohibits the use of natural gas or petroleum in new MFBI's that consist of a boiler unless an exemption for such use has been granted by ERA. Huntsville has filed a petition with ERA requesting a permanent exemption to permit the use of natural gas or No. 5 fuel oil as the primary energy source for its Backup Package Boiler Steam System proposed for its Refuse Fired Steam Plant in the city of Hunsville, Alabama, in order to consistently supply the United States Missile Command Redstone Arsenal steam requirements. Granting the requested exemption would permit efficient operation of each unit, reduce maintenance costs, reduce emissions, increase the useful life of the unit, and conserve energy.

Exemption Petition

Section 212(a)(1)(A)(ii) of the Act and 10 CFR § 503.32 provide for a permanent exemption for lack of alternate fuel supplies at a cost which does not substantially exceed the cost of using imported petroleum. In accordance with the requirements of § 503-32(b), Huntsville's petition includes the following evidence in order to make the demonstration required by this section:

(1) Duly executed certifications required under paragraph (a) of that section;

(2) Exhibits containing the basis for certifications required under paragraph (a) of that section;

(3) Environmental impact analysis, as required under § 503.13;

(4) Fuels search, as required under § 503.14; and

(5) All data required by § 503.6 (cost calculation).

NEPA Compliance

In processing this exemption, ERA will comply with the requirements of the National Environmental Policy Act of 1969 (NEPA); the Council on Environmental Quality's implementing regulations, 40 CFR 1500 *et seq.*; and DOE's guidelines implementing those regulations, published at 45 FR 20694, March 28, 1980. NEPA compliance may involve the preparation of (1) an Environmental Impact Statement (EIS); (2) an Environmental Assessment; or (3) a memorandum to the file finding that the grant of the requested exemption would not be considered a major Federal action significantly affecting the quality of the environment. If an EIS is determined to be required, ERA will publish a Notice of Intent to prepare an EIS in the **Federal Register** as soon as

practicable. No final action will be taken on the exemption petition until ERA's NEPA compliance has been completed.

Pursuant to 10 CFR 501.3, ERA hereby accepts Huntville's petition for a permanent exemption for lack of alternate fuel supplies at a cost which does not substantially exceed the cost of using imported petroleum for its Backup Package Boiler Steam System. ERA retains the right, however, to request additional relevant information at any time during the pendency of these proceedings. As provided in 10 CFR 501.3(b)(4), acceptance of this petition for exemption by ERA does not constitute a determination that the petitioner is entitled to the exemption requested. That determination will be based on the entire record of these proceedings, including any comments received during the public comment period provided for in this notice.

Issued in Washington, D.C. on October 22, 1985.

Robert L. Davies,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 85-25843 Filed 10-29-85; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. EL85-19-102]

Owens River Basin, CA; Intent To Prepare Environmental Impact Statement and Conduct a Scoping Meeting

October 25, 1985.

The staff (Staff) of the Federal Energy Regulatory Commission has concluded Phases 1 and 2 of the Owens River Basin Cluster Impact Assessment Procedure (CIAP), and its analysis indicates that the development of the seven [1] proposed hydroelectric projects included in the CIAP study constitutes a major Federal action significantly affecting the quality of the human environment. Therefore, the Staff intends to prepare an environmental impact statement (EIS) on the seven proposed projects in accordance with the National Environmental Policy Act. Possible alternatives to the proposed actions will be addressed. Site specific and cumulative environmental impacts will be evaluated in the EIS.

Interested persons and agencies are invited to provide comments and recommendations, including any supporting data, on the scope of the planned EIS. The identified target resources,[2] already under detailed analysis by the Staff, will be evaluated in the EIS, as well as other relevant resources and issues.

The EIS scoping process will entail an evaluation by the Staff of all the environmental issues of primary concern, based on the comments received and the Staff's independent analysis. An EIS scoping document will be prepared, distributed to the interested parties, and discussed in conjunction with the Staff's planned CIAP Phase 3 Technical Session scheduled for the week of December 2-6, 1985. The time and location of the combined EIS Scoping Meeting and Technical Session will be announced in a subsequent public notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-25856 Filed 10-29-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER86-31-000]

The Connecticut Light and Power Co. et al; Filing

October 22, 1985.

The filing Company submits the following:

Take Notice that on October 17, 1985, The Connecticut Light and Power Company (CL&P) tendered for filing as an initial rate schedule an agreement (the Agreement) between CL&P, Western Massachusetts Electric Company (WMECO, and together with CL&P, the NU Companies) and Boston Edison Company (BECO). The Agreement, dated as of May 15, 1985, provides for the NU Companies to sell to BECO power from the systems of the Northeast Utilities Companies (system power) that may be available on a daily or weekly basis (a transaction). CL&P states that the timing of transactions cannot be accurately estimated but that the NU Companies would offer to sell such system power to BECO only when it was economic to do so. BECO would only accept such offer if it was economical to do so.

BECO will pay a capacity charge to the NU Companies for each transaction in an amount equal to the megawatts of system capacity reserved for BECO by the NU Companies during each hour of a transaction multiplied by the capacity charge rate which is negotiated prior to each transaction. BECO will pay an energy charge to the NU Companies for each transaction in an amount equal to the megawatthours delivered by the NU Companies during such transaction multiplied by the energy charge rate. The energy charge rate is based on the heat rate and the replacement fuel price of the generating unit(s) which the NU Companies determine to be available to provide energy at the time of a transaction.

CL&P requests that the Commission waive its customary notice period and allow the Agreement to become effective on November 1, 1985, the date of the filing letter.

WMECO has filed a Certificate of Concurrence in this docket.

The Agreement has been executed by CL&P, WMECO, and by BECO (Boston, Massachusetts) and copies have been mailed or delivered to each of them.

CL&P further states that the filing is in accordance with Section 35 of the Commission's Regulations.

Any persons desiring to be heard or to protest said filing should file a motion to intervene or protest to the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426 in accordance with Rules 210, 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR § 385.210, 385.211 and 385.214). All such motions or protests should be filed on or before November 1, 1985.

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. 85-25854 Filed 10-29-85; 8:45 am]

BILLING CODE 6717-01-M

[Project Nos. 8156-003 et al.]

James W. Caples et al.; Surrender of Preliminary Permits

October 23, 1985.

Take notice that the following preliminary permits have been surrendered effective as described in Standard Paragraph I at the end of this notice.

[1] FERC Projects Nos. 3258, 3583, 3741, 3742, 4669, 6114, and 6188.

[2] Resident trout, riparian vegetation, riparian-associated wildlife, sensitive species, aesthetics, recreation, and local economy.

1. James W. Caples

[Project Nos. 8156-003]

Take notice that James W. Caples, Permittee for the Lake Creek Hydropower Project No. 8156, has requested that his preliminary permit be terminated. The preliminary permit for Project No. 8156 was issued August 10, 1984, and would have expired February 28, 1986. The project would have been located on Lake Creek, near Salmon, Lemhi County, Idaho.

The Permittee filed the request on October 3, 1985.

2. Modesto Irrigation District

[Project No. 5808-001]

Take notice that Modesto Irrigation District, Permittee for the Daguerre Point Power Project, FERC No. 5808, has requested that its preliminary permit be terminated. The preliminary permit for Project No. 5808 was issued on August 7, 1984, and would have expired on January 31, 1986. The project would have been located on Yuba River, in Yuba County, California.

The Permittee filed the request on September 24, 1985.

3. Turlock Irrigation District & Modesto Irrigation District

[Project No. 7800-001]

Take notice that Turlock Irrigation District & Modesto Irrigation District, Permittees for the Golden Rock Project, FERC No. 7800, have requested that their preliminary permit be terminated. The preliminary permit for Project No. 7800 was issued on February 22, 1985, and would have expired on January 31, 1988. The project would have been located on the South and Middle Forks of the Tuolumne River, in Tuolumne County, California.

The Permittees filed the request on September 9, 1985.

Standard Paragraphs

I. the preliminary permit shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday or holiday as described in 18 CFR 385.2007 in which case the permit shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR Part 4, may be filed on the next business day.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-25852 Filed 10-29-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI86-19-000]

Amoco Production Co.; Application for Blanket Certificate of Public Convenience and Necessity and for an Order Permitting and Approving Abandonment and Pre-Granted Abandonment

October 24, 1985.

Take notice that on October 16, 1985, Amoco Production Company (Amoco) filed an Application pursuant to sections 4 and 7 of the Natural Gas Act (NGA), and the provisions of 18 CFR Parts 154, and 157(i) authorizing the sale for resale in interstate commerce of certain natural gas produced by Amoco and its joint interest owners, (ii) authorizing blanket temporary abandonment and pre-granted permanent abandonment of certain sales as described therein, and (3) authorizing transportation by interstate pipelines (and the pre-granted abandonment of same), where and if necessary, to effectuate the sale and purchase of gas, as more fully described in the Application, which is on file with the Commission and open for public inspection. Amoco also requests that said blanket authorization be made effective on or before November 1, 1985.

Amoco states that recent industry experience with direct producer sales demonstrates that the blanket authority as requested is consistent with the Commission's rules and regulations, *i.e.*, Parts 154 and 157 requirements, and with the Commission's Order No. 436.[1] Further, Amoco states that, absent said blanket authorization, the flexibility and efficiency necessary for successful operation of the market would be hindered.

Amoco emphasizes that no Commission-mandated scheme of contract carriage or market access is sought by its Application. A decision by an interstate pipeline, intrastate pipeline, Hinshaw pipeline or local distribution company to have gas transported on its behalf, or to provide transportation services as a participating pipeline, or for pipelines to enter into blanket transportation agreements with Amoco is purely voluntary.

Specifically, Amoco requests that the Commission authorize Amoco, effective on or before November 1, 1985:

(1) To makes sales for resale in interstate commerce, without supply or market limitations, of NGA gas with an applicable maximum lawful ceiling price equal to or higher than the Natural Gas Policy Act (NGPA) Section 109 ceiling price that is produced from various interests owned by Amoco;

(2) To make sales for resale in interstate commerce, without supply or market limitations, of NGA gas with an applicable maximum lawful ceiling price equal to or higher than the NGPA section 109 price and produced from various interests attributable to other owners having interests in the same wells as Amoco, to the extent that such joint interest owners agree to same;

(3) To abandon, temporarily, sales for resale of NGA gas with an applicable maximum lawful ceiling price equal to or higher than the NGPA section 109 price and previously certificated by the Commission, to the extent that such gas is released by interstate pipelines for resale to third parties;

(4) To abandon (pursuant to pre-granted abandonment authority) any sale for resale authorized pursant to any blanket certificate issued herein; and,

(5) To have both NGA and non-NGA gas that is sold by Amoco and its joint interest owners transported in interstate commerce, on a self-implementing basis and without source or recipient limitations, by any willing transporter to any willing and able purchaser of such gas, with pre-granted abandonment of same.

Amoco is requesting the authorization described herein only to the extent that any element of such authorization is not otherwise made effective on or before November 1, 1985, as a result of Commission action in any other proceeding. In particular, Amoco refers to the Commission's Order No. 436, issued October 9, 1985 in Docket No. RM85-1-000 and states that the blanket authority requested would be supplemental to the flexible transportation scheme promulgated therein.

Sales proposed to be made by Amoco on behalf of itself and its joint interest owners will not involve a dedication of reserves but will be based on periodic nominations, either by purchasers or by Amoco. The sales volumes, prices, purchasers, delivery points, transporter, and supply source will vary. Although sales made by Amoco to end-users would qualify as direct sales, and thus not require a sales certificate, other sales under the blanket authority requested will be for resale and will vary on a periodic basis, depending on the nominations.

Amoco proposes to sell and deliver to various purchasers all or a portion of the gas Amoco determines is available for sale at the most favorable terms for Amoco for a particular month. Amoco

[1] *Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol*, Docket No. RM85-1-000 (October 9, 1985)

will not be obligated to sell gas pursuan to any nomination or proposed nomination until the exact volumes, terms and conditions, and prices are agreed to by Amoco and a purchaser. The actual contract between Amoco and the purchaser may be for all or any portion of the quantity which was set out in the nomination or proposed nomination.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 10 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should be or before October 30, 1985, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-25859 Filed 10-29-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI86-22-000]

Fina Oil and Chemical Co. et al.; Application for Blanket Certificate of Public Convenience and Necessity and for an Order Permitting and Approving Abandonment and Pre-Granted Abandonment

October 24, 1985.

Take notice that on October 17, 1985, Fina Oil and Chemical Company ("FOC"), Petrofina Delaware Incorporated ("PDI") and Fina Oil & Gas Inc. ("FOG") (any of all of whom may be referred to herein as "Fina") filed an Application pursuant to sections 4 and 7 of the Natural Gas Act ("NGA"), and the provisions of 18 CFR Parts 154 and 157, seeking a blanket certificate of public convenience and necessity: (1) Authorizing sales for resale of natural gas in interstate commerce by Fina and by reseller/agents who purchase gas from Fina for resale under this proposed program; (2) authorizing blanket partial blanket abandonment and pre-granted abandonment of certain sales as described in the Application; (3) authorizing transportation, as necessary, under section 7(c) of the NGA for interstate pipelines; (4) authorizing pre-granted abandonment of such transportation by interstate pipelines; and (5) authorizing transportation of the subject gas by intrastate and Hinshaw pipelines, all as more fully described in the Application which is on file with the Commission and open for public inspection. The Application also requests that said blanket authorization be made effective on or before November 1, 1985.

Applicant states that the blanket authority requested is consistent with the Commission's rules and regulations and is necessary to be compatible with the spot market.

Specifically, Fina requests that the Commission authorize it, effective on or before November 1, 1985: (1) To make sales for resale in interstate commerce of natural gas for which the maximum lawful price is higher than the NGPA Section 109 price; (2) to temporarily abandon sales for resale of natural gas for which the maximum lawful price is higher than the Section 109 price and previously certificated by the Commission, to the extent that such gas is released by interstate, intrastate or "Hinshaw" pipelines or local distribution companies for resale on the spot market; (3) to abandon (pre-granted abandonment) any sale for resale in interstate commerce authorized pursuant to the blanket certificate issued herein; (4) to have any such gas transported in interstate commerce on a self-implementing basis, by any transporter to any purchaser of such gas; (5) to have natural gas which is no longer subject to the Commission's NGA authority transported to purchasers and end-users; and (6) to abandon (Pre-granted abandonment) such transportation. In addition, Fina requests that certain market restrictions currently applicable to existing special marketing programs, not apply to the instant authorization.

Fina is requesting the authorization described only to the extent that such authorization is not included in Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol, Order No. 436, Docket No. RM85-1-000, 33 F.E.R.C. (CCH) ¶ 61,007 (1985) or in the event that Order No. 436 is stayed or not in effect on November 1, 1985.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 10 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before October 30, 1985, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-25860 Filed 10-29-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP85-704-001]

Ohio River Pipeline Corp.; Correction

October 24, 1985.

Take notice that the comment date for filing protests and interventions pursuant to notice issued October 16, 1985 (50 FR 42994, October 23, 1985, col. 3, first full paragraph) should be October 30, 1985.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-25855 Filed 10-29-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RE84-6-001]

Southwestern Electric Power Co.; Application for Exemption

October 23, 1985.

Take notice that Southwestern Electric Power Company (SWEPCO) filed an application on September 20, 1985 for exemption from certain requirements of Part 290 of the Federal Energy Regulatory Commission's (FERC) regulations concerning collection and reporting of cost of service information under Section 133 of the Public Utility Regulatory Policies Act (PURPA), Order No. 48 (44 FR 58687, October 11, 1979). Exemption is sought from the requirement to file on or prior to June 30, 1986 and biennially thereafter, information on the costs of providing

electric service as specified in Subparts B, C, D and E or Part 290.

In its application for exemption SWEPCO states that it should not be required to file the specified data for the following reasons:

The purpose of section 133 of PURPA, to require electric utilities to gather and file data necessary to determine the costs associated with providing electric service, is met by data filed by SWEPCO with state commissions having jurisdiction over SWEPCO's retail rates.

The data produced and submitted in compliance with Part 290 are similar to the data required by the Public Utility Commission of Texas (PUCT), the Louisiana Public Service Commission (LPSC) and the Arkansas Public Service Commission (APSC) but sufficiently different to be of little value in rate proceedings.

The test periods used in SWEPCO's rate proceedings before the PUCT, APSC and LPSC are at variance with the Part 290 reporting period and, as a consequence, the value of Part 290 cost of service data is minimal in this report.

SWEPCO's costs to comply with Part 290 requirements for the 1982 filing were approximately $146,462. Since no apparent use has been made of the 1982 filing information and data, there is little evidence that the benefits of future filings of Part 290 requirements will begin to outweigh the costs SWEPCO will be required to expand.

The Public Utility Commission of Texas, the Louisiana Public Service Commission and the Arkansas Public Service Commission supported the applicant's request for a blanket exemption from the filing requirements of PURPA Section 133 and 18 CFR Part 290 filing requirements for the June 30, 1984 filing and all subsequent filings.

Copies of the application for exemption are on file with FERC and are available for public inspection. FERC's regulations require that said utility also apply to any state regulatory authority having jurisdiction over it to have the application published in any official state publication in which electric rate change applications are usually noticed, and that the utility publish a summary of the application in newspapers of general circulation in the affected jurisdiction.

Any person desiring to present written views, arguments, or other comments on the application for exemption should file such information with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, on or before 45 days following the date this notice is published in the **Federal Register.** Within that 45 day period, such person must also serve a copy of such comments on:

Mr. Andrew O. Rambin, Jr., Manager, Rate Department, Southwestern Electric Power Company, P.O. Box 21106, Shreveport, Louisiana 71156

Mr. Carolyn Y. Thompson, Isham, Lincoln & Beale, 1120 Connecticut Avenue NW., Suite 480, Washington, DC 20036.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-25861 Filed 10-29-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ST82-96-002 et al.]

Tennessee Gas Pipeline Co. et al.; Extension Reports

October 23, 1965.

The companies listed below have filed extension reports pursuant to section 311 of the Natural Gas Policy Act of 1978 (NGPA) and Part 284 of the Commission's regulations giving notice of their intention to continue transportation and sales of natural gas for an additional term of up to 2 years. These transactions commenced on a self-implementing basis without case-by-case Commission authorization. The sales may continue for an additional term if the Commission does not act to disapprove or modify the proposed extension during the 90 days preceding the effective date of the requested extension.

The table below lists the name and addresses of each company selling or transporting pursuant to Part 284; the party receiving the gas; the date that the extension report was filed; and the effective date of the extension. A letter "B" in the Part 284 column indicates a transportation by an interstate pipeline which is extended under § 284.105. A letter "C" indicates transportation by an intrastate pipeline extended under § 284.125. A "D" indicates a sale by an intrastate pipeline extended under § 284.146. A "G" indicates a transportation by an interstate pipeline pursuant to § 284.221 which is extended under § 284.105. The following symbols are used for transactions pursuant to a blanket certificate issued under Section 284.222 of the Commission's Regulations: a "G(HT)", "G(HS)" or "G(HA)", respectively, indicates transportation, sale or assignments by a Hinshaw pipeline; a "G(LT)" indicates transportation by a local distribution company, and a "G(LS)" indicates sales or assignments by a local distribution company.

Any person desiring to be heard or to make any protests with reference to said extension report should on or before November 15, 1985, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants party to a proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

Docket No.	Transporter/seller	Recipient	Date filed	Part 284 subpart	Effective date	Expiration date [1]
ST82-96-002	Tennessee Gas Pipeline Co., P.O. Box 2511, Houston, TX 77001.	Texas Eastern Transmission Corp	09-05-85	G	12-10-85	
ST82-193-002	Producer's Gas Co., 4925 Greenville Ave. Dallas, TX 75206	Southern Natural Gas Co	09-19-85	C	02-03-86	
ST84-289-001	Transok, Inc., P.O. Box 3008, Tulsa, OK 74101	Gulf South Pipeline Co	09-20-85	C	12-22-85	
ST84-291-001 [2]	ANR Pipeline Co., 500 Renaissance Center, Detroit, MI 48243	Northern Indiana Public Service Co	09-30-85	B	12-22-85	12-29-85
ST84-294-001	Louisiana Intrastate Gas Corp., P.O. Box 1352, Alexandria, LA 71301.	The Town of Colfax, LA	09-23-85	C	12-30-85	
ST84-312-001	Florida Gas Transmission Co., P.O. Box 1188, Houston, TX 77001.	United Gas Pipe Line Co	09-30-85	G	12-28-85	
ST84-372-001	Columbia Gulf Transmission Co., P.O. Box 683, Houston, TX 77001.	IMC Pipeline Co., Inc.	09-19-85	B	12-17-85	12-18-85
ST84-376-001 [2]	ANR Pipeline Co., 500 Renaissance Center, Detroit, MI 48243	United Gas Pipe Line Co	09-25-85	G	12-15-85	12-24-85
ST84-380-001	Northwest Central Pipeline Corp., P.O. Box 3288, Tulsa, OK 74101.	Faustina Pipe Line Co	09-23-85	B	12-23-85	
ST84-433-001	El Paso Natural Gas Co., P.O. Box 1492, El Paso, TX 79978	El Paso Hydrocarbons Co	09-26-85	B	12-30-85	
ST84-436-001	United Gas Pipe Line Co., P.O. Box 1478, Houston, TX 77001	Florida Gas Transmission Co	09-24-85	G	12-28-85	
ST84-440-001	Trunkline Gas Co., P.O. Box 1642, Houston, TX 77001	Houston Pipe Line Co	09-23-85	B	12-22-85	
ST84-542-001	Trunkline Gas Co., P.O. Box 1642, Houston, TX 77001	Intrastate Gathering Corp	09-23-85	B	01-23-86	

Docket No.	Transporter/seller	Recipient	Date filed	Part 284 subpart	Effective date	Expiration date [1]
ST84-581-001	National Fuel Gas Supply Corp. 10 Lafayette Square, Buffalo, NY 14203.	Columbia Gas Transmission Corp.	09-30-85	G	12-30-85	

[1] The pipeline has sought Commission approval of the extension of this transaction. The 90-day Commission review period expires on the date indicated.
[2] These extension reports were filed after the date specified by the Commission's Regulation, and shall be the subject of a further Commission order.
NOTE. The noticing of these filings does not constitute a determination of whether the filings comply with the Commission's Regulations.

[FR Doc. 85-25862 Filed 10-29-85; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. CI86-27-000]

Transco Energy Marketing Co.; Application

October 24, 1985.

Take notice that on October 18, 1985, Transco Energy Marketing Company (TEMCO), P.O. Box 1396, Houston, Texas 77251 filed an Application requesting that the Commission issue a blanket certificate of public convenience and necessity, effective on or before November 1, 1985; (1) to make sales for resale in interstate commerce of natural gas not removed (by Section 601 of the NGPA) from the Commission's NGA jurisdiction for which the maximum lawful price is higher than the Section 109 price; (2) for producers to temporarily abandon sales for resale of NGA gas for which the maximum lawful price is higher than the Section 109 price and which were previously certificated by the Commission, to the extent that such gas is released by interstate, intrastate or Hinshaw pipelines and local distribution companies, to producers for resale in the spot market, by TEMCO or by such producers through TEMCO acting as their agent; (3) for TEMCO and participating producers to abandon (pre-granted abandonment) any sale for resale in interstate commerce authorized pursuant to the blanket certificate issued herein; (4) for any willing transporter to transport NGA and non-NGA gas in interstate commerce, on a self-implementing basis and without source or recipient limitations, to TEMCO's customers; and (5) for any transporter to abandon (pre-granted abandonment) such transportation. In addition, TEMCO requests that in its order the Commission expressly find that with respect to TEMCO and its operations, the Commission's NGA jurisdiction is limited to the specific non-exempt activities for which TEMCO is seeking authorization herein. Finally, TEMCO is requesting the authorizations described herein only to the extent that any element of such authorizations is not otherwise made effective on or before November 1, 1985, as a result of Commission action in any other proceeding.

TEMCO states that the results of special marketing programs to date amply demonstrate the beneficial impact of such programs on all segments of the industry. In addition, TEMCO states that the authorizations applied for in its Application are consistent with the Commission's goals as set forth in the Final Rule in the proceeding titled "Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol," Docket No. RM85-1-000 (Order No. 436) and are critical to the continuing success of the spot market. Without such authorizations, TEMCO states that it will be precluded from effectively, efficiently and fully participating in the spot market as of November 1, 1985.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 10 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before October 30, 1985, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-25863 Filed 10-29-85; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. TA86-1-29-002]

Transcontinental Gas Pipe Line Corp.; Supplemental Tariff Filing

October 24, 1985.

Take notice that on October 18, 1985, Transcontinental Gas Pipe Line Corporation (Transco) submitted a supplemental filing to its October 1, 1985 filing of revised tariff sheets to Second Revised Volume No. 1 of its FERC Gas Tariff proposed to be effective November 1, 1985. According to § 381.103(b)(2)(iii) of the Commission's regulations (18 CFR § 381.103(b)(2)(iii)), the date of filing is the date on which the Commission receives the appropriate filing fee, which in the instant case was not until October 22, 1985.

Transco states that the supplemental information in Appendix A contains a detailed estimate of Transco's projected average commodity cost of gas for the six-month period commencing November 1, 1985. Also submitted with this filing is Substitute Second Revised Sheet No. 15-A. This sheet reflects the correction of an inadvertent error containded in the original filing in arriving at the estimated total base purchased gas cost, as adjusted. In the original filing, Transco inadvertently failed to adjust this figure to utilize the estimated purchase volumes for the six months commencing November 1, 1985 in arriving at this amount. Transco states that the total base purchased gas cost, as adjusted, is an illustrative figure and does not affect the rates themselves.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 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 October 31, 1985. 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. 85-25864 Filed 10-29-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP 86-3-000]

West Texas Gas, Inc.; Rate Change

October 24, 1985.

Take notice that on October 21, 1985, West Texas Gas, Inc. (WTG) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheets:

Third Revised Sheet No. 3a
First Revised Sheet No. 21b
Original Sheet No. 21e

Third Revised Sheet No. 3a was filed by WTG in order to revise its base tariff rates to recover certain third-party transportation costs which WTG previously had recovered through its annual purchased gas adjustment (PGA) filing. WTG requests that these revised base tariff rates be made effective on the same date WTG's annual PGA (filed October 1, 1985) is made effective. These revised base tariff rates will be applicable to WTG's customers served under Rate Schedules GS-1, IS-1, and I-1.

Copies of the filing were served upon WTG's customers and interested state commissions.

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, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before November 1, 1985. 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. 85-25865 Filed 10-29-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI86-26-000]

Yankee Resources, Inc.; Application for Blanket Certificate of Public Convenience and Necessity; Approval and Pre-Granted Abandonment of Certain Sales; and Declaration of Limited Jurisdiction

October 24, 1985.

Take notice that on October *17*, 1985, Yankee Resources, Inc. ("Yankee") 425 Metro Place North, Suite 400, Dublin, Ohio 43017, filed an application pursuant to sections 4 and 7 of the Natural Gas Act, 15 U.S.C. 717c, 717f, and the provision of 18 CFR Parts 157 and 284, for a blanket certificate of public convenience and necessity authorizing Yankee to conduct a spot sales marketing program, hereinafter referred to as Yankee Exchange Service-PLUS ("YES-PLUS"), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Approval would (1) permit abandonment of certain committed or dedicated natural gas sales; (2) authorize the sale of natural gas for resale with pregranted abandonment in interstate commerce. Yankee also requests the Commission to declare that, with respect to Yankee, the Commission will only assert Natural Gas Act jurisdiction over sales for resale hereunder not otherwise exempt from the NGA.

Under YES-PLUS, Yankee proposes to sell on a spot basis natural gas subject to ceiling prices above the 109 rate under the Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. 3301-3432. Both contractually committed and uncommitted gas will be sold. Yankee and participating producers will seek any necessary releases from existing purchasers in order to be able to make such gas available to meet market demand for spot sales. Arrangements for transporting the released gas will be made on a case-by-case basis under available transportation programs, including programs adopted by the Commission in its recent Order 436.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 10 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before October 30, 1985, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-25866 Filed 10-29-85; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals

Cases Filed; Week of September 27 Through October 4, 1985

During the week of September 27 through October 4, 1985, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, DC 20585.

Dated: October 21, 1985.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of Sept. 27 through Oct. 4, 1985]

Date	Name and location of applicant	Case No.	Type of submission
Sept. 9, 1985	Tenneco/Major Oil Company of Georgia, Washington, DC	RR7-8 and RR7-9	Motion for reconsideration. If granted: The September 11, 1985 Decision and Order (Case Nos. RR7-6 and RR7-7) issued to Major Oil Company would be rescinded and the Office of Hearings and Appeals would reconsider the firm's claim in the Tenneco Special Refund Proceeding.
do	J.D. Streett & Company, Inc., Hazelwood, Mo	HRH-0037	Motion for evidentiary hearing. If granted: An evidentiary hearing would be granted to J.D. Streett & Company, Inc., concerning the proper margins used by the Economic Regulatory Administration in computing the firm's maximum lawful selling prices.
do	Mockabee's Oil Company, Upper Marlboro, MD	HRA-0014	Appeal of a modified remedial order. If granted: The April 10, 1985 Modified Remedial Order issued to Mockabee's Oil Company would be rescinded.
Oct. 1, 1985	Huron Oil Company, Posen, MI	KEE-0001	Exception to the reporting requirements. If granted: Huron Oil Company would not be required to file Form EIA-782B Reseller's/Retailer's Monthly Petroleum Product Sales Report.
do	Knox Nelson Oil Company, Pine Bluff, AR	KEE-0002	Exception to the reporting requirements. If granted: Knox Nelson Oil Company would not be required to file Form EIA-782B, "Reseller's/ Retailer's Monthly Petroleum Product Sales Report.
Oct. 10, 1985	Anschutz Corporation, Denver, CO	KEE-0004	Exception to the reporting requirements. If granted: Anschutz Corporation would no longer be required to file form EIA-782B Resellers/Retailers' Monthly Petroleum Product Sales Report.
do	City & Ice Fuel Company, Florence, SC	KEE-0003	Exception to the reporting requirements. If granted: City Ice & Fuel Company would no longer be required to file form EIA-782B Reseller/Retailers' Monthly Petroleum Products Sales Report.

REFUND APPLICATIONS RECEIVED

[Week of Sept. 27 to Oct. 4, 1985]

Date	Name of refund proceeding/name of refund applicant	Case No.
Sept. 30, 1985	Husky/Roberts Oil Company	RF161-79.
do	Ped Triangle/Stone's Gulf Service	RF179-22.
do	Allied Materials/Pal Perley	RF194-5.
do	Endicott/Butler Aircraft Company	RF188-3.
do	Allied Materials/Poteau Petroleum Products	RF194-6.
Oct. 1, 1985	Good Hope/CONOCO, Inc	RF189-6.
Oct. 2, 1985	Gulf/Duffey's Gulf Service	RF40-3054.
Oct. 3, 1985	Gulf/North Eaton Gulf	RF40-3055.
Sept. 30, 1985	L&L/Lee & Leon Oil Company	RF198-1.
Oct. 1, 1985	L&L/Texaco, Inc	RF198-2.
Oct. 4, 1985	F.O. Fletcher/James Simmons	RF172-24.
do	Harris/Mac's Super Service, Inc	RF193-5.
do	Harris/Hillcrest Oil Company	RF193-6.
Oct. 3, 1985	Peterson/Johnson Products, Inc	RF199-1.
Oct. 4, 1985	Peterson/Highway Oil, Inc	RF199-2.
Oct. 3, 1985	Husky/D Oil Company	RF161-80.
do	Husky/Vern F. Herzog Oil Company	RF161-81.
do	Husky/Howard General Store, Inc	RF161-82.
do	Husky/Mercer Husky Bulk Service	RF161-83.
do	Husky/Bob's Husky	RF161-84.
do	Husky/Horizon Oil Company	RF161-85.
do	Husky/Bodine Oil Company, Inc	RF161-86.
do	Husky/Gibson Industries, Inc	RF161-87.
do	Heindel's/City of Coal Company	RF79-22.
Oct. 4, 1985	Champlain/Sam's Citgo Service	RF187-8.
do	True/Empire Gas Corporation	RF195-3.

[PR Doc. 85-25846 Filed 10-29-85; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Decisions and Orders; Week of September 23 Through September 27, 1985

During the week of September 23 through September 27, 1985, the decisions and orders summarized below were issued with respect to appeals and applications for other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeal

International Brotherhood of Electrical Workers, 9/26/85, HFA-0307

The International Brotherhood of Electrical Workers (IBEW) filed an Appeal from a partial denial by the Deputy Director for Naval Reactors of the DOE of a Request for Information which the firm had submitted under the Freedom of Information Act. IBEW requested access to the names, addresses, and social security numbers of employees on certified payroll and attendance records filed by DOE subcontractors to determine their compliance with the requirements of the Davis-Bacon Act. In considering the Appeal, the DOE determined that the release of the employees' names, addresses, and social security numbers would result in an invasion of privacy. The DOE noted that the financial information on the forms had been released to the IBEW and, therefore, release of the names would reveal the personal financial situation of each employee. The DOE also found that the IBEW already possessed all the information necessary to determine whether the subcontractors had complied with the Davis-Bacon Act. Therefore, the DOE determined that the invasion of personal privacy that would result from the release of the requested information outweighed the public interest in disclosure. The DOE concluded that the Deputy Director properly withheld the names, addresses, and social security numbers of the employees pursuant to 5 U.S.C. 552(b)(6). Accordingly, the Appeal was denied.

Remedial Order

CPI Crude, Inc., 9/24/85, HRO-0283

The Economic Regulatory Administration issued a Proposed Remedial order (PRO) to CPI Crude, Inc. (CPI). The PRO alleged that CPI had violated the provisions of 10 CFR 212.10 and 212.93, by selling crude oil to customers at prices in excess of the maximum lawful selling prices. The PRO also alleged that CPI had violated the provisions of 10 CFR 212.183(a), by selling crude oil to customers at an average markup which exceeded its permissible average markup. CPI refused to file a Statement of Objections, instead claiming that the proceeding was stayed pursuant to the automatic stay provision of the Bankruptcy Code, 11 U.S.C. 362. That claim was rejected on the basis that the proceeding fell within an exception to the automatic stay provision, section 362(b)(4). After review, the determination was made that the PRO presents a *prima facie* case that CPI had committed the violations which were alleged. On this basis and because CPI failed to rebut kthe PRO's findings, the PRO was issued as a final Remedial Order.

Interlocutory Order

Economic Regulatory Administration, 9/26/85, HRZ-0254

The Economic Regulatory Administration filed a Motion to Join Carl L. Counts (Counts) as a party to a pending Proposed Remedial Order (PRO) proceeding involving Brazoria Energy, Inc. and Gerald W. Collum. In considering the Motion, the Office of Hearings and Appeals found that Counts was a Director and Vice President of Brazoria Energy and, as such, played an active role in the transactions which were the subject of

the PRO. The Motion to Join was granted on the basis that there was good cause to join Counts. Counts would not be unduly prejudiced by the joinder, and joinder would not unduly delay the PRO proceeding.

Refund Applications

Aluminum Co. of America/Tenneco Oil Company, Pan American Liquids/ Farmland Industries, Inc., Brown Oil/ Harry G. Christenson, et al., 9/23/85, RF4–3; FR36–2, RF39–4 et al.

The DOE issued a Decision and Order Concerning 5 Applications for Refund that had previously been granted. It was determined that in each case the applicants had not received sufficient interest in connection with their successful refund applications. Accordingly, additional monies were issued to each applicant to correct the deficiency. The additional refunds totalled $68,179.

Arkla Chemical Corporation/Arkansas Cement Corporation, et al., Arkansas Louisiana Gas Company/Stephens Production Company, et al., 9/25/85 RF153–16 et al.; RF154–1 et al.

The DOE issued a Decision and Order concerning 24 Applications for Refund filed by purchasers of Arkla refined products. Eight claimants applied for refunds from Arkla Chemical Corporation (Arkla I) for amounts listed in the audit file for Arkla I, 13 DOE ¶85,043 (1985). Sixteen claimants applied for volumetric refunds from Arkansas Louisiana Gas Company (Arkla II). All sixteen refunds were based upon a presumption of injury: nine applicants were end users and the other seven applicants were below the $5,000 threshold amount. After examining the evidence and supporting information submitted by the applicants, the DOE concluded that they should receive refunds totalling $163,144 ($22,956 from Arkla I and $160,188 from Arkla II) based upon their purchases of Arkla refined petroleum products.

C.C. Dillon Company/Crystal Clean Car Wash and Gas, et al, 9/24/85, RF148–1 et al.

The DOE issued a Decision and Order concerning Applications for Refund filed by four resellers of motor gasoline purchased from the C.C. Dillon Company. Each applicant requested a refund at or below the $5,000 threshold level. In accordance with the procedures established in the Dillon special refund proceeding, the DOE determined that each applicant should receive a refund based on a prorated portion of the alleged overcharges to the applicant. The total amount of refunds approved in this Decision totalled $14,426 ($12,162 principal plus $2,264 interest).

Cross Oil Co./Joseph J. Manfrede, Sr. Leible Auto Repair, 9/27/85, RF147–1, RF147–2

The DOE issued a Decision and Order concerning Applications for Refund filed by Joseph J. Manfrede, Sr. and Leible Auto Repair, two resellers of motor gasoline purchased from Cross Oil Company. Each applicant requested a refund below the $5,000 threshold level. In accordance with the procedures established in the Cross special refund proceeding, the DOE determined that each applicant should receive a refund based on its purchase volumes of Cross motor gasoline during the consent order period. The total amount of refunds approved in this Decision totalled $1,387 ($872 principal plus $515 interest).

Gulf Oil Corporation/Army and Air Force Exchange Service, 9/27/85, RF40–775

The DOE issued a decision granting a refund to the Army and Air Force Exchange Service (AAFES) in accordance with the Gulf Oil Corporation special refund proceeding. The refund to AAFES totalled $172,453, representing $150,280 in principal and $22,173 in interest. AAFES had demonstrated that they would not have been required to pass through to its customers a cost reduction equal to the amount of the refund claimed.

Gulf Oil Corporation/Bole Oil Co., 9/24/85, RF40–3049

The DOE issued a supplemental Decision and Order concerning an Application for Refund that had recently been granted to the Bole Oil Company (Bole). *Gulf Oil Co./City Coal Company of Springfield*, 13 DOE ¶ _____ (1985). After publication of that decision, but before the check to Bole was issued, the DOE was informed that the Bole application might contain some misrepresentations concerning the ownership of the Bole Oil Company during the consent order period. Accordingly, the Bole refund decision was rescinded pending an investigation.

Gulf Oil Corp./Flowers Baking Co., et al., 9/24/85, RF40–103 et al.

The DOE issued a Decision and Order concerning 36 Applications for Refund filed by end-users of products purchased from the Gulf Oil Corporation. In accordance with the procedures established in the Gulf special refund proceeding, the Decision determined that each applicant should received a refund based on its purchase volumes of Gulf products during the consent order period. The total amount of refunds approved in this Decision totalled $3,068 ($2,675 principal plus $393 interest).

Gulf Oil Corporation/Kerr-McGee Corporation/Witco Chemical Corporation, 9/24/85, RF40–767, RF40–1682.

The DOE issued a Decision and Order concerning Applications for Refund filed by Kerr-McGee Corporation and Witco Chemical Corporation in the Gulf Oil Corporation special refund proceeding. Although both firms refine petroleum products, they had applied for refunds as end users of products purchased from the Gulf Oil Corporation. In its Decision, the DOE granted the two applications under the standards set forth for end users in *Gulf Oil Corp.*, 12 DOE ¶ 85,048 (1984), after determining that neither firm had used the Gulf products in any refinery-related operations or in any other fashion which would have allowed the firm to pass through the increased costs associated with the alleged overcharges under the refiner price rule at 10 CFR Part 212, Subpart E. The refund granted in this proceeding totals $92,078.00, representing $80,239.00 in principal and $11,839.00 in interest.

MAPCO, Inc./Cal Gas Corporation, 9/27/85, RF108–6

Cal Gas Corporation filed an Application for Refund in which it sought a portion of the fund obtained by the DOE through a consent order entered into with MAPCO, Inc. The firm claimed a refund on the basis of its purchase of 2,100,000 gallons of propane from MAPCO during the consent order period. The DOE determined that Cal Gas' claim was below the presumption of injury level of $5,000. The DOE therefore granted Cal Gas a refund of $5,434.18 ($3,780 in principal plus accured interest of $1,654.18).

Seminole Refining, Inc./White Construction Company, 9/24/85, RF111–4

This Decision and Order relates to a distribution of escrowed monies paid to the DOE by Seminole Refining, Inc., in connection with a consent order entered into between Seminole and the DOE. In this proceeding White Construction Company claimed a refund on the basis that it purchased 1,060,303 gallons of refined products from Seminole during the consent order period. The DOE found that White Construction was a consumer of the covered products in a business which was not subject to prior DOE regulation and, accordingly, the firm was not required to make a detailed showing of injury. The DOE therefore granted White Construction a refund of $6,637.50 plus accured interest, which equals a share of the consent order fund allocated to White Construction on the basis of the volume of the products the firm purchased.

Tenneco Oil Company/Northern Petroleum, Inc., 9/27/85, RF7–126

The DOE issued a Decision and Order concerning an Application for Refund filed by Northern Petroleum, Inc., a reseller of Tenneco motor gasoline. Because Northern's purchases exceeded the 50,000 gallon per month small claims threshold, the DOE required the firm to establish that it had not passed through any alleged Tenneco overcharges to its own customers. Although Northern could not provide actual cost bank data to demonstrate it did not recover its increased product costs, the firm was able to provide alternative evidence which approximated the method by which a firm would have calculated contemporaneous cost banks. In addition to its approximated bank calculations, the firm also submitted evidence concerning its Tenneco purchase volumes and acquisition costs. After examining the evidence and supporting information submitted by the firm, the DOE found that Northern did experience injury in some months because of Tenneco's pricing practices. The DOE then concluded that Northern should receive a refund of $34,364 based on its purchases of Tenneco motor gasoline.

Dismissals

The following submissions were dismissed:

Company Name and Case No.

Campbell Oil Company—RF115–4
Mobil Oil Corporation—HFJ–0053

Mockabee's Oil Company—HRA-0011
Merle Oaks—RF73-10
Quickway Market—RF73-2

Copies of the full text of these decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room 1E-234, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

Dated: October 21, 1985.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 85-25844 Filed 10-29-85; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Decisions and Orders; Week of September 16 Through September 20, 1985

During the week of September 16 through September 20, 1985, the decisions and orders summarized below were issued with respect to applications for relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Remedial Order

Barkett Oil Company, Lawrence Oil Company, Anchor Distributors, Inc., 9/17/85; BRO-1342, BRO-1357, HRO-0033, HRO-0034, HRO-0036

Barkett Oil Co., Lawrence Oil Co., and Anchor Distributors Inc. objected to five Proposed Remedial Orders issued by the Southwest District Office of the Economic Regulatory Administration (ERA) in November 1980 and February 1982. These proceedings were consolidated on October 8, 1982. During the audit periods, all three companies were wholly owned subsidiaries of BOC Companies Inc., and purchased and resold various grades of motor gasoline at wholesale and at retail. In the Proposed Remedial Orders, the ERA found that the BOC group of firms failed to calculate their maximum lawful selling prices (MLSPs) in accordance with 10 CFR 212.93 and consequently sold gasoline at prices that exceeded the MLSPs. Specifically, the ERA found: (1) Barkett Oil Co. improperly added a dealer sales commission to retail selling prices; (2) the BOC group established unlawfully high MLSPs at retail outlets acquired after May 15, 1973; and (3) Barkett, Lawrence and Anchor improperly sold gasoline to each other at prices exceeding the cost of the gasoline. After considering the firms' Statements of Objections, the DOE concluded that the Proposed Remedial Order should be remanded to the ERA with instructions either to recalculate the amount of overcharges in accordance with the principles of the Decision or to eliminate overcharges relating to certain disputed issues. The important issues discussed in this Decision and Order include: (i) proper application of the acquisition rule set forth in 10 CFR 212.111(c)(i) and the determination of the MLSPs of BOC's acquired retail stations given the absence of any data establishing the May 15, 1973 product costs and selling prices of motor gasoline at any of these stations; (ii) ERA's class of purchaser determinations; and (iii) the procedural and substantive validity of certain DOE rules, regulations and policies.

Robison Energy, Inc., 9/16/85; HRD-0227, HRH-0227

Robison Energy, Inc. and Jerry D. Robison (Robison) filed Motions for Discovery and Evidentiary Hearing in connection with a Proposed Remedial Order which was issued to the firm. In its Motion for Discovery, Robison made extensive requests for administrative record discovery and contemporaneous construction discovery of portions of the crude oil reseller regulations. Robison's Motion for Evidentiary hearing requested that the firm be allowed to formulate an evidentiary hearing request after it had been granted discovery. The DOE denied Robison's discovery motion because it would not produce information which was relevant and material to the resolution of any contested issues raised in the Proposed Remedial Order proceeding. The evidentiary hearing motion was denied because Robison had not attempted to demonstrate that such a hearing was necessary. However, Robison was extended the opportunity to submit additional evidence supporting certain claims Robison had made in its Statement of Objections. If Robison decides that oral testimony is also necessary for that purpose, Robison may submit a new Motion for Evidentiary Hearing with that filing.

Motion for Evidentiary Hearing

Petrade International Inc., 9/19/85; HRH-0036

Petrade International, Inc. is charged with violating the provisions of the layering regulation, 10 CFR 212.186. During a Hearing for the Purpose of Oral Argument, counsel for Petrade argued that the firm had performed traditional and historical services within the meaning of the regulation, but was unable to indicate the presence in the record of any evidence supporting these assertions. The DOE determined that an Evidentiary hearing should be convened to allow Petrade to present any evidence it might have, including the testimony of its past or present employees, officers, and/or customers which demonstrates that it performed traditional and historical services within the meaning of § 212.186.

Implementation of Special Refund Procedures

L & L Oil Company, Inc., Lowe Oil Company, Moyle Petroleum Corporation, 9/18/85; HEF-0111, HEF-0118, HEF-0133

The DOE issued a Decision and Order implementing a plan for the distribution of $10,000 received as a result of a consent order entered into with L&L Oil Co., Inc., $52,347.47 received as a result of a consent order entered into with Lowe Oil Co., and $12,173.48 received as a result of a consent order entered into with Moyle Petroleum Corporation. The DOE determined that the L&L settlement fund should be distributed to customers who purchased No. 2 diesel fuel from L&L during the November 1, 1973 through April 30, 1974 consent order period. The DOE determined that the Lowe settlement fund should be distributed to customers who purchased motor gasolines and motor oils from Lowe during the November 1, 1973 through April 30, 1974 consent order period. The DOE determined that the Moyle settlement fund should be distrubuted to customers who purchased motor gasoline during the March 1, 1979 through June 30, 1979 consent order period.

Refund Applications

Bayou State Oil Corporation/Tate Oil Products, 9/19/85; RF117-9

The DOE issued a Decision and Order concerning an Application for Refund filed by Tate Oil Products, a reseller of motor gasoline and diesel fuel purchased from Ida Gasoline, Inc. The firm elected to limit its refund claim to $5,000, and qualified for a refund based upon the presumption of injury and volumetric formula outlined in *Bayou State Oil Corporation, Ida Gasoline, Inc.*, 12 DOE ¶ 85,197 (1985). The DOE concluded that based upon the total volume of the motor gasoline and diesel fuel purchased from Ida, Tate should receive a refund of $7,078, including $5,000 principal and $2,078 interest.

Gulf Oil Corporation/Ashland Oil, Inc., 9/16/85; RF40-1603

The DOE issued a Decision and Order concerning an Application for Refund filed by Ashland Oil, Inc., a major refiner that purchased and resold Gulf petroleum products. The claimant applied for a refund based on the procedures outlined in *Gulf Oil Corp.*, 12 DOE ¶ 85,048 (1984). Ashland argued, however, that is was not required to submit evidence of cost banks to show that it would not have been required to pass any refund on to its customers, as stipulated in *Gulf*. The DOE found, however, that Ashland's arguments had been already considered and rejected by several courts. Accordingly, after examining the evidence submitted by Ashland, the DOE determined to grant the firm a refund for those months during the consent order period in which Ashland had maintained cost banks in excess of the refunds claimed for those months. The total amount of the refund approved in this Decision and Order was $6,114, representing $5,317 in principal and $797 in interest.

Gulf Oil Corporation/Metropoliton Limousine Service, et al., 9/16/85; RF40-2947 et al.

The DOE issued a Decision and Order concerning three Applications for Refund filed by end users of products purchased from the Gulf Oil Coporation. In its Decision, the DOE granted the three applications under the standards and procedures specified in *Gulf Oil Corp.*, 12 DOE ¶ 85,048 (1984). The refunds granted in this proceeding total $2,746.00, representing $2,393.00 in principal and $353.00 in interest.

Seminole Refining, Inc./Waverly Minerals Products Company, 9/19/85; RF111-1

Waverly Minerals Products Company filed an Application for Refund in which the firm sought a portion of the funds obtained by the DOE through a consent order entered into between DOE and Seminole Refining, Inc. Waverly indicated that it purchased fuel oil from Seminole during the consent order period. In considering the application, the DOE found that Waverly only claimed the threshold refund amount of $5,000. Thus since Waverly claimed only the threshold amount, the DOE determined that Waverly was not required to make any additional showing of injury. Accordingly, Waverly received a refund amount of $5,000 plus accrued interest.

Standard Oil Company (Indiana)/Capital Gas Company, 9/20/85; RF21-3810

Capital Gas Company (Capital Gas) filed an Application for Refund in which the firm sought a portion of the fund obtained by the DOE through a consent order entered into between DOE and the Standard Oil Company (Indiana) (Amoco). Although Capital Gas was unable to provide information demonstrating a likelihood that it had maintained cost banks throughout the consent order period, the DOE found it appropriate to invoke a small claims presumption and grant a threshold refund amount of $5,000. Accordingly, Capital Gas was awarded a refund comprising $5,000 principal and $3,416 interest.

Dismissals

The following submissions were dismissed:

Company Name and Case No.

Ashland Oil, Inc.—RF10-53
Champlin Petroleum Company—RF10-39
Commonwealth Oil Refining Co., Inc.—RF10-33
Fordyce Gulf Service—RF40-2905
Gulf Oil Corporation—RF10-38
Howell Corporation—HEZ-0269, HES-0049
Standard Oil Company (Indiana)—RF10-43

Copies of the full text of these decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room 1E-234, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

Dated: October 21, 1985.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 85-25845 Filed 10-29-85; 8:45 am]

BILLING CODE 6450-01-M

Special Refund Procedures

AGENCY: Office of Hearings and Appeals, DOE.

ACTION: Notice of Implementation of Special Refund Procedures.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy announces the procedures for disbursement of $125,000.00 (plus accrued interest) obtained as the result of a consent order between the DOE and Resources Extraction and Processing Company (REAPCO). The funds will be distributed to refund applicants who purchased natural gas liquids, natural gas liquid products, and/or any other regulated petroleum products, which originated with REAPCO during the settlement period (October 1, 1978 through January 28, 1981). A Proposed Decision and Order establishing refund procedures and soliciting comments from the public was issued on August 22, 1985. 50 FR 35308 (August 30, 1985).

DATE AND ADDRESS: Applications for refund must be filed by January 28, 1985, and should be addressed to: Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585. All applications must be filed in duplicate and should display conspicuously a reference to Case Number HEF-0574.

FOR FURTHER INFORMATION CONTACT: Thomas Wieker, Deputy Director, or Irene Bleiweiss, Attorney, Office of Hearings and Appeals, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252-2400.

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(b) of the procedural regulations of the Department of Energy (DOE), 10 CFR 205.282(b), notice is hereby given of the issuance of the Decision and Order set out below. The Decision and Order sets forth the procedures and standards that the DOE has formulated to distribute monies obtained from Resources Extraction and Processing Company (REAPCO). REAPCO entered into a Consent Order to settle possible pricing violations with respect to its sales of petroleum products during the period from October 1, 1978 and January 28, 1981. Under the terms of the Consent Order, REAPCO has remitted $125,000.00 which is being held in an interest-bearing escrow account pending determination of its proper distribution.

The settlement monies will be distributed in a two stage refund proceeding. The first stage will attempt to refund monies to costomers who can document their purchases of REAPCO products. The Decision and Order provides that the funds will be distributed to successful claimants based on the number of gallons of product which they purchased and the extent to which they can prove that they were injured by the alleged overcharges. After meritorious claims are paid in the first stage, second-stage refund procedures may become necessary to distribute any remaining funds.

Applications for Refund may now be filed. Applications will be accepted provided they are received no later than 90 days after publication of this Decision and Order in the **Federal Register**. The specific information required in an application for refund is set forth in the Decision and Order.

Date: October 21, 1985.

George B. Breznay,

Director, Office of Hearings and Appeals.

Decision and Order of the Department of Energy

Special Refund Procedures

Name of Case: Resources Extraction and Processing Company.

Date of Filing: March 19, 1985.

Case Number: HEF-0574.

Under the procedural regulations of the Department of Energy (DOE), the Economic Regulatory Administration (ERA) may request that the Office of Hearings and Appeals (OHA) formulate and implement special refund procedures. *See* 10 CFR Part 205, Subpart V. Such procedures enable the DOE to refund monies to those injured by alleged violations of the DOE pricing regulations. On March 19, 1985, the ERA requested that the OHA formulate and implement procedures to distribute funds which it received pursuant to a consent order with Resources Extraction and Processing Company (REAPCO). This Decision and Order contains the procedures which the OHA has formulated to distribute that consent order fund.

I. Background

During the settlement period (October 1, 1978 through January 28, 1981) REAPCO operated and owned a partial interest in the Bayou Vista Gas Plant in St. Mary parish, Louisiana. According to the record in this case, REAPCO's sales of products recovered at that plant were its only sales of regulated products. From October 1978 until July 1979, REAPCO sold natural gas liquids (NGLs). In July 1979, REAPCO began to fractionate all of its NGLs into natural gas liquid products (NGLPs) and, from that time onward, REAPCO sold NGLPs, including propane, butane, and natural gasoline.

On January 21, 1983, the ERA issued a Proposed Remedial Order (PRO) to REAPCO alleging that, from October 1978 through December 1980, REAPCO charged prices for NGLs and NGLPs in excess of those permitted under the DOE regulations. In order to settle the claims made in the PRO and any other claims by the DOE which might have arisen from REAPCO's activities between October 1, 1978 and January 28, 1981, REAPCO and the DOE entered into a Consent Order on August 10, 1984. Pursuant to that Consent Order, REAPCO refunded the sum of $125,000.00 to the DOE.

II. Jurisdiction and Authority To Fashion Refund Procedures

The general guidelines which the OHA may use to formulate and implement a plan to distribute funds received as the result of a consent order are set forth in 10 CFR Part 205, Subpart V. For a more detailed discussion of Subpart V and the authority of the OHA to fashion procedures to distribute refunds obtained as part of settlement agreements, see *Office of Enforcement*, 9 DOE § 82,508 (1981), and *Office of Enforcement*, 8 DOE § 82,597 (1981).

On August 22, 1985, the OHA issued a Proposed Decision and Order tentatively concluding that the implementation of a Subpart V proceeding was appropriate in this case and describing a tentative plan to distribute the REAPCO consent order fund. 50 FR 35308 (August 30, 1985) (Proposed Decision). A copy of the Proposed Decision was published in the Federal Register and comments to the proposed refund procedures were solicited. In addition, we sent a copy of the Proposed Decision to two firms which we identified as potential refund applicants. We have not received any comments directed at our decision to implement Subpart V procedures in this case. Therefore, we will grant the ERA's petition and assume jurisdiction over the distribution of the REAPCO consent order fund.

III. Refund Procedures

We have determined that the procedures described in the Proposed Decision are the most appropriate procedures to distribute the REAPCO consent order fund. Therefore, as we proposed, the distribution of the REAPCO consent order fund will take place in two stages. The first stage will attempt to refund monies to those who purchased REAPCO products during the consent order period. Such purchasers must file claims and document their purchases in order to be eligible for a portion of the consent order fund. In addition, purchasers will be required to prove that they were injured by the alleged overcharges—i.e., that they did not pass any such overcharges on to their own customers.

After meritorious claims are paid in the first stage, a second stage may become necessary to distribute any remaining funds. *See generally Office of Special Counsel*, 10 DOE ¶85,048 (1982). The Attorneys General of the States of Arkansas, Delaware, Iowa, Louisiana, North Dakota, Rhode Island, and West Virginia submitted comments to our discussion, in the Proposed Decision, of second stage refunds. These comments argue that state governments are the appropriate recipients of second stage refunds. It would be premature for us to follow the States' suggestion and establish second stage refund procedures at this time. Such procedures will necessarily depend on the size of the fund remaining after first stage procedures are completed. Therefore, we will not determine second stage refund procedures until after first stage refund procedures are completed.

1. Refunds to Identifiable Purchasers

During the first stage of the refund process, the REAPCO consent order fund will be distributed to claimants who satisfactorily demonstrate that they were injured by REAPCO's alleged overcharges. According to REAPCO, it sold all of its products to one marketing company: Gas Producers Liquids. Telephone Conversation between Irene Bleiweiss, OHA Staff Attorney and Richard C. Green, Counsel for REAPCO (July 24, 1985). The audit file, which provided the basis for the PRO issued to REAPCO, indicates that Gas Producers Liquids sold a portion of the REAPCO products to Mobil. We will accept applications from all parties who can demonstrate that they purchased products which originated with REAPCO.

In order to be eligible to receive a refund, claimants will have to file an application and, with three exceptions discussed later in this Decision, show the extent to which they have been injured by the alleged overcharges. To the extent that any individual or firm can establish injury, it will be eligible for a share of the consent order fund. While there are a variety of ways in which a showing of injury may be made, a reseller will generally be required to demonstrate that during the period covered by the Consent Order, it had "banks" of unrecovered product costs which were at least equal to the amount of the refund claimed, and that it did not pass these costs through to its own customers. If a reseller of REAPCO products passed the alleged overcharges through to its own customers, then these indirect customers will be entitled to a refund if they themselves can prove injury.

In this case we will adopt four rebuttable presumptions regarding injury. These presumptions have been used in many previous special refund cases. First, we will presume that end-users or ultimate consumers of REAPCO products whose businesses are unrelated to the petroleum industry were injured by the alleged overcharges. Second, we will not require a showing of injury from regulated utilities or agricultural cooperatives that passed the alleged overcharges on to their end-user members. Third, we will presume that purchasers of REAPCO products who are claiming small refunds ($5,000 or less) were injured by the alleged overcharges. Finally, we will adopt a presumption that spot purchasers were not injured. Prior OHA decisions provide detailed explanations of the basis for these presumptions. *E.g., True Co.* 13 DOE ¶ 85,178 at 88,484–85 (1985). We also explained the rationale for these presumptions in the Proposed Decision. 50 FR 35308 at 35309–10 (August 30, 1985). The presumptions will permit claimants to apply for refunds without incurring disproportionate expenses and will enable the OHA to consider the refund applications in the most efficient way possible in view of the limited resources available.

2. Calculation of Refund Amounts

We will use a volumetric method to divide the settlement monies among applicants who demonstrate that they are eligible to receive refunds. This method presumes that the alleged overcharges were spread equally over all the gallons of products which REAPCO sold. We have calculated a volumetric refund amount by dividing the consent order amount by the approximate number of gallons which REAPCO sold during the period covered by the Consent Order. Successful claimants will receive refunds based on their eligible purchase volumes multiplied by the volumetric refund amount, plus accrued interest. Tentatively, we have set the REAPCO volumetric refund amount at $.00095 per gallon. We derived this figure by dividing the consent order fund ($125,000.00) by an estimate of the number of gallons of products which REAPCO sold during the consent order period (130,895,607).

We recognize that a particular purchaser could have suffered a disproportionate share of the injury. For example, a purchaser might claim that

the prices he was charged were likely to have included alleged overcharges which were greater than the portion of the consent order monies which would be allocated to him under the volumetric presumption. Any purchaser who can make a showing of disproportionate overcharge may file a refund application based on such a claim.

We also recognize that although to the best of our knowledge, REAPCO sold only NGLs and NGLPs, the language of the Consent Order covers all products which the DOE regulated during the settlement period. Therefore, we will accept refund applications from anyone who can document purchases of other covered products from REAPCO and will consider any such applications on a case-by-case basis. However, if we receive applications based on purchases of products other than NGLs or NGLPs, it may become necessary to adjust the per gallon refund amount.

IV. Applications for Refund

We have determined that the refund procedures described above are the best means of distributing the REAPCO consent order fund. Accordingly, we will now accept applications for refunds.

Applications must be in writing, signed by the applicant, and make reference to case number HEF-0574. Applicants must include a showing of injury, as explained above, or a statement that the applicant need not show injury because it was an end-user of the product, an agricultural cooperative, or is claiming a refund of $5,000 or less. In the case of a spot purchaser, additional documentation of injury must be submitted to overcome the presumption that such a purchaser was not injured. Applicants must also document the date, place, price, and volume of the products they purchased.

All applications for refund must be filed in duplicate. A copy of each application will be available for public inspection in the Public Docket Room of the Office of Hearings and Appeals, Room 1E-234, 1000 Independence Avenue, S.W., Washington, D.C. Any applicant who believes that its application contains confidential information must so indicate on the first page of its application and submit two additional copies of its application from which the information which the applicant claims is confidential has been deleted, together with a statement specifying why any such information is privileged or confidential. Each application must also include the following statement: "I swear (or affiarm) that the information submitted is true and accurate to the best of my knowledge and belief." *See* 10 CFR 205.283(c), 18 U.S.C. § 1001. In addition the applicant should furnish us with the name, title, and telephone number of a person who the OHA may contact for additional information concerning the application. All applications should be sent to: Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

It Is Therefore Ordered That:

(1) Applications for refunds from the funds which Resources Extration and Processing Company remitted to the Department of Energy pursuant to the Consent Order executed on August 10, 1984, may now be filed.

(2) All applications must be received no later than 90 days after publication of this Decision and Order in the **Federal Register.**

Dated: October 21, 1985.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 85-25847 Filed 10-29-85; 8:45 am]

BILLING CODE 6450-01-M

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, DOE.

ACTION: Notice of Implementation of Special Refund Procedures.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy announces the procedures for disbursement of $30,000 (plus accrued interest) obtained as the result of a Consent Order which the DOE entered into with Leese Oil Company of Pocatello, Idaho. The funds will be available to customers who purchased motor gasoline from Leese during the period August 1, 1979 through April 30, 1980.

DATE AND ADDRESS: Applications for refund of a portion of the Leese consent order funds must be postmarked within 90 days of publication of this notice in the **Federal Register** and should be addressed to: Leese Consent Order Refund Proceeding, Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585. All applications should conspicuously display a reference to Case Number HEF-0583.

FOR FURTHER INFORMATION CONTACT: Richard W. Dugan, Associate Director, Office of Hearings and Appeals, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252-2860.

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(c) of the procedural regulations of the Department of Energy, 10 CFR 205.282(c), notice is hereby given of the issuance of the Decision and Order set out below. The Decision and Order relates to a Consent Order entered into by Leese Oil Company (Leese) of Pocatello, Idaho, which settled possible pricing and allocation violations with respect to the firm's sales of motor gasoline during the period August 1, 1979 through April 30, 1980. Under the terms of the Consent Order, $30,000 has been remitted by Leese and is being held in an interest-bearing escrow account pending determination of its proper distribution.

The Office of Hearings and Appeals previously issued a Proposed Decision and Order which tentatively established a two-stage refund procedure and solicited comments from interested parties concerning the proper disposition of the Leese consent order fund. The Proposed Decision and Order discussing the distribution of the Leese consent order fund was issued on July 2, 1985. 50 FR 28642 (July 15, 1985).

As the Leese Decision and Order indicates, applications for refunds from the consent order fund may now be filed. Applications will be accepted provided they are postmarked no later than 90 days after publication of this Decision and Order in the **Federal Register.**

Applications will be accepted from customers who purchased motor gasoline from Leese during the period August 1, 1979 through April 30, 1980. The specific information required in an application for refund is set forth in the Decision and Order. The Decision and Order reserves the question of the proper distribution of any remaining consent order funds until the first-stage claims procedure is completed.

Dated: October 21, 1985.

George B. Breznay,

Director, Office of Hearings and Appeals.

Decision and Order of the Department of Energy

Special Refund Procedures

Name of Firm: Leese Oil Company.

Date of Filing: May 17, 1985.

Case Number: HEF-0583.

In accordance with the procedural regulations of the Department of Energy (DOE), 10 CFR Part 205, Subpart V, the Economic Regulatory Administration (ERA) of the DOE filed a Petition for the Implementation of Special Refund Procedures with the Office of Hearings and Appeals on May 17, 1985. The petition requests that the OHA formulate and implement procedures for the distribution of funds received

pursuant to a Consent Order entered into by the DOE and Leese Oil Company (Leese) of Pocatello, Idaho.

I. Background

Leese is a "reseller-retailer" of "motor gasoline," as these terms were defined in 10 CFR 212.31. An ERA audit of Leese's operations during the period August 1, 1979 through September 30, 1979 (the audit period) revealed possible violations of the Mandatory Petroleum Price Regulations.[1] In order to settle all claims and disputes between Leese and the DOE regarding sales of motor gasoline during the period August 1, 1979 through April 30, 1980 (the consent order period), the firm entered into a Consent Order with the DOE on October 20, 1983. Under the terms of the Consent Order, the firm agreed to deposit $30,000 in an interest-bearing escrow account pending distribution by the DOE. The Consent Order refers to the ERA allegations of overcharges, but notes that execution of the Consent Order does not constitute an admission by Leese that the firm committed any such violations.

On July 2, 1985, we issued a Proposed Decision and Order (PD&O) setting forth a tentative plan for the distribution of the Leese consent order fund. 50 Fed. Reg. 28642 (July 15, 1985). We stated in the PD&O that the basic purpose of a special refund proceeding is to make restitution for injuries that were suffered as a result of alleged or adjudicated violations of the DOE regulations. In order to effect restitution in this proceeding, we proposed to establish a claims procedure whereby applications for refund would be accepted from customers who can demonstrate that they were injured as a result of Leese's pricing practices during the consent order period.

A copy of the PD&O was published in the **Federal Register** on July 15, 1985, and comments were solicited regarding the proposed refund procedures. We have received no comments regarding the issues raised in the PD&O. Accordingly, we will adopt the proposed refund procedures.

[1] On November 12, 1982, the DOE issued a Remedial Order (RO) to Leese, in which the firm was found to have overcharged its motor gasoline customers by $13,445.19 during the period August 1, 1979 through September 30, 1979. *Leese Oil Co.*, 10 DEO ¶ 83,015 (1982). In the RO, the DOE ordered Leese to pay the overcharge amount, plus interest, and to conduct a self-audit for the period October 1, 1979 through April 30, 1980. Leese appealed the RO to the Federal Energy Regulatory Commission, but withdrew the appeal in accordance with the terms of the Consent Order (FERC Docket No. RO-83-7-000).

II. Jurisdiction

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. It is DOE policy to use the Subpart V process to distribute such funds. 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 ¶ 82,508 (1981); *Office of Enforcement*, 8 DOE ¶ 82,597 (1981) (hereinafter cited as *Vickers*). As we stated in the PD&O, we have reviewed the record in the present case and have determined that a Subpart V proceeding is an appropriate mechanism for distributing the Leese consent order fund. We will therefore grant the ERA's petition and assume jurisdiction over distribution of the fund.

III. Determination of Injury

As proposed in the PD&O, reseller claimants will be required to demonstrate that they did not pass on to their customers the price increases implemented by Leese. *See, e.g., Vickers.* Accordingly, in order to qualify for a refund, a reseller of Leese motor gasoline must show that during the consent order period market conditions would not permit it to increase its prices to pass through the additional costs associated with the alleged overcharges. In addition, a reseller must show that it had a "bank" of unrecovered costs in order to demonstrate that it did not subsequently recover these costs by increasing its prices.[2] As we noted in the PD&O, however, the maintenance of a bank will not automatically establish injury. *See Tenneco Oil Co./Chevron U.S.A., Inc.*, 10 DOE ¶ 85,014 (1982); *Vickers Energy Corp./Standard Oil Co. (Indiana)*, 10 DOE ¶ 85,036 (1982); *Vickers Energy Corp./Koch Industries, Inc.*, 10 DOE ¶ 85,038 (1982).

As proposed in the PD&O, we will adopt presumptions of injury which have been used in many prior refund cases. These presumptions will permit claimants to participate in the refund process without incurring disproportionate expenses, and will enable the OHA to consider the refund applications in the most efficient way possible in view of the limited resources available. *See* 10 CFR 205.282(e).

A. Small Claims Presumption

As explained in the PD&O, we recognize that a detailed showing of injury may be too complicated and burdensome for resellers who purchased relatively small amounts of Leese motor gasoline. For example, such firms may have limited accounting and data-retrieval capabilities and may therefore be unable to produce the records necessary to prove the existence of banks of unrecovered costs or to show that they did not pass on the alleged overcharges to their own customers. We are also concerned that the cost to the applicant and to the government of compiling and analyzing information sufficient to make a detailed showing of injury not exceed the amount of the refund to be gained. In the past, we have adopted a small claims presumption to assure that the costs of filing and processing a refund application do not exceed the benefits. *See, e.g., Aztex Energy Co.*, 12 DOE ¶ 85,116 (1984); *Marion Corp.*, 12 DOE ¶ 85,014 (1984). As proposed in the PD&O, we will adopt this presumption in the present case. Therefore, any reseller applicant claiming a refund of $5,000 or less need not make a detailed showing of injury in order to be eligible to receive a refund.

B. Spot Purchasers

We will also adopt a rebuttable presumption that firms which made only spot purchases of Leese motor gasoline have suffered no injury. These firms will therefore be ineligible for any refund, even a refund at or below the $5,000 threshold level. As we have previously stated, spot purchasers tend to have considerable discretion as to where and when to make purchases and would therefore not have made spot purchases of Leese motor gasoline at increased prices unless they were able to pass through the full amount of the alleged overcharges to their own customers. *See Office of Enforcement*, 8 DOE ¶ 82,597 at 85,396-97 (1981). Accordingly, in order to overcome the rebuttable presumption that it was not injured, a spot purchaser must (i) establish that it was unable to recover the prices it paid for Leese motor gasoline and (ii) submit additional evidence to show that it would be inappropriate to presume that the firm had discretion as to where and when to make the purchase(s) upon which its refund claim is based.

[2] The motor gasoline sales covered by the Consent Order occurred subsequent to the amendment of the retailer price rule that eliminated the banking provision for retailers. *See* 10 CFR 212.93(a)(2), 44 FR 42542 (July 19, 1979) (effective July 15, 1979). Accordingly, retailers will not be required to submit bank information to demonstrate injury.

C. End-Users

We will not require end-users or ultimate consumers whose businesses are unrelated to the petroleum industry to make a detailed showing of injury. *See Texas Oil & Gas Corp.*, 12 DOE ¶85,069 at 88,209 (1984). Unlike regulated firms in the petroleum industry, members of this group generally were not subject to price controls during the consent order period and were not required to keep records which justified selling price increases by reference to cost increases. For these reasons, an analysis of the impact of the alleged overcharges on the final prices of non-petroleum goods and services would be beyond the scope of a special refund proceeding. *Id.* We have therefore concluded that end-users of Leese motor gasoline need only document their purchase volumes from the firm to make a sufficient showing that they were injured by the alleged overcharges. On the other hand, refund applicants whose business operations were subject to the DOE regulatory program and who purchased motor gasoline consumed as fuel will not be considered end-users for the purposes of the showing of injury. *See Seminole Refining, Inc.*, 12 DOE ¶85,188 (1985).

IV. Calculation of Refund Amounts

As set forth in the PD&O, we will adopt a presumption that the alleged Leese overcharges were spread equally over all gallons of motor gasoline marketed by Leese during the consent order period. In the absence of better information, this assumption is sound because the DOE price regulations generally required a regulated firm to account for increased costs on a firm-wide basis in determining its prices.[3] We have calculated the volumetric refund factor by dividing the consent order fund ($30,000) by the estimated total volume of motor gasoline sold by Leese during the consent order period (3,870,195 gallons), resulting in a per gallon refund amount of $0.007752.[4] The interest that has accrued on the money in the escrow account will be added to the refund of each successful claimant in proportion to the size of its refund.

We will also adopt our proposal to establish a minimum amount of $15 for refund claims. We have found through our experience in prior refund cases that the cost of processing claims in which refunds are sought for amounts less than $15 outweighs the benefits of restitution in those situations.[5] See, e.g., Uban Oil Co. 9 DOE ¶82,541 at 85,225 (1982). *See also* 10 C.F.R. § 205.286(b).

V. Application for Refund Procedures

We have determined that the procedures described in the PD&O are the most equitable and efficacious means of distributing the Leese consent order fund. Accordingly, we shall now accept applications for refund from customers who purchased motor gasoline from Leese during the consent order period.

In order to receive a refund, each applicant will be required to report the monthly volume of Leese motor gasoline for which it is claiming a refund. The applicant must also state how it used the motor gasoline, i.e., whether it was a reseller or an ultimate consumer. Any reseller who requests a refund in excess of the $5,000 threshold amount must submit evidence to establish that it did not pass on the alleged overcharges to its customers. In addition, each applicant must state whether there has been a change in ownership of the firm since the audit period and must provide the names and addresses of any other onwers. If there has been a change in ownership, the applicant should either state the reasons why the refund should be paid to the applicant rather than the other owners or provide a signed statement from the other owners indicating that they do not claim a refund. Applicants should also report any past or present involvement as a party in DOE or private Section 210 enforcement proceedings. If these proceedings have terminated, the applicant should furnish a copy of the final order issued in the matter and indicate the status of any remedial action required by the order. If the proceeding is ongoing, the applicant should briefly describe the proceeding and its current status. The applicant is under a continuing obligation to keep the OHA informed of any change in status while its refund application is pending. *See* 10 CFR 205.9(d).

All applications must be filed in duplicate and must be received within 90 days after publication of this Decision and Order in the **Federal Register.** Each application must be in writing, signed by the applicant, and specify that it pertains to the Leese Consent Order Fund, Case No. HEF-0583. A copy of each application will be available for public inspection in the Public Docket Room of the Office of Hearings and Appeals. Any applicant who believes that its application contains confidential information must so indicate and submit two additional copies of its application from which the information that the applicant claims is confidential has been deleted. Each application must also include the following statement signed by the applicant: "I swear (or affirm) that the information submitted is true and accurate to the best of my knowledge and belief." *See* 10 CFR 205.283(c); 18 U.S.C. 1001. In addition, the applicant should furnish us with the name and telephone number of a person who may be contacted by this Office for additional information concerning the application. All applications should be sent to: Office of Hearings and Appeals, Department of Energy, 1000 Independence Ave., SW., Washington, DC 20585.

It Is Therefore Ordered That:

(1) Applications for refunds from funds remitted to the Department of Energy by Leese Oil Company pursuant to the Consent Order executed on October 20, 1983 may now be filed.

(2) All applications must be filed no later than 90 days after publication of this Decision and Order in the **Federal Register.**

Dated: October 21, 1985.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 85-25848 Filed 10-29-85; 8:45 am]

BILLING CODE 6450-01-M

[3] Since a Consent Order is necessarily the result of a compromise, the volumetric refund amount derived from that Consent Order is also a compromise. The volumetric refund amount does not purport to refund the exact amount that a customer may have been overcharged. Rather, it is a method by which a customer can receive an appropriate proportion of the consent order fund. We recognize, however, that the impact of a firm's pricing practices on an individual purchaser could have been greater, and any purchaser will therefore be allowed to file a claim that it suffered a disproportionate injury as a result of Leese's pricing practices during the audit period. A refund application for an amount greater than the amount calculated using the volumetric presumption must document the disproportionate impact of the alleged overcharges. *See, e.g., Amtel, Inc.*, 12 DOE ¶85,073 at 88,233-34 (1984).

[4] Because the available ERA audit files do not list the volumes of motor gasoline sold by Leese during the entire consent order period, we have extrapolated sales figures from the available audit data.

[5] Under the volumetric refund level established in this proceeding, an applicant must have purchased at least 1,935 gallons of motor gasoline from Lease during the consent order period in order to qualify for the minimum refund.

ENVIRONMENTAL PROTECTION AGENCY

[OPP-30259; PH-FRL 2915-7]

Certain Companies; Applications To Register Pesticide Products

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of applications to register a pesticide product containing an active ingredient not included in any previously registered product pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

DATE: Comment by November 29, 1985.

ADDRESS: By mail submit comments identified by the document control number [OPP–20359] and the registration/file number, attention Product Manager (PM) named in each application at the following address:

Information Services (TS–757C), Program Management and Support Division, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

In person, bring comments to: Environmental Protection Agency, Rm. 236, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Information submitted in any comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice to the submitter. All written comments will be available for public inspection in Rm. 236 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Registration Division (TS–767C), Attn: (Product Manager (PM) named in each registration), Office of Pesticide Programs, 401 M St., SW., Washington, DC 20460.

In person: Contact the PM named in each registration at the following office location/telephone number:

Product manager	Office location/ telephone No.	Address
PM 15, George LaRocca.	Rm. 204, CM#2 (703–557–2400).	EPA, 1921 Jefferson Davis Hwy, Arlington, VA 22202.
PM 23, Richard Mountfort.	Rm. 237, CM#2 (703–557–1830).	Do.

SUPPLEMENTARY INFORMATION: EPA received applications as follows to register a pesticide product containing an active ingredient not included in any previously registered product pursuant to the provisions of section 3(c)(4) of FIFRA. Notice of receipt of these applications does not imply a decision by the Agency on the applications.

I. Products Containing an Active Ingredient Not Included in Any Previously Registered Product

1. File Symbol: 618–OA. Applicant: MSD AGVET, Division of Merck and Co., Inc, Rahway, NJ 07065. Product name: Avid® 0.15 EC. Insecticide. Active ingredient: Abamectin [a mixture of avermectins containing >80% avermectin B_1a (5-0-Demethyl-avermectin A_1a) <20% avermectin B_1b (5-0-demethyl-25-de(1-methylpropyl)-25-(1-methylethyl)avermectin A_1a] 2.0%. Proposed classification/Use: General. For control of mites and leafminers on ornamental plants. Type registration: Conditional. (PM 15)

2. File Symbol: 748-EAN. Applicant: PPG Industries, Inc., One PPG Place, Pittsburgh, PA 15272. Product name: Lactofen Manufacturing Concentrate. Herbicide. Active ingredient: 1-(Carboethoxy)ethyl 5-[2-chloro-4-(trifluoromethyl)phenoxy]-2-nitrobenzoate 60.0%. Proposed classification/Use: General. For formulation use only. (PM 23)

3. File Symbol: 748-ELO. Applicant: PPG Industries, Inc. Product name: Cobra™ Herbicide. Herbicide. Active ingredient: 1-(Carboethoxy)ethyl 5-[2-chloro-4-(trifluoromethyl)phenoxy]-2-nitrobenzoate 23.2%. Proposed classification/Use: General. For postemergence control of susceptible broadleaf weeds in soybeans. (PM 23)

Notice of approval or denial of an application to register a pesticide product will be announced in the **Federal Register.** The procedure for requesting data will be given in the **Federal Register** if an application is approved.

Comments received within the specified time period will be considered before a final decision is made; comments received after the time specified will be considered only to the extent possible without delaying processing of the application.

Written comments filed pursuant to this notice, will be available in the Program Management and Support Division (PMSD) office at the address provided from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays. It is suggested that persons interested in reviewing the application file, telephone the PMSD office (703–557–3262), to ensure that the file is available on the date of intended visit.

Authority: 7 U.S.C. 136.

Dated: October 18, 1985.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 85–25523 Filed 10–29–85; 8:45 am]

BILLING CODE 6560–50

FEDERAL RESERVE SYSTEM

Chemical International Bank; Corporation To Do Business Under Section 25(a) of the Federal Reserve Act

An application has been submitted for the Board's approval of the organization of a corporation to do business under section 25(a) of the Federal Reserve Act ("Edge Corporation"). The Edge Corporation would operate as a subsidiary of the organization listed below. The factors that are to be considered in acting on the application are set forth in § 211.4(a) of the Board's Regulation K (12 CFR 211.4(a)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank listed for that notice. 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, identify specifically any questions of fact that are in dispute, and summarize the evidence that would be presented at a hearing. Any person wishing to comment on the application should submit views in writing to be received not later than November 10, 1985.

A. Board of Governors of the Federal Reserve System (William W. Wiles, Secretary) Washington, D.C. 20551:

1. *Chemical International Bank,* Miami, Florida: to establish a corporation to be known as Chemical International Bank, Miami, Florida. Chemical International Bank would operate as a subsidiary of Chemical Bank, New York, New York. This application may be inspected at the Federal Reserve Bank of New York.

Board of Governors of the Federal Reserve System, October 24, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85–25870 Filed 10–29–85; 8:45 am]

BILLING CODE 6210–01–M

First NH Banks, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

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 (12 CFR 225.14) 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 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 November 20, 1985.

A. Federal Reserve Bank of Boston (Richard E. Randall, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *First NH Banks, Inc.*, Manchester, New Hampshire; to acquire at least 50 percent of North Country Bank, Berlin, New Hampshire.

B. Federal Reserve Bank of Cleveland (Lee S. Adams, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Cochranton Bancorp, Inc.*, Cochranton, Pennsylvania; to become a bank holding company by acquiring 100 percent of the voting shares of The First National Bank of Cochranton, Cochranton, Pennsylvania. Comments on this application must be received not later than November 21, 1985.

C. Federal Reserve Bank of St. Louis (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Forbes First Financial Corporation*, St. Louis, Missouri; to become a bank holding company by acquiring 100 percent of the following bank holding companies: EMB, Inc., St. Louis, Missouri, thereby indirectly acquiring Eagle Bank of Gasconade County, Owensville, Missouri; Century Bancshares Corporation, St. Louis, Missouri, thereby indirectly acquiring Eagle Bank and Trust Company, St. Louis, Missouri; and Eagle Bancshares Corporation, Hillsboro, Missouri, thereby indirectly acquiring Eagle Bank of Jefferson County, Hillsboro, Missouri.

D. Federal Reserve Bank of Kansas City (Thomas M. Hoening, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Jansen Bancshares, Inc.*, Jansen, Nebraska; to become a bank holding company by acquiring 100 percent of the voting shares of State Bank of Jansen, Jansen, Nebraska. Comments on this application must be received not later than November 14, 1985.

Board of Governors of the Federal Reserve System, October 24, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-25871 Filed 10-29-85; 8:45 am]

BILLING CODE 6210-01-M

Magnolia Bancshares, Inc.; Application to Engage de Novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) 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 (12 CFR 225.21(a)) 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.

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 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 application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 18, 1985.

A. Federal Reserve Bank of St. Louis (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Magnolia Bancshares, Inc.*, Hogenville, Kentucky; to engage *de novo* through its subsidiary, Magnolia Mortgage Company, Inc., Hogenville, Kentucky, in originating and selling real estate loans through a wholly-owned subsidiary.

Board of Governors of the Federal Reserve System, October 24, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-25872 Filed 10-29-85; 8:45 am]

BILLING CODE 6210-01-M

Mellon Bank Corp.; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) 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 (12 CFR 225.21(a)) 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 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.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 8, 1985.

A. **Federal Reserve Bank of Cleveland** (Lee S. Adams, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Mellon Bank Corporation,* Pittsburgh, Pennsylvania; to acquire Fidata Services, Incorporated, Pittsburgh, Pennsylvania, and thereby engage in providing data processing and data transmission services (including a variety of trust accounting-recordkeeping services) and facilities to others (primarily bank trust departments), as well as perform functions or activities that may be performed by a trust company (including activities of a fiduciary, or custodial nature). Included in the activities are providing trust accounting-recordkeeping systems for bank trust department; preparing customer statements; accounting for and preparing pension disbursement checks; cost accounting; and privinding for the sweep of trust funds into designated trust accounts, pursuant to § 225.25(b)(3) and (7) of Regulation Y. These activities would be performed from offices of Applicant's subsidiary in New York, and Grand Cayman, Cayman Islands.

Board of Governors of the Federal Reserve System, October 24, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-25873 Filed 10-29-85; 8:45 am]

BILLING CODE 6210-01-M

Osborne Investments, Inc.; Formation of, Acquisition by, or Merger of Bank Holding Companies; and Acquisition of Nonbanking Company

The company listed in this notice has applied under § 225.14 of the Board's Regulation Y (12 CFR 225.14) 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 company has also applied under 225.23(a)(2) of Regulation Y (12 CFR 225.23(a)(2)) 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 (12 CFR 225.21(a)) 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 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.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 20, 1985.

A. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Osborne Investments, Inc.,* Osborne, Kansas; to merge with Gaylord Investments, Inc., Gaylord, Kansas, thereby indirectly acquiring The Farmers National Bank of Gaylord, Gaylord, Kansas.

Applicant has also applied to engage through Gaylord Investments, Inc., Gaylord, Kansas, in the sale of life, accident and health insurance directly related to extensions of credit made by The Farmers National Bank of Gaylord, Gaylord, Kansas.

Applicant has also applied to engage in general insurance agency activities in a town with a population of less than 5,000, pursuant to section 4(c)(8)(C)(i) of the Act. These activities are to be conducted in Gaylord, Kansas.

Board of Governors of the Federal Reserve System, October 24, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-25874 Filed 10-29-85; 8:45 am]

BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

Agency Information Collection Under Review by the Office of Management and Budget; Nondiscrimination in Federal Financial Assistance Programs

AGENCY: Office of Policy and Management Systems, GSA.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the General Services Administration (GSA) requests the Office of Management and Budget (OMB) to review and approve a new information collection.

ADDRESSES: Send comments to Franklin S. Reeder, GSA Desk Officer, Room 3235, NEOB, Washington, DC 20503, and to William W. Hiebert, GSA Clearance Officer, General Services Administration (ATRAI), Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Thomas Henderson, Office of Civil Rights (202-566-1368).

SUPPLEMENTARY INFORMATION:

a. *Purpose.* This collection will provide information to determine that recipients of Federal financial assistance are distributing Federal surplus property in a nondiscriminatory manner.

b. *Annual reporting burden.* Respondents and responses 55 each, hours 880.

c. *Copies of proposal.* Copies may be obtained from the Directives and Reports Management Branch (ATRAI), Room 3013, GS Building, Washington, DC 20405 (202-566-0666).

Dated: October 22, 1985.

Johnny T. Young,

Acting Director, Information Management Division.

[FR Doc. 85-25818 Filed 10-29-85; 8:45 am]

BILLING CODE 6820-BR-M

[FIRMR Bulletin 29]

Changes to Federal Telecommunications System (FTS) Intercity Services—Advance Notification and Request for Comments

AGENCY: Office of Information Resources Management, GSA.

ACTION: Advance Notification and Request for Comments.

SUMMARY: This Federal Information Resources Management Regulation (FIRMR) bulletin notifies Federal agencies that GSA plans to replace the

currently configured FTS intercity system by 1990 and requests agencies to review and comment on the procedures discussed.

DATES: Comments are due 90 days from the date of the bulletin.

ADDRESS: Comments should be addressed to: General Services Administration (KMPP), Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: John F. Stewart, Policy Branch (KMPP), Office of Information Resources Management, telephone (202) 566-0194 or FTS 566-0194.

General Services Administration

October 15, 1985.

[FIRMR Bulletin 29]

To: Heads of Federal agencies

Subject: Changes to Federal Telecommunications System (FTS) intercity services—advance notification and request for comments

1. *Purpose.*

a. This bulletin has two purposes.

(1) *Advance notification.* The bulletin notifies agencies that GSA plans to replace the currently configured FTS intercity system by 1990. GSA is currently developing the strategy for replacing the current intercity system and expects to have this finalized by early 1986. By separate action, GSA is asking for comments on the draft procurement specifications and for recommendations for changes from Federal agencies as well as vendors. GSA will also consider any proposed alternative that will allow the Government to better meet its needs from a cost and quality of service point of view. GSA will notify agencies once the final decision is made. As a result of GSA's decision to replace the intercity system, present users of the long distance service of the FTS must begin to plan and make decisions regarding future services. To provide agencies with a preliminary basis for planning, GSA is providing current information about the replacement strategy (FTS2000) being currently pursued with the telecommunications industry and the ten largest users of the current system. The information encompasses alternatives for telecommunications services delivery, the management required by GSA and the agencies for transition, and preliminary schedules of events. In addition, an agency planning submission requirement discussion is included to provide guidance for those Federal agencies that may not wish to use the replacement system.

(2) *Request for comments.* The bulletin requests agencies to review and comment on the procedures discussed herein. As set forth in Paragraph 10, GSA invites written comments. The discussions herein may also serve to focus internal agency consideration of this vital element of information resources management.

b. This bulletin does not address local telecommuncations services. The new FTS2000 service will not cover local service aspects of telecommunications. Local service will be covered by providers of GSA consolidated, agency common use, or agency exclusive use local services.

Federal Information Resources Management Regulation Appendix B

2. *Expiration date.* This bulletin contains information of a continuing nature and will remain in effect until canceled or superseded.

3. *Background.*

a. The Federal Telecommunication System (FTS) intercity service is a nationwide telecommunications system managed by GSA to provide long distance telecommunications services to Government agencies. It covers the 50 States, Puerto Rico, and the Virgin Islands. Established in 1961 to serve the civil agencies of the Government on a day-to-day basis and during emergencies, service began in 1963.

b. The FTS is the largest private network in the world and until recently was entirely supplied by AT&T in the monopolistic predivestiture, regulated environment. It is mainly comprised of a dedicated, fixed system of separate switches and trunks, leased exclusively for Government use. The architecture is biased towards analog services, therefore restricting usage to voice and slow speed data. This reflects the technology of the time.

c. The problems with continuing the current FTS intercity service are several. For example, users' requirements for services are changing as demanded increases for higher data transmission speeds. This will be exacerbated as users move into the 1990's. The need for integration of services will become common, and in essence, voice, data, and even video will become a single service.

d. In addition to the current FTS being unable to respond to new user needs, its advantages of the past are rapidly decreasing. Quality of service tends to decline as basic technology ages. A further problem is that management information essential to more closely control costs is not available from current FTS technology. Finally, the current FTS, while still being economical, no longer offers the tremendous cost advantages that it once did.

e. As a consequence, GSA has concluded that FTS intercity service, as now constituted, will be terminated. Successor long distance services will be competed. The alternative would be to wait until AT&T ceases to suport the current architecture. At that time the Government would be forced to accept AT&T's service continuation proposal for at least an interim period. Transition of the very large current system to any future alternative will be long and complicated, taxing the capability of the industry, the users, and GSA.

4. *Alternatives for future service.*

a. In order to manage this transition CSA has prepared two paths for agencies:

(1) CSA will continue to provide long distance services for agencies that elect to use the services contract known as FTS2000; and

(2) Agencies may elect to present their plans for alternative provisions of their long distance services in order that GSA may plan the overall transition and assure equity for all agencies.

b. These two alternative paths are described in the following paragraphs 5 and 6.

5. *The FTS2000 Services Contract.*

a. FTS2000 will provide integrated long distance services for agencies, rather than the voice and low speed data services offered by the current system. Many services and features will be offered in five major areas:

(1) Switched Voice Services;

(2) Switched Data Services;

(3) Switched Digital Services;

(4) Full Motion Video; and

(5) Packet Switched Services.

b. Attachment A presents a preliminary listing of these services and features. These will be available at customer agencies' PBXs (or GSA consolidated or other common use local services locations). Their use will be limited only by the ability of the agency PBX to pass the service through to the end user. It is recognized that agencies will need a detailed listing of FTS2000 services and features in order to determine if FTS2000 will satisfy their detailed requirements.

c. Services will be provided by a single prime contractor who will act as the long distance system manager and provide all quality control, maintenance, and administration. The system manager will be required to upgrade services as required to assure quality and cost effectiveness.

d. GSA will administer and oversee the FTS2000 contract through a Service Oversight Center which will provide management information concerning the quality and quantity of all services delivered. This information will be made available to subscribers.

e. The FTS2000 planning effort is currently being overseen by representatives of the ten largest user agencies of the current FTS. They are reviewing all specifications and providing the source selection advisory board. GSA is acting as the central contracting agent for this effort.

f. No up-front money will be required of the users of FTS2000. Transition will begin in 1987 and will be completed by 1990. The FTS2000 system manager will manage all aspects of the transition to the new FTS2000 long distance service for subscribers, and will assure continuity of service.

g. Whenever practicable, usage will be charged in terms of cents per minute of service based only on actual consumption. Detailed usage bills will be rendered on a monthly basis to agencies according to their requirements.

h. Agency service agreements of 3 year duration will be required. During that period, ceiling pricing will be guaranteed for each type or level of features or services. Agencies will specify the features or services that they will commit to FTS2000 for that period. Subscriber agreements will be required prior to award of the contract (currently scheduled for 1987). Agencies wishing to pursue subscription to the new service should contact GSA as indicated in paragraph 9. GSA is also holding a series of information seminars concerning the project, see paragraph 9 for telephone contact.

6. *Agency plans for alternative services.*

a. Agencies that decide not to take advantage of GSA's service proposal on FTS2000 will be required to develop a transition plan demonstrating how their current voice and low speed data requirements will be satisfied in the future and how access/traffic will be moved off the FTS by January 1990. Since transition to FTS2000 is planned to be phased in from 1987 through 1990, the plan must provide for termination of current FTS service within that 3 year timeframe.

b. Agencies will submit their plans for alternative provision of services to GSA. GSA's Office of Information Resources Management Policy (KMAS) will use agency plans in its overall review of the agency's decision to obtain services equivalent to current FTS service by alternative means; other agency services requirement will be reviewed as the system lives of current arrangements expire or new requirements are identified. Agency transition plans should be used by agencies to ensure an orderly and cost effective transition from use of current FTS service. GSA's Office of the Deputy Assistant Administrator for Telecommunications Management (KB) will use agency transition plans to manage the termination of the current FTS.

c. Agency transition plans and new requirements should be based on determination of agency needs, requirements analysis, and analysis of alternatives. Attachment B describes the process that GSA will require agencies to follow. Attachment C contains an outline of the submission requiements.

7. *Management of the transition.*

a. With the decision to shut down the currently configured FTS system, the question of an orderly transition becomes paramount, regardless of how current users of the FTS meet their future needs. Since the current system is the largest individual private network in the world, an orderly transition to ensure continuity of service to all 1.3 million users is a significantly difficult problem. Membership in the current FTS was an implied corporate commitment back in the early 1960's, so the management of the termination of this association must be equitable. The responsibility for achieving equity in this transition lies with GSA. GSA will manage a planned, equitable transition from the existing facilities based system. However, GSA will not be responsible for continuity of service for current FTS users who elect alternative provisions for service in lieu of subscribing to FTS2000 service.

b. A fixed system of switches and circuits like the current FTS has certain built in economics of scale. As the volume of usage increases the marginal cost to handle the additional traffic is only a fraction of the average cost. This means that the average cost to all users will go down as the total volume of usage increases. Conversely, as the volume goes down, the average cost to the remaining users will increase.

c. An unplanned, reactive shut down would have an unfavorable impact on the present economies of scale of the present level of FTS use. The additional costs to remaining users are real costs over and above average operating costs at current volumes of traffic and as such must be paid for by the users. These can either be paid for inequitably, where the first off pays the least and the last off pays the most; or equitably, where the total shut down cost is born equally by users according to their participation in the system. By proper advance notice of the plans of agencies and by proper planning and management of the transition by GSA, increasing portions of the traffic can be moved to metered service as the transition progresses. For planning purposes, agencies should expect this transition to take a total of 3 years and to take place between 1987 and 1990. The estimated cost over 3 years would represent a surcharge of only a few cents per minute on services during the transition. The cost is expected to be offset by savings from transfer to FTS2000 during the transition period.

d. Users who intend to opt for GSA's service contract (FTS2000) should see no increase in rates as the transition charge will be offset by the savings. Users who opt to move to their own suppliers will be levied their equitable portion of this charge during the transition. This will be required to be factored into rate calculations for agency plans for alternative provision of services. Advance quarterly billings, as currently used, can be anticipated during the transition.

e. In order to ensure a minimum transition cost, agency conformance to an agreed schedule will prevent the generation of additional costs. So that FTS2000 subscribers are not financially injured by actions of users not conforming to the schedule, these users will be charged for costs attributed to unscheduled loss of traffic.

8. *Schedule of events.*

a. There are three proposed schedules of events that agencies should factor into their planning: The execution of agreements by agency subscribers to the FTS2000 continuity of services contract, the submission of plans by agencies not opting for the continuity of service contract, and the transition schedule itself.

(1) Schedule for agency subscriber agreements for FTS2000: Briefings for potential subscribers, Sept. 85-June 86; Execution of agreements, Oct. 86.

(2) Schedule for submission of plans for alternative provision for services: Briefing on planning requirements, Sept. Nov. 85; Submissions of plans by agencies,[1] Mar. 86; Review of plans by GSA, June 86.

(3) Schedule for transition: Award of FTS2000 contract, Jan. 87; Completion of transition plan, June 87; Start transition, June 87; Complete transition, Jan. 90.

9. *Information and assistance.* Further information and assistance may be obtained by contacting the following GSA activities.

a. For information on the FTS2000 continuity of services contract, subscriber, agreements, the management of the transition, and seminars on these subjects: Office of the Deputy Assistant Administrator, for Telecommunicaitons Management (KB), Telephone: FTS or local 523-1428.

b. For information on submission of plans for alternate provision of services: Office of Information Resources Management, Policy (KMAS), Telephone: FTS or local 566-1566.

10. *Submission of comments.* The views of agencies and other interested parties are invited regarding the procedures discussed in this bulletin. Comments are also welcomed as to related problems that these procedures could generate and as to issues that should, but are not yet addressed. All comments received by 90 days from the date of this bulletin will be considered. Comments should be addressed to GSA (KMPP), Project 85.45B, Washington, DC 20405.

Frank J. Carr,

Assistant Administrator, Office of Information Resources Management.

[FIRMR Bulletin 29, Attachment A]

FTS2000 Services and Features (Preliminary)

Switched Voice Services

Voice
Data 4.8 Kbps
Data 9.6 Kbps
Facsimile Type I, II, III
Voice Mail
Slow Scan Video
Electronic Blackboard
Abbreviated Dialing
Recorded Announcement Access
Authorization Codes
Automatic Identifed Outward Dialing
Call Back Queuing
Call Forwarding
Conference Capability
Direct Inward Access
Emergency Call Service
International Dialing
Attendant Serivces
Privilege and Restricted Access
Selected Override
Off-Net Access
On-Line Queuing
On to Off and Off to On Network Translations
Software Defined/Dialed Dedicated Connections
Privacy
Security Partitioning
Speed Calling
Toll Restriction
Call Screening
Traveling Identifier
Uniform Numbering Plan
Foreign Exchange Access
Automated Messaging/Recording
Internetworking
Local Network Transport
Dedicated Access

Switched Data Services

Data 9.6 Kbps
Data 56/64 Kbps
Facsimile Type IV
Electronic Mail
Communicating Word Processing
Interoperability of Facsimile Types I, II, III, IV

[1] Submissions to include FTS2000 as an alternative, considering GSA technical and cost inputs in response to agency requirements.

Dedicated Access

Switched Digital Services

Data from 64 Kbps to 1.544 Mbps Dedicated Access

Full Motion Video

Two Point Conferencing

Packet Switched Services

Fast Select
Fast Select Acceptance
Flow Control Parameter Negotiation
Packet Retransmission
Barred Incoming Calls and Outgoing
Extended Packet Sequence Numbering
D Bit Modification
Closed User Group
Closed User Group With Incoming/Outgoing Access
One-Way Logical Channel Incoming and Outgoing
Throughout Classes 75 bps to 64 Kbps With Default

[FIRMR Bulletin 29, Attachment B]

Agency Alternate Provision of Services, Agency Planning and GSA Review Process

General

GSA plans to terminate the currently configured FTS intercity system by January 1990. This means that agencies not planning to use FTS2000 must have their alternative service arrangement in place by January 1990. Under Federal Information Resources Management Regulation (FIRMR) Part 201–39, Major Changes and New Installations of Telecommunication Resources, agencies must obtain GSA approval of alternative service arrangements. The transitioning of existing FTS voice and low speed data to FTS2000 is a continuation of existing services and will not require FIRMR approval. However, new requirements, including those to be satisfied by using FTS2000, must be approved in accordance with FIRMR Part 201–39. This Attachment D describes the process agencies will be required to follow to obtain GSA approval of alternative service arrangements. Note that existing requirements for intercity telecommunications services that exceed capabilities of the current FTS and that have been authorized by GSA to be met by agency acquired services or systems are not subject to GSA review until the expiration of the existing system's life.

Determination of Needs and Requirements Analysis

Each agency must determine and document its requirements for telecommunications services. The scope of the agency telecommunications requirements analyses must be commensurate with the complexity of its needs. At a minimum, the analyses must address the agency's intercity voice and low speed data requirements being served by the current FTS.

A requirements analysis must document existing requirements and a projection of those requirements over at least a 3 year system life. Administrative and engineering support, service requirements associated with national security and emergency preparedness, connectivity with the rest of the Government, and management and control of the telecommunications resources must also be addressed.

Analysis of Alternatives

After documenting requirements, each agency must determine and document the methods it is considering to satisfy its requirements, including FTS2000 and other methods considered appropriate, such as commercial service offerings, agency dedicated systems, and sharing of other agency systems. Each method should be evaluated and compared to determine which method will most likely meet its service requirements at the lowest overall cost, price and other factors considered, over the system life. Evaluation criteria and evaluation results of alternative methods must be fully documented to support the agency selection.

In addition to cost, agency evaluation factors must address basic service delivery, administrative and engineering support, service requirements associated with national security and emergency preparedness, connectivity with the rest of the Government, and management and control of the telecommunications resources.

Agencies will coordinate directly with GSA's Deputy Assistant Administrator for Central Information Services (KB) in the evaluation of FTS2000 relative to their requirements. This should be done before seeking FIRMR approval from CSA's Office of Federal Information Resources Management. Agencies will need to provide GSA (KB) with a statement of their requirements and criteria to be used in analysis and evaluation. This GSA office will develop an FTS2000 technical and cost proposal which responds to the agencies' specific requirements. The GSA proposal will then be used by the agency to evaluate FTS2000 along with alternative methods for satisfying its requirements.

Agency Telecommunications Requests

An Agency that elects alternative service arrangements (major changes in accordance with FIRMR Part 201–39) must submit an Agency Telecommunications Request (ATR) to the General Services Administration (KMAS), Washington, DC 20405.

The ATR shall include the information set forth Section B of Attachment C. In addition, the agency will be required to submit a copy of the following documentation with the ATR:

(1) Determination of Needs and Requirements Analysis;

(2) Analysis of Alternatives; and

(3) Transition Plan (see Section A of Attachments C).

GSA's Authorization branch (KMAS) will conduct a thorough review of agency ATRs and related documentation to ensure that alternative methods have been analyzed and that all service and management requirements are being satisfied by the lowest overall cost alternative.

Agency ATR submissions to GSA will be required to be made no later than March 31, 1986. The ATR will be required to be signed by an individual authorized by the designated senior offical under P.L. 96–511 to submit ATR's to GSA. Failure to meet submission date schedules may result in the automatic assignment by GSA of agency basic voice and low speed data services existing at the beginning of transition on the current FTS system to FTS2000 for up to 3 years.

[FIRMR Bulletin 29, Attachment C]

Agency Alternate Provision of Services, Outline of Agency Submission Content

A. Agency transition plans shall contain the following information:

1. Introduction
   - Blackground
   - Purpose and Objectives of the Plan
2. Agency Mission and Organization Overview
   - Agency Mission
   - Program Objectives
   - Agency Organization
3. Current Environment
   - Basic Service delivery (Description of current FTS access/traffic)
   - Administrative and Engineering Support
   - Management and Control
   - National Security and Emergency Preparedness
   - Connectivity
   - Resources
4. Current Deficiencies/Needed Improvements
5. Future Requirements
   - Basic Service Delivery
   - Traffic Projections
   - Administrative and Engineering Support
   - Management and Control
   - National Security and Emergency Preparedness
   - Connectivity
6. The Plan for Satisfying Future Requirements
   - Assumptions
   - Technical Approach
   - Major Activities
   - Priorities
   - Schedule (by Activities)
   - Resources Required (by activity, by Month/Year)
   - Return on Investment (by Activity, by Month/Year
   - Plan Management and Tracking
7. The Plan for Removing Access/Traffic from the Current FTS—
   - Assumptions
   - Technical Approach
   - Major Activities
   - Priorities
   - Schedule (by Activities)
   - Resources Required (by Activity, by Month/Year)
   - Plan Management and Tracking

Note 1.—This Item 7 portion of the plan should be developed in coordination with GSA's Office of Central Information Services (KB).

Note 2.—Termination payments to GSA for moving from current FTS shall be included in the "Resources Required" section of this Item 7 portion of the plan.

B. Agency Telecommunications Request (ATR) submissions for obtaining GSA approval of provisions for alternative service

arrangements must contain the following information:

1. Agency Information. Provide agency name, address, and names and telephone numbers of appropriate agency technical and contracting points of contact.

2. Project Title and Description. Provide the project title and a brief but specific description of the primary agency program(s) that the required telecommunications resources will support.

If applicable, provide a brief but specific description of the current telecommunications transmission facilities (incuding major systems components) and services currently supporting the programs(s). Otherwise, describe technical and cost details of the current service arrangement.

If applicable, provide a brief but specific description of the telecommunications transmission facilities (including major systems components) and services requirement to be acquired. Include a network diagram, if appropriate, or such other pertinent information agencies may wish to present that will enable GSA to understand the requirement. This description should reflect resources required for system expansion (e.g., anticipated augmentation and other major system modifications) during the system life if such requirements will be included in the solicitation document as evaluated options. Otherwise, described how changing requirements will be satisfied, including technical and cost aspects.

3. Acquisition Strategy. Indicate whether the proposed procurement approach is full and open competition or other than full and open competition (sole source, including use of specific make and model purchase descriptions) and specify the type of contract expected to be used. Indicate whether GSA multiyear contracting authority is required. Identify by fiscal year quarter, the planned milestone dates for (a) release of solicitation document, and (b) contract award.

4. Estimated contract Life Cost. Identify the estimated contract cost of the acquisition (not the overall systems life cost) for the contract life. Include all anticipated optional quantities, services, and periods. Detailed cost breakdowns may be included when necessary to describe clearly the estimated costs. The estimated contract cost (for all years) should correspond to the planned contract life. (NOTE—The GSA approval resulting from the submission will be limited to quantities and years described in the ATR.)

5. Regulatory Compliance. Provide the date of completion or most recent update of the following documentation or indicate not applicable:

Requirement analysis; and

Analysis of alternatives.

6. Agency/GSA References. Provide references to previous GSA FIRMR/FPMR approvals (including previous GSA case number), meeting, telephone discussions, etc.

7. Authorization. Provide agency authorized signature, position title, organizational identification, date.

[FR Doc. 85-25817 Filed 10-29-85; 8:45 am]

BILLING CODE 6820-25-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

Project Grants for Preventive Health Services—Childhood Immunization; Availability of Funds for Fiscal Year 1986

Introduction

The Centers for Disease Control announces the availability of funds for Fiscal Year 1986 for Project Grants for Preventive Health Services—Childhood Immunization (Reference Immunization Program Announcement published in the **Federal Register**, Number 45, 48 FR 9580, March 7, 1983). The Catalog of Federal Domestic Assistance Number is 13.268. This grant program is authorized by section 317 of the Public Health Service Act (42 U.S.C. 247b), as amended. Regulations governing programs for preventive health services are codified at 42 CFR Part 51b, Subparts A and B.

Purpose

The objectives of this grant program are to reduce morbidity and mortality due to common vaccine-preventable diseases; to maintain interruption of indigenous measles transmission; to maintain 90 percent immunization levels for school children under age 15 against measles, poliomyelitis, diphtheria, tetanus, and rubella; to maintain 95 percent immunization levels for school enterers and 90 percent immunization levels for children enrolled in licensed day-care centers against measles, poliomyelitis, diphtheria, tetanus, pertussis, rubella, and mumps; and to develop, test, and implement systems for use in the States to ensure that 90 percent or more of all children complete basic immunizations by age 2; to hasten the elimination of congenital rubella syndrome and to promote adult immunization.

Eligible Applicants

Eligible applicants for this program are the official public health agencies of State and local governments, including the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Trust Territory of the Pacific Islands, the Northern Mariana Islands, and American Samoa.

Availability of Funds

Based upon the President's budget, approximately $42,400,000 will be available in Fiscal Year 1986 to award 61 continuation grants with the average award expected to be $695,000, ranging from $15,000 to $3,130,000. Grants are usually funded for 12 months in a 3- to 5-year project period. Continuation awards within the project period are made on the basis of satisfactory progress in meeting project objectives and on the availability of funds. No new grants are expected to be made in 1986 since current grantees are coordinating activities in all political jurisdictions in the United States. Funding estimates outlined above may vary and are subject to change.

Application Information

Applications are subject to review as governed by Executive Order 12372, Intergovernmental Review of Federal Programs, (30-day review by State Single Point of Contact) and regulations (42 CFR Part 122, as amended, and Part 123) implementing the National Health Planning and Resource Development Act of 1974. Application forms and information on review procedures, deadlines, the consequences of late submission, and copies of the program announcement and regulations may be obtained from the appropriate Department of Health and Human Services Regional Office as set forth below.

Dated: October 24, 1985.

Robert L. Foster,

Acting Director, Office of Program Support, Centers for Disease Control.

Department of Health and Human Services (HHS) Regional Offices

Regional Health Administrator, PHS, HHS Region I, John Fitzgerald Kennedy Building, Boston, Massachusetts 02203, (617) 223-6827

Regional Health Administrator, PHS, HHS Region II, Federal Building, 26 Federal Plaza, Room 3337, New York, New York 10278, (212) 264-2561

Regional Health Administrator, PHS, HHS Region III, Gateway Building #1, 3521-35 Market Street, Mailing Address: P.O. Box 13716, Philadelphia, Pennsylvania 19101, (215) 596-6637

Regional Health Administrator, PHS, HHS Region IV, 101 Marietta Tower, Suite 1007, Atlanta, Georgia 30323, (404) 221-2316

Regional Health Administrator, PHS, HHS Region V, 300 South Wacker Drive, 34th Floor, Chicago, Illinois 60606, (312) 353-1385

Regional Health Administrator, PHS, HHS Region VI, 1200 Main Tower Building, Room 1835, Dallas, Texas 75202, (214) 767-3879

Regional Health Administrator, PHS, HHS Region VII, 601 East 12th Street, Kansas City, Missouri 64106, (816) 374-3291

Regional Health Administrator, PHS, HHS Region VIII, 1185 Federal Building, 1961 Stout Street, Denver, Colorado 80294, (303) 844–6163
Regional Health Administrator, PHS, HHS Region IX, 50 United Nations Plaza, San Francisco, California 94102, (415) 556–5810
Regional Health Administrator, PHS, HHS Region X, 2901 Third Avenue, M.S. 402, Seattle, Washington 98121, (206) 442–0430.

[FR Doc. 85–25869 Filed 10–29–85; 8:45 am]
BILLING CODE 4160–18–M

Public Health Service

National Center for Health Services Research and Health Care Technology Assessment; Electrocoagulation for Treatment of Gastrointestinal Bleeding

In continuation of the **Federal Register** notice in Vol. 48, No. 82, p. 19081 of April 27, 1983, the Public Health Service (PHS), through the Office of Health Technology Assessment (OHTA), announces that it is seeking additional information in coordinating an assessment of the safety, clinical effectiveness, and indications for endoscopic electrocoagulation in the treatment of upper gastrointestinal bleeding. Specifically, this assessment seeks to determine whether data exists to support a coverage determination regarding the safety and clinical effectiveness of endoscopic N–d YAG and Argon laser photocoagulation for the treatment of upper gastrointestinal bleeding caused by gastric or duodenal ulcers, Mallory-Weiss tears, varices, or vascular anomalies.

PHS assessments consist of a synthesis of information obtained from appropriate organizations in the private sector as well as from PHS agencies and others in the Federal Government. The assessments are based on the most current knowledge concerning the safety and clinical effectiveness of a technology. Based on these assessments, a PHS recommendation will be formulated to assist the Health Care Financing Administration (HCFA) in establishing Medicare coverage policy. Any person or group wishing to provide OHTA with information relevant to this assessment should do so in writing no later than December 30, 1985.

The information being sought is a review and assessment of past, current, and planned research related to this technology, a bibliography of published controlled clinical trials and other well-designed clinical studies, information related to the clinic acceptability and effectiveness of this technology, and a characterization of the patient population most likely to benefit from these technologies in the treatment of upper gastrointestinal bleeding. Proprietary information is not being sought.

Written material should be submitted to: Richard S. Bodaness, M.D., Ph.D., National Center for Health Services Research, and Health Care Technology Assessment, Park Building, Room 3–10, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–4990.

Dated: October 23, 1985.

Enrique D. Carter,

Director, Office of Health Technology Assessment, National Center for Health Services Research and Health Care Technology Assessment.

[FR Doc. 85–25559 Filed 10–29–85; 8:45 am]
BILLING CODE 4160–17–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR 23559 (WA)]

Classification of Public Lands; Washington

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed Classification and Patent Under the Recreation and Public Purposes (R&PP) Act.

SUMMARY: The following lands within Moran State Park on Orcas Island, San Juan County, Washington, have been examined and classified suitable for lease or sale under the R&PP Act of June 14, 1926, as amended (43 U.S.C. 869 et seq.):

Willamette Meridian, Washington

T. 37, N., R. 1 W.,
Sec. 28: Por. NW¼SE¼ (unnamed island);
Sec. 28: Por. NE¼SE¼ (unnamed island);
Sec. 33: Por. NE¼NE¼ (unnamed island);
Sec. 33: Por. SE¼NE¼ (unnamed island).
Encompassing 1.33 acres, more or less.

The state park which surrounds these islands was established through a patent to the State of Washington in 1909.

The Washington State Parks and Recreation Commission has submitted application to patent the above lands to manage these islands as natural areas within the park.

The lands lack national significance and are not essential to any Bureau of Land Management Program.

The proposed use is consistent with local land use planning.

The proposed action will have no significant effects on the environment.

Patenting these lands to Washington State will serve important public objectives by providing public recreation compatible with retention of the land in a natural condition.

DATES: For a period of thirty days from the date of this notice, interested parties may submit comments to the District Manager, Bureau of Land Management, East 4217 Main Avenue, Spokane, Washington 99202. Additional information concerning this proposal is available for review at the above office.

Any adverse comments will be evaluated by the State Director, who may vacate or modify this action and issue a final determination. In the absence of any action by the State Director, this action will become the final decision of this Department.

Joseph K. Buesing,

District Manager.

[FR Doc. 85–25824 Filed 10–29–85; 8:45 am]
BILLING CODE 4310–33–M

Vale District Grazing Advisory Board; Meeting

AGENCY: Vale District, Bureau of Land Management, Interior.

ACTION: Notice of Meeting, Vale District Grazing Advisory Board.

SUMMARY: Notice is given in accordance with Pub. L. 92–463 that the Vale District Grazing Advisory Board will meet November 19, 1985. The Advisory Board will discuss grazing decisions that have been remanded for district reconsideration and review.

ADDRESS: The Advisory Board will meet at 9:00 a.m. in the District Office conference room, 100 East Oregon Street, Vale, Oregon 97918. The meeting is open to the public.

FOR FURTHER INFORMATION CONTACT: Barry Rose, Vale District Office, 503–473–3144.

Judy Nelson,

Acting District Manager.

[FR Doc. 85–25822 Filed 10–29–85; 8:45 am]
BILLING CODE 4310–33–M

[W–83356]

Wyoming; Proposed Modification and Continuation of Stock Driveway Withdrawals

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management published a Notice of Proposed Continuation of Stock

Driveway Withdrawals in 48 FR 55053 on December 8, 1983. This notice inadvertently omitted some lands that are part of the withdrawal review for the Worland District, and several other deficiencies were noted. Therefore this publication will serve to vacate the previous notice of continuation.

DATE: Comments should be received by January 28, 1986.

ADDRESS: Comments should be sent to: Chief, Branch of Land Resources, Bureau of Land Management, P.O. Box 1828, Cheyenne, Wyoming 82003.

FOR FURTHER INFORMATION CONTACT: Scott Gilmer, Wyoming State Office, 307–772–2089.

The Bureau of Land Management proposes to continue the existing withdrawals of the following public lands for a 20-year period pursuant to Section 204 of the Federal Land Policy and Management Act of October 21, 1976 (90 Stat. 2751; 43 U.S.C. 1714). The lands were withdrawn by the following orders for stock driveways: Secretarial Orders of September 16, 1925, September 24, 1940, December 28, 1922, April 27, 1929, May 28, 1932, February 9, 1933, July 7, 1947, February 2, 1924, February 9, 1933, April 30, 1928, December 15, 1925, February 5, 1924, April 17, 1929, February 5, 1925, June 30, 1920, May 2, 1924, July 7, 1932, July 17, 1932, April 13, 1927, May 26, 1934, March 22, 1934, May 24, 1918, April 9, 1929, June 7, 1920, February 19, 1920, April 8, 1919, October 14, 1918, January 20, 1943, October 14, 1918, January 13, 1920, August 30, 1945, February 10, 1919, January 29, 1952, November 20, 1963, March 18, 1919, June 28, 1963, June 7, 1950, July 17, 1947, July 9, 1942, February 13, 1940, December 12, 1938, May 6, 1932, April 20, 1925, February 2, 1924, June 23, 1920, April 29, 1919, January 7, 1919, January 31, 1920, December 9, 1918, September 15, 1950, June 20, 1950, December 23, 1924, and Bureau of Land Management Orders of July 30, 1956, May 21, 1956, and June 29, 1952.

The above orders will be continued insofar as they affect the following described lands:

Sixth Principal Meridian

T. 41 N., R. 86 W.,
- Sec. 2, lots 5–17, SW¼NE¼, S½NW¼, NW¼SW¼;
- Sec. 3, lots 5, 6, 10–13, SE¼NE¼, N½SE¼, SE¼SE¼;
- Sec. 7, lots 5, 6;
- Sec. 8, lots 1–6, S½NW¼, W½SW¼;
- Sec. 9, lots 1–14;
- Sec. 10, lots 1–6;
- Sec. 11, lots 1–7, NW¼NE¼, S½N½, N½SE¼;
- Sec. 12, lots 4–6, 8, N½SW¼, SE¼SW¼;
- Sec. 13, NE¼NW¼, S½NW¼, SW¼;
- Sec. 14, lots 3, 4, S½SW¼SE¼;
- Sec. 15, lots 1–5, NW¼NW¼, S½NW¼, N½S½, SE¼SW¼, S½SE¼;
- Sec. 16, lots 4, 5;
- Sec. 21, lots 1–9, NW¼NE¼;
- Sec. 22, lots 1–5, 8, SE¼SW¼;
- Sec. 23, lots 2–4, NE¼, NE¼NW¼, E½SE¼;
- Sec. 24, lots 3, 4, NW¼, W½SW¼.

T. 42 N., R. 86 W.,
- Sec. 2, lots 1–3, S½NE¼, SE¼NW¼, NE¼SW¼;
- Sec. 3, lots 1, 2, S½NE¼, E½SW¼, SE¼;
- Sec. 9, SW¼NE¼, SW¼NW¼, SW¼, W½SE¼;
- Sec. 10, E½;
- Sec. 11, W½NW¼, SW¼;
- Sec. 13, SW¼SW¼;
- Sec. 14;
- Sec. 15, N½N½, SE¼NE¼, E½SE¼;
- Sec. 23, N½, NE¼SW¼, W½SE¼;
- Sec. 24, N½;
- Sec. 26, S½NE¼, SE¼NW¼, NE¼SE¼, S½SE¼;
- Sec. 30, lots 1–4, N½NE¼, SE¼NW¼;
- Sec. 35, NE¼, NE¼SE¼, S½SE¼.

T. 43 N., R. 86 W.,
- Sec. 2, lot 4, S½NW¼, SW¼;
- Sec. 3, E½SE¼;
- Sec. 10, NE¼NE¼;
- Sec. 11, NW¼NE¼, N½NW¼, NW¼SW¼;
- Sec. 21, N½NE¼, SW¼NE¼, NW¼SE¼;
- Sec. 34, S½SE¼;
- Sec. 35, S½S½.

T. 44 N., R. 86 W.,
- Sec. 24, E½NE¼, SE¼SE¼;
- Sec. 25, S½SE¼;
- Sec. 35, E½NE¼, NE¼SE¼.

T. 46 N., R. 86 W.,
- Sec. 3, lots 10, 11;
- Sec. 4, S½SE¼;
- Sec. 6, lots 6, 7, SE¼SW¼, SW¼SE¼;
- Sec. 7, lot 1, W½NE¼, SE¼NE¼, NE¼NW¼;
- Sec. 8, lots 1–8;
- Sec. 9, N½NE¼, SW¼NE¼, NW¼;
- Sec. 10, N½NE¼, NE¼NW¼;
- Sec. 11, N½NW¼;
- Sec. 12, NE¼NW¼.

T. 41 N., R. 87 W.,
- Sec. 4, lots 5–7;
- Sec. 5, lots 5–9, NE¼SE¼;
- Sec. 6, lots 8–10, 12;
- Tracts 46–A–D.

T. 42 N., R. 87 W.,
- Sec. 25, E½SE¼;
- Sec. 34, SW¼NW¼, N½S½.

T. 46 N., R. 87 W.,
- Sec. 1, S½;
- Sec. 2, S½;
- Sec. 3, S½SW¼, SE¼;
- Sec. 4, S½NE¼, SE¼;
- Sec. 9, N½NE¼;
- Sec. 10, N½N½;
- Sec. 11, N½N½;
- Sec. 12, N½N½.

T. 47 N., R. 87 W.,
- Sec. 7, lots 1, 2, NE¼, E½NW¼;
- Sec. 8, lots 1–4, NW¼;
- Sec. 18, Lot 4, SE¼SW¼;
- Sec. 19, lots 1, 2, NE¼, E½NW¼, E½SE¼;
- Sec. 20, W½W½, SE¼SW¼;
- Sec. 28, S½SW¼;
- Sec. 29, SW¼NE¼NW¼NE¼, W½NW¼NE¼, SE¼NW¼NE¼, SW¼NE¼, E½NW¼, N½SE¼, SE¼SE¼;
- Sec. 33, S½NE¼, N½NE¼SE¼, SE¼NE¼SE¼, NE¼SE¼SE¼, E½SE¼SE¼SE¼;
- Sec. 34, S½NW¼, SW¼.

T. 49 N., R. 87 W.,
- Sec. 5, lot 8;
- Sec. 6, lot 8;
- Sec. 7, lot 5;
- Sec. 8, lots 2, 3;
- Tracts 57–A, E–J, N, O, P.

T. 41 N., R. 88 W.,
- Sec. 1, SW¼SW¼;
- Sec. 2, NE¼SE¼;
- Sec. 4, lot 11, NW¼SE¼;
- Sec. 8, SE¼NE¼, E½SE¼;
- Sec. 9, lot 3, SW¼NW¼, W½SW¼;
- Sec. 17, lots 1–3, N½NE¼, SW¼NE¼;
- Sec. 20, lots 1–4, W½E½.

T. 42 N., R. 88 W.,
- Sec. 5, lots 3, 4, SW¼NE¼, S½NW¼, E½SW¼, W½SE¼;
- Sec. 6, lots 8–15;
- Sec. 8 W½E½, E½W½, E½SE¼;
- Sec. 9, SW¼;
- Sec. 15, SW¼;
- Sec. 22, W½;
- Sec. 27, W½
- Sec. 28, E½SE¼;
- Sec. 33, E½NE¼;
- Sec. 34, S½NE¼, NW¼, N½SE¼.

T. 43 N., R. 88 W.,
- Sec. 30, lots 1–4, E½W½;
- Sec. 31, lots 1–4, E½W½.

T. 47 N., R. 88 W.,
- Sec. 13, lots 7–9, NE¼SW¼, S½SW¼, W½SE¼;
- Sec. 14, lots 1–4;
- Sec. 21, lots 1–3, NE¼SE¼;
- Sec. 22, lots 1–8, S½NE¼;
- Sec. 23, lot 1, NE¼, NE¼NW¼, S½NW¼;
- Sec. 24, lots 1, 2, W½NE¼, NW¼.

T. 49 N., R. 88 W.,
- Sec. 1, lots 11–13, SE¼SE¼;
- Sec. 2, lots 12, 13, S½SW¼;
- Sec. 8;
- Sec. 9;
- Sec. 10;
- Sec. 11, lots 1, 2, SW¼NE¼, NW¼, NW¼SW¼;
- Sec. 12 lots 1–4, NW¼.

T. 50 N., R. 88 W.,
- Sec. 20, lot 3, N½SE¼, SE¼SE¼;
- Sec. 21, S½SW¼;
- Sec. 24, NE¼, E½SW¼, W½SE¼;
- Sec. 25, N½, NW¼SW¼;
- Sec. 26, lot 1, SE¼NE¼, N½S½, SE¼SW¼;
- Sec. 27, lot 1, W½E½, NW¼, NE¼SW¼, NE¼SE¼;
- Sec. 28, N½NE¼, NE¼NW¼.

T. 51 N., R. 88 W.,
- Sec. 32, SE¼SE¼;
- Sec. 33, SW¼SW¼.

T. 43 N., R. 89 W.,
- Sec. 2, SW¼SW¼;
- Sec. 3, S½S½;
- Sec. 4, S½S½;
- Sec. 5, S½S½;
- Sec. 6, lot 14, SE¼SW¼, S½SE¼;
- Sec. 7 lots 5–8, E½, E½W½;
- Sec. 8, lot 1, N½, N½S½, S½SW¼, SW¼SE¼;
- Sec. 9, lots 1–4, N½, N½S½;

Sec. 10, lots 1-5, N½, NW¼SW¼, E½SE¼;
Sec. 11;
Sec. 13, lots 3, 4, 7-10, SE¼SW¼, SW¼SE¼;
Sec. 14, lots 1, 2, N½, SW¼, W½SE¼;
Sec. 15, lots 1, 5, E½NE¼;
Sec. 24 lots 1, 3, 4, 5, W½E½, E½W½;
Sec. 25, lots 1, 2, 3, 7, W½NE¼.

T. 49 N., R. 89 W.,
Sec. 1, lot 11, S½SW¼, SW¼SE¼;
Sec. 2, S½S½;
Sec. 8, NE¼, S½NW¼, S½;
Sec. 9;
Sec. 10, lot 1, N½, N½S½, S½SW¼, SW¼SE¼;
Sec. 11, lots 1, 2, N½, NE¼SW¼, NW¼SE¼;
Sec. 12, lots 1-5, W½NE¼, NW¼, NW¼SE¼;
Sec. 17, N½NW¼.

T. 50 N., R. 89 W.,
Sec. 23, S½N½, W½SW¼,
Sec. 24, lots 3, 6, 7, W½NE¼, N½NW¼, SW¼NW¼, NW¼SE¼;
Sec. 26, lot 4;
Sec. 27, laot 1.

T. 43 N., R. 90 W.,
Sec. 1, lot 8, SW¼NW¼, NW¼SW¼, S½S½;
Sec. 2, lots 5-8, S½N½, S½;
Sec. 3, lot 5-8;
Sec. 4, lot 5;
Sec. 11;
Sec. 12;
Tracts 37-A-D.

T. 44 N., R. 90 W.,
Sec. 18, lots 7, 8, E½WSE¼, SE¼;
Sec. 19, lots 5-7, NE¼, E½NW¼, NE¼SE¼, N½SE¼;
Sec. 20;
Sec. 21, S½;
Sec. 27, SW¼;
Sec. 28;
Sec. 29 NE¼, N½NW¼, E½SE¼;
Sec. 33, NE¼, N½SE¼, SE¼SE¼;
Sec. 34;
Sec. 35, SW¼.

T. 48 N., R. 90 W.,
Sec. 5, lot 6;
Tract 57;
Lot 10 of Tract 58.

T. 44 N., R. 91 W.,
Sec. 5, lots 6-8, SW¼, NW¼SE¼;
Sec. 6, lot 8-14, E½SW¼, SE¼;
Sec. 7, laot 5-8, E½;
Sec. 8, S½NE¼, W½, SE¼;
Sec. 13, S½S½;
Sec. 14, S½S½;
Sec. 15, S½S½;
Sec. 17;
Sec. 18, lot 5, E½E½, NW¼NE¼;
Sec. 20;
Sec. 21;
Sec. 22;
Sec. 23, N½, SW¼, N½SE¼, SW¼SE¼;
Sec. 24.

T. 44 N., R. 92 W.,
Sec. 1, lots, 5-8, S½N½, S½;
Sec. 2, lots, 3-8, S½N½, S½.

T. 45 N., R. 92 W.,
Sec. 5, lots 5-8, S½N½, S½;
Sec. 6, lots 8-10, 13, S½NE¼, E½SE¼;
Sec. 7, E½E½;
Sec. 8;
Sec. 17;
Sec. 18, E½E½;
Sec. 19, E½E½;
Sec. 20, N½, SW¼, W½SE¼;
Sec. 21, N½, E½SW¼, SE¼;
Sec. 22;
Sec. 23;
Sec. 26;
Sec. 27, N½N½, SE¼NE¼, E½SE¼;
Sec. 34, E½E½;
Sec. 35.

T. 46 N., R. 92 W.,
Sec. 19, lots, 11, 18, 21;
Sec. 30, lots 5-9, 11-17, 23-25, N½SE¼;
Sec. 31, lots 5-12, E½;
Sec. 32, S½NW¼, SW¼.

T. 53 N., R. 92 W.,
Sec. 3, lots 3-8, S½N½, S½;
Sec. 10;
Sec. 15;
Sec. 22;
Sec. 27, N½, N½S½.

T. 54 N., R. 92 W.,
Sec. 6, lots 1-5, 8-15, S½NE¼, SE¼NW¼, E½SW¼, SE¼;
Sec. 7, lots 1-8, E½, E½W½;
Sec. 17;
Sec. 18, lots 1-8, E½, E½W½;
Sec. 20, E½;
Sec. 21, W½;
Sec. 27, SW¼;
Sec. 28, W½, SE¼;
Sec. 29, E½;
Sec. 33, E½;
Sec. 34, N½, SW¼;
Sec. 35, N½.

T. 55 N., R. 92 W.,
Sec. 6, lots 1-14, S½NE¼, SE¼;
Sec. 7, lots 1-12, E½;
Sec. 8, S½;
Sec. 9, lots 1-4, N½S½;
Sec. 10, lots 3-7, NE¼SW¼, N½SE¼;
Sec. 18, lots 1-3, 6-8, 10-12, E½;
Sec. 19, lots 1-12, E½;
Sec. 30, lots 1-12, E½;
Sec. 31, lots 1-12, E½.

T. 56 N., R. 92 W.,
Sec. 30, lots 1-8, E½, E½W½;
Sec. 31, lots 1-8, E½, E½W½.

T. 42 N., R. 93 W.,
Sec. 18, NW¼SE¼.

T. 42 N., R. 94 W.,
Sec. 13, SE¼.

T. 47 N., R. 96 W.,
Sec. 26, lot 9.

T. 48 N., R. 100 W.,
Sec. 31, W½E½.

T. 49 N., R. 100 W.,
Sec. 2, N½S½, SE¼SE¼;
Sec. 3, lots 2, 3, S½NE¼, SE¼NW¼, NE¼SW¼, N½SE¼;
Sec. 11, NE¼NE¼;
Sec. 12, lot 1.

T. 50 N., R. 100 W.,
Sec. 5, lot 2, SW¼NE¼, S½NW¼;
Sec. 6, lots 5-7, S½NE¼, SE¼NW¼;
Sec. 7, lots 1, 2;
Sec. 27, SW¼NW¼;
Sec. 28, E½, SE¼NW¼, SE¼SW¼;
Sec. 29, SW¼, S½SE¼;
Sec. 30 lot 3, NE¼SW¼ N½SE¼;
Sec. 33, E½E½;
Sec. 34, W½NW¼, SW¼.

T. 51 N., R. 100 W.,
Sec. 25, lot 1, N½SW¼;
Sec. 26, lot 1, SW¼, N½SE¼;
Sec. 27, S½;
Sec. 28, S½;
Sec. 29, SE¼;
Sec. 32, W½E½;
Tract 66-0.

T. 49 N., R. 101 W.,
Sec. 4, lots 1-3;
Sec. 17, lots 7, 8;
Sec. 19, SE¼;
Sec. 20, lots 2, 4, 5, NW¼NW¼, W½SW¼;
Sec. 30, lots 1, 2, NE¼, E½NW¼.

T. 50 N., R. 101 W.,
Sec. 1, SW¼NW¼, SW¼, SW¼SE¼;
Sec. 2, lots 1-3, S½NE¼, E½SE¼;
Sec. 12, lot 1, NE¼, NE¼NW¼;
Sec. 13, lots 1, 6, SE¼NE¼, NE¼SE¼;
Sec. 21, lots 6, 7, SE¼SE¼;
Sec. 24, lots 1, 2, SE¼;
Sec. 25, N½NE¼, SW¼NE¼, E½,W½
Sec. 26, S½SE¼;
Sec. 33, lots 1, 8, NW¼NE¼, E½NW¼;
Sec. 34, lots 4-8, E½NE¼, NE¼SW¼, SW¼SW¼, N½SE¼;
Sec. 35, 1-5, NW¼, N½SW¼, SE¼SW¼;
Lots 38A, B, G, H, 47-D, E.

T. 51 N., R. 101 W.,
Sec. 22, lots 2-6, SW¼SE¼;
Sec. 26, W½SW¼, SE¼SW¼;
Sec. 27, N½NE¼, SE¼NE¼, NE¼SE¼;
Sec. 35, NE¼NW¼, SE¼SW¼.

T. 52 N., R. 101 W.,
Sec. 6, lots 2, 3;
Sec. 7, lots 2-5, E½W½;
Sec. 18, lot 1, N½NE¼, E½NW¼, SE¼;
Sec. 19, E½E½;
Sec. 20, W½NW¼, SW¼;
Sec. 29, E½E½, W½;
Sec. 30, E½E½;
Sec. 32, W½.

T. 53 N., R. 101 W.,
Sec. 3, lot 8;
Sec. 4, lots 5, 6, SW¼NE¼, S½NW¼;
Sec. 5, N½S½;
Sec. 6, lot 13, NE¼SE¼, N½SE¼.

T. 54 N., R. 101 W.,
Sec. 5, lots 5-8, SE¼NE¼, E½SE¼;
Sec. 8, E½NE¼, NE¼SE¼;
Sec. 9, N½SW¼, SE¼SW¼;
Sec. 16, lots 1-3, SE¼SW¼;
Sec. 21, SW¼NE¼, E½NW¼, W½SE¼;
Sec. 28, W½E½;
Sec. 33, N½NE¼;
Sec. 34, W½W½.

T. 55 N., R. 101 W.,
Sec. 19, lot 10;
Sec. 29, E½W½, NW¼NW¼;
Sec. 30, lot 5, N½NE¼, NE¼NW¼;
Sec. 32, lots 3, 4, E½NW¼.

T. 48 N., R. 102 W.,
Sec. 3, lots 1-3, 5-7, N½SW¼, W½SE¼;
Sec. 10, W½E½;
Sec. 19, lot 1, S½NE¼, E½NW¼;
Sec. 23, W½NE¼, S½SE¼;
Sec. 26, NW¼.

T. 49 N., R. 102 W.,
Sec. 25, lots 1, 2, N½, E½SW¼, SE¼;
Sec. 26, lots 6-8, S½SW¼;
Sec. 27, SE¼SE¼;
Sec. 34, NE¼, N½SE¼;
Sec. 35, lots 1-5, W½;
Sec. 36, lots 2, 3.

T. 52 N., R. 102 W.,
Sec. 1, S½NE¼SE¼, SE¼SE¼;
Sec. 12, lots 4, 5, E½NE¼, SE¼SW¼;
Sec. 13, lots 4, 5.

T. 53 N., R. 102 W.,

Sec. 1, N½S½;
Sec. 2, N½S½;
Sec. 3, lot 10;
Sec. 10, lots 1, 2, S½NE¼;
Sec. 11, SW¼NW¼, N½SW¼, SE¼SW¼;
Sec. 13, lots 4, 5;
Sec. 14, lots 1, 2, W½NE¼, NE¼NW¼, NW¼SE¼;
Sec. 24, lot 3, NW¼NW¼.
T. 55 N., R. 102 W.,
Sec. 4, lot 6, S½NE¼, E½SE¼;
Sec. 9, E½NE¼, NE¼SE¼;
Sec. 10, W½SW¼;
Sec. 15, E½W½, NW¼NW¼;
Sec. 22, N½NE¼, NE¼NW¼;
Sec. 23, NW¼NE¼, N½NW¼.
T. 56 N., R. 102 W.,
Sec. 5, lots 16, 19, 20, 22;
Sec. 6, lots 14–17, 22–24, E½SE¼;
Sec. 33, lot 3, SW¼SE¼;
Tracts 86, 87, 146–150, 162, 179, 189, 204, 213, 230, 243, 255, 267, 274, 287, 297, 307, 321, 324.
T. 57 N., R. 102 W.,
Sec. 30, lots 3, 4, E½SW¼, SE¼;
Sec. 32, W½.
T. 49 N., R. 103 W.,
Sec. 34, lot 2.
T. 56 N., R. 103 W.,
Sec. 1, lots 9–11.

The area described contains approximately 93,028.72 acres in Big Horn, Hot Springs, Park and Washakie Counties, Wyoming.

The withdrawals closed the described lands to all forms of appropriation under the public land laws, but not to the mining laws or leasing under the mineral leasing laws. No change in the segregative effect or use of the land is proposed by the continuation.

Comments, suggestions, or objections to the proposed withdrawal continuation must be submitted in writing to the undersigned authorized officer of the Bureau of Land Management within 90 days of the date of this publication.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal continuation. All interested persons who desire to be heard on the proposal must submit a written request for a meeting to the undersigned within 90 days of the date of this publication. Upon determination by the State Director, Bureau of Land Management, that a public meeting will be held, a notice will be published in the **Federal Register** giving the time and place of such meeting. Public meetings are scheduled and conducted in accordance with BLM Manual Section 2351.16B.

The authorized officer of the Bureau of Land Management will make necessary investigations to determine the existing and potential demands for the land and its resources and review the withdrawal rejustification to insure that continuation would be consistent with the statutory objective of the programs for which the lands are dedicated. He will also prepare a report for consideration by the Secretary of the Interior, the President, and Congress, who will determine whether or not the withdrawal will be continued and, if so, for how long. The final determination on the continuation of the withdrawal will be published in the **Federal Register.** The existing withdrawals will continue until such determination is made.

Hillary A. Oden,

State Director.

[FR Doc. 85–25823 Filed 10–29–85; 8:45 am]

BILLING CODE 4310-22-M

Minerals Management Service

Outer Continental Shelf; Development Operations Coordination Document; Shell Offshore, Inc.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development operations coordination document (DOCD).

SUMMARY: Notice is hereby given that Shell Offshore Inc. has submitted a DOCD describing the activities it proposes to conduct on Lease OCS–G 3119, Block 21, Vermilion Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Morgan City, Louisiana.

DATE: The subject DOCD was deemed submitted on October 21, 1985.

ADDRESS: A copy of the subject DOCD is available for public review at the Office of the Regional Director, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Ms. Angie Gobert; Minerals Management Service; Gulf of Mexico OCS Region; Rules and Production; Plans, Platform and Pipeline Section; Exploration/Development Plans Unit; Phone (504) 838–0876.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected states, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Date: October 23, 1985.

John L. Rankin,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 85–25910 Filed 10–29–85; 8:45 am]

BILLING CODE 4310-MR-M

Outer Continental Shelf; Development Operations Coordination Document; Walter Oil and Gas Corp.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development operations coordination document (DOCD).

SUMMARY: Notice is hereby given that Walter Oil and Gas Corporation has submitted a DOCD describing the activities it proposes to conduct on Lease OCS–G 2537, Block 265, West Cameron Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Cameron, Louisiana.

DATE: The subject DOCD was deemed submitted on October 21, 1985.

ADDRESSES: A copy of the subject DOCD is available for public review at the Office of the Regional Director, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Ms. Angie Gobert; Minerals Management Service; Gulf of Mexico OCS Region; Rules and Production; Plans, Platform and Pipeline Section; Exploration/Development Plans Unit; Phone (504) 838–0876.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected states, executives of affected local governments, and other interested parties became effective December 13,

1979, (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Date: October 23, 1985.

John L. Rankin,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 85-25911 Filed 10-29-85; 8:45 am]

BILLING CODE 4310-MR-M

National Park Service

Overmountain Victory National Historic Trail Advisory Council; Meeting

Notice is hereby given in accordance with the Federal Advisory Commission Act that a meeting of the Overmountain Victory National Historic Trail Advisory Council will be held at 10:00 a.m. on Wednesday, November 20, 1985, at the Blue Ridge Parkway Office, Seventh Floor Conference Room, 700 Northwestern Bank Building, Asheville, North Carolina.

The purpose of the Overmountain Victory National Historic Trail Advisory Council is to consult with and advise the Secretary of the Interior or his designee on matters of planning and development of the Overmountain Victory National Historic Trail.

The Members of the Advisory Commission are as follows:

Mr. Frank Robinson (Chairman)
Mr. Walter Hindricks
Mr. Roy A. Taylor
Mr. Walter H. Schrader
Mr. Dennis Kline
Mrs. Jean Hawkins
Mr. David Lloyd Thomas
Mr. James Robert Hartbarger
Mr. Fred L. Burgin, Jr.
Mr. Hugh Atkins
Mr. Hubert Hendrix
Mr. Jack D. Stansbury
Dr. N. H. Lipscomb
Mrs. Grace Vance
Mr. George Olson
Mr. Terry Chilcoat
Mr. Andrew Ducan, Jr.

The matters to be discussed at this meeting will be the trail certification, cooperative agreements, interpretive effort, and the McDowell House. The meeting will be open to the public; however, facilities and space for accommodating members of the public are limited. Any member of the public may file a written statement with the commission concerning the matter to be discussed.

Persons wishing further information concerning the meeting or who wish to submit written statements, may contact Richard Sussman, Park Planner, Southeast Regional Office, National Park Service, 75 Spring Street, SW., Atlanta, Georgia 30303, telephone (404) 221-5465. Minutes of the meeting will be available at the Southeast Regional Office for public inspection approximately 4 weeks after the meeting.

Dated: October 21, 1985.

Frank Catroppa,

Acting Regional Director, Southeast Region.

[FR Doc. 85-25921 Filed 10-29-85; 8:45 am]

BILLING CODE 4310-70-M

INTERNATIONAL TRADE COMMISSION

Agency Form Submitted for OMB Review

AGENCY: International Trade Commission.

ACTION: In accordance with the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the Commission has submitted a proposal for the collection of information to the Office of Management and Budget for review.

Purpose of Information Collection

The proposed information collection is for use by the Commission in connection with investigation No. 332-135 for the annual Synthetic Organic Chemicals report, instituted under the authority of section 332(b) of the Tariff Act of 1930 (19 U.S.C. 1332(b)).

Summary of Proposal

(1) Number of forms submitted: One
(2) Title of form: Synthetic Organic Chemicals, United States Production and Sales
(3) Type of request: Extension
(4) Frequency of use: Annual
(5) Description of respondents: Firms manufacturing synthetic organic chemicals in the United States
(6) Estimated number of respondents: 760
(7) Estimated total number of hours to complete the forms: 8,360
(8) Information obtained from the form that qualifies as confidential business information will be so treated by the Commission and not disclosed in a manner that would reveal the individual operations of a firm.

Additional Information or Comment

Copies of the proposed form and supporting documents may be obtained from James A. Emanuel, telephone (202) 523-0334. Comments about the proposals should be directed to the Office of Information and Regulatory Affairs of OMB, Attention: Francine Picoult, Desk Officer for the U.S. International Trade Commission. Ms. Picoult's address is Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503. If you anticipate commenting on a form but find that time to prepare comments will prevent you from submitting them promptly you should advise OMB of your intent as soon as possible. Ms. Picoult's telephone number is (202) 395-7231. Copies of any comments should be provided to Charles Ervin (U.S. International Trade Commission, 701 E. Street NW., Washington, DC. 20436).

Hearing-imparied individuals are advised that information on this matter can be obtained by contacting our TDD terminal on (202) 724-0002.

Issued: October 25, 1985.
By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-25923 Filed 10-29-85; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-221]

Certain Apparatus for Disintegration of Urinary Calculi; Commission Decision Not To Review Initial Determination Terminating Investigation Based Upon Withdrawal of Complaint

AGENCY: International Trade Commission.

ACTION: Nonreview of initial determination granting motion to terminate investigation based upon withdrawal of the complaint.

SUMMARY: The U.S. International Trade Commission has determined not to review the initial determination (ID) (Order No. 7) terminating the above-captioned investigation. The ID was based upon the unopposed motion of complainants Blackstone Corporation and Karl Storz Endoscopy-America, Inc. to withdraw their compliant with prejudice. No petitions for review were filed nor were any agency comments received.

FOR FURTHER INFORMATION CONTACT: Carolyn E. Galbreath, Esq., Office of the General Counsel, U.S. international Trade Commission; telephone: (202) 523-0143.

SUPPLEMENTARY INFORMATION: This action is taken under the authority of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and Commission rule § 210.53 (19 CFR 210.53).

Copies of the nonconfidential version of the ID and all other nonconfidential

documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E. Street NW., Washington, DC 20436; telephone: (202) 523–0161.

Issued: October 24, 1985.
By order of the Commission.
Kenneth R. Mason,
Secretary.
[FR Doc. 85–25924 Filed 10–29–85; 8:45 am]
BILLING CODE 7020–02–M

[Investigation No. 731–TA–282 (Preliminary)]

Candles From the People's Republic of China

Determination

On the basis of the record[1] developed in the subject investigation, the Commission determines, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C 1673(a)), that there is a reasonable indication that an industry in the United States is materially injured[2] [3] by reason of imports from the People's Republic of China of candles of petroluem wax, provided for in item 755.25 of the Tariff Schedules of the United States, which are alleged to be sold in the United States at less than fair value (LTFV).

Background

On September 4, 1985, a petition was filed with the Commission and the Department of Commerce by the National Candle Association, Arlington, VA, alleging that an industry in the United States is materially injured, or threatened with material injury, by reason of LTFV imports of candles of petrolem wax from the People's Republic of China. Accordingly, effective September 4, 1985, the Commission instituted preliminary antidumping investigation No. 731–TA–282 (Preliminary).

Notice of the institution of the Commission's investigation and of a public conference to be held in connection therewith was given by posting copies of the notier in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of September 11, 1985 (50 FR 37065). The conference was held in Washington, DC, on September 20, 1985, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in this investigation to the Secretary of Commerce on October 21, 1985. The views of the Commission are contained in USITC Publication 1768 (October 1985), entitled "Candles from the People's Republic of China: Determination of the Commission in Investigation No. 731–TA–282 (Preliminary) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigation."

Issued: October 22, 1985.
By Order of the Commission.
Kenneth R. Mason,
Secretary.
[FR Doc. 85–25925 Filed 10–29–85; 8:45 am]
BILLING CODE 7020–02–M

[Investigation No. 337–TA–216]

Certain Ceramic Drainage Foils; Commission Decision Not To Review an Initial Determination Terminating Two Respondents on the Basis of a Settlement Agreement and Terminating the Investigation

AGENCY: International Trade Commission.

ACTION: Termination of respondents Feldmuhle Aktiengesellschaft (Feldmuhle) and American Feldmuehle Corporation (American Feldmuehle) on the basis of a settlement agreement; termination of investigation.

SUMMARY: The U.S. International Trade Commission has determined not to review an initial determination (ID) (Order No. 16) terminating respondents Feldmuhle and American Feldmuehle in the above-captioned investigation on the basis of a settlement agreement. Since Feldmuhle and American Feldmuehle are the last remaining respondents in this investigation, their termination terminates the investigation.

FOR FURTHER INFORMATION CONTACT: William E. Perry, Esq., Office of the General Counsel, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436, telephone 523–0499.

SUPPLEMENTARY INFORMATION: On September 17, 1985, complainant Wilbanks International, Inc., and respondents Feldmuhle and American Feldmuehle jointly moved (Motion No. 216–19) to terminate the investigation as to the two respondents on the basis of a settlement agreement. On September 23, 1985, the presiding administrative law judge issued an ID terminating the investigation with respect to the two respondents and terminating the investigation. No petition for review of the ID or Government agency or public comments were received.

This action is taken under the authority of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and 19 CFR 210.53(h).

Copies of the ID and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436, telephone 202–523–0161.

Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–724–0002.

Issued: October 24, 1985.
By order of the Commission.
Kenneth R. Mason,
Secretary.
[FR Doc. 85–25926 Filed 10–29–85; 8:45 am]
BILLING CODE 7020–02–M

[Investigation No. 337–TA–216]

Certain Ceramic Drainage Foils; Commission Decision To Deny Respondent's Application for Interlocutory Review

AGENCY: International Trade Commission.

ACTION: Denial of respondent Feldmuehle Aktiengesellschaft's (Feldmuehle) application for interlocutory review.

SUMMARY: The Commission denies Feldmuehle's application for interlocutory review of the ALJ's determination that respondent Feldmuehle's ceramic drainage foil samples should be designated nonconfidential.

FOR FURTHER INFORMATION CONTACT: William E. Perry, Esq., Office of the General Counsel, telephone 202–523–0499.

SUPPLEMENTARY INFORMATION: On June 6, 1985, complainant Wilbanks International, Inc. (Wilbanks), filed a motion to designate respondent Feldmuehle's ceramic drainage foil samples as nonconfidential. Because Feldmuehle had given out samples to prospective purchasers without any restrictions to preserve confidentiality,

[1] The record is defined in § 207.2(i) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(i)).

[2] Chairwoman Stern determines that there is a reasonable indication that an industry in the United States is materially injured, or threatened with material injury, by reason of the subject imports.

[3] Vice Chairman Liebeler determines that there is a reasonable indication that an industry in the United States is threatened with material injury by reason of the subject imports.

the ALJ granted the motion at a prehearing conference.

Subsequently, the ALJ granted respondent Feldmuehle's request for leave to file an application for interlocutory review of her ruling by the Commission (Order No. 10). Respondent filed an application for interlocutory review of the issue of whether its ceramic drainage foil samples should be designated nonconfidential and therefore not covered by the existing protective order.

On September 4, 1985, the Commission determined to deny respondent Feldmuehle's application for interlocutory review of the ALJ's ruling that Feldmuehle's ceramic drainage foil samples are nonconfidential.

The authority for the Commission's action is contained in section 337 of the Tariff Act of 1930 and in Commission rule 210.70, 19 CFR 210.70.

Copies of the Commission's Action and Order and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436, telephone 202-523-0161.

Issued: October 24, 1985.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-25927 Filed 10-29-85; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-110]

Advisory Opinion Proceeding; Certain Methods for Extruding Plastic Tubing

AGENCY: International Trade Commission.

ACTION: Institution of advisory opinion proceeding.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to institute an advisory opinion proceeding under the authority of sections 335 and 337 of the Tariff Act of 1930 (19 U.S.C. 1335 and 1337) and 19 U.S.C. 1337a relating to the general exclusion order issued at the conclusion of the above-captioned investigation. A letter was filed with the Commission on September 13, 1985, on behalf of Meditech International Co. (Meditech), 4105 Holly Street, Unit 1, Denver, Colorado 80216, requesting the Commission to issue an advisory opinion pursuant to 19 CFR 211.54(b) regarding whether certain reclosable plastic bags that Meditech seeks to import into the United States are covered by the exclusion order issued on September 2, 1982, in the above-captioned investigation.

FOR FURTHER INFORMATION CONTACT: Juan Cockburn, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, telephone 202-523-1272.

Scope of Investigation:

(1) Pursuant ot CFR 211.54(b), an advisory opinion proceeding has been instituted to determine whether certain reclosable plastic bags sought to be imported into the United States by Meditech are covered by the Commission exclusion order issued on September 2, 1982, in the above-captioned investigation; and pursuant to 19 CFR 201.4(b), the requirement in 19 CFR 211.54(b) that the requester of an advisory opinion have been a respondent in the investigation has been waived.

(2) For the purpose of the advisory opinion proceeding so instituted, the following have been named as parties upon which this notice of enforcement proceeding shall be served:

(a) Meditech International Co., 4105 Holly Street, Unit 1, Denver, Colorado 80216, the requester of this advisory opinion proceeding; and

(b) Minigrip, Rte. 303, Orangeburg, New York 10962, the complainant in the above-captioned investigation.

(3) The Office of Unfair Import Investigations shall investigate and issue a report to the Commission within ninety (90) days of the date of publication of this notice in the Federal Register.

(4) The Commission will issue an advisory opinion based on the report of the Office of Unfair Import Investigations.

SUPPLEMENTARY INFORMATION: On September 2, 1982, the Commission issued a general exclusion order on reclosable plastic bags manufactured according to a process which, if practiced in the United States, would infringe on one or more of three U.S. process patents. Two of the patents have since expired, leaving as the basis for the Commission's exclusion order only U.S. Letters Patent Re. 28,959. Meditech requests that the Commission issue an advisory opinion stating that the reclosable plastic bags which Meditech seeks to import are not covered by the Commission's exclusion order.

Copies of the Meditech request for an advisory opinion and all other nonconfidential documents filed in connection with this proceeding are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E. Street NW., Washington, DC 20436, telephone 202-523-0161. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-724-0002.

Issued: October 24, 1985.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-25932 Filed 10-29-85; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-229]

Investigation; Certain Nut Jewelry and Parts Thereof

AGENCY: International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337.

SUMMARY: Notice is hereby given that a complaint and a motion for temporary relief were filed with the U.S. International Trade Commission on September 16, 1985, under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) on behalf of Kukui Nuts of Hawaii, Inc., 66-935 Kaukonahua Road, Waialua, Hawaii 96791. A supplement to the complaint was filed on October 15, 1985. The complaint, as supplemented, alleges unfair methods of competition and unfair acts in the importation of certain nut jewelry and parts thereof into the United States, or in its sale, by reason of alleged (1) false advertising; (2) failure to mark country of origin; (3) false designation of origin; and (4) false representation. The complaint further alleges that the effect or tendency of the unfair methods of competition and unfair acts is to destroy or substantially injure an industry, efficiently and economically operated, in the United States.

The complainant requests that the Commission institute an investigation, conduct temporary relief proceedings, and issue a temporary exclusion order prohibiting importation of the articles in question into the United States, except under bond, and temporary cease and desist orders. After a full investigation, the complainant requests that the Commission issue a permanent exclusion order and permanent cease and desist orders.

FOR FURTHER INFORMATION CONTACT: Steven H. Schwartz, Esq., or Juan Cockburn, Esq., Office of Unfair Import

Investigations, U.S. International Trade Commission, telephone 202–523–4877 and 202–523–1272, respectively.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930 and in section 210.12 of the Commission's Rules of Practice and Procedure (19 CFR 210.12).

Scope of investigation: Having considered the complaint, the U.S. International Trade Commission, on October 16, 1985, Ordered that—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, an investigation be instituted to determine whether there is a violation of subsection (a) of section 337 in the unlawful importation of certain nut jewelry and parts thereof into the United States, or in its sale, by reason of alleged (1) false advertising; (2) failure to mark country of origin; (3) false designation of origin; and (4) false representation, the effect or tendency of which is to destroy or substantially injure an industry, efficiently and economically operated, in the United States.

(2) Pursuant to § 210.24(e) of the Commission's rules the motion for temporary relief under subsections (e) and (f) of section 337 of the Tariff Act of 1930, which was filed on September 16, 1985, shall be forwarded to the presiding administrative law judge for an initial determination pursuant to § 210.53(b) of the rules.

(3) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is—Kukui Nuts of Hawaii, Inc., 66–935 Kaukonahua Road, Waialua, Hawaii 96791.

(b) The respondents are the following companies, alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

RKG Enterprises, 90 Gregario Roxas Street, Quezpon, Philippines;
Huang Hou Crafts, No. 98–8 Min-Do 1 Rd., Chi-Tu City, Kee Lung, Taiwan;
Royal Design Creations, 6A, No. 173, Sec. 2, Fushing S. Rd., Taipei, Taiwan;
Oriental Arts & Crafts, 59–2, Chung Shan N. Rd., Section 2, Taipei, Taiwan;
Farlace Int'l Corp., 4F, 245, Ming Chuan E. Rd., Taipei 104, Taiwan;
Shine Land, Inc., FL. 8, No. 97, Sec. 2, Nan King E. Rd., Taipei, Taiwan;
Joey Pong & Co., Inc., No. 3–5, Lane 145, Hsin Sheng South Rd., Sec. 1. Taipei 106, Taiwan;
Ali Baba Imports, 2250 Kalakaua, Suite 309A, Honolulu, Hawaii 96815;
RDCO, Inc., 2170 Kalakaua, Suite 234, Honolulu, Hawaii 96815;
R. Baird & Co., 80 Sand Island Access Rd., Honolulu, Hawaii 96819;
Blair, Ltd., 404A Ward Avenue, Honolulu, Hawaii 96814;
Taiwan Kyoei, Inc., P.O. Box 46–366, FL. 6, No. 137, Sec. 4, Nan King East Rd., Taipei, Taiwan;
Betty's Import & Associates, Inc., 2270 Kalakaua, Suit 210, Honolulu, Hawaii 96815;
Paul's Imports, 412 Lewers Street, Suite 1, Honolulu, Hawaii 96815
Pong Lai Coral Development Co., Ltd., 2270 Kalakaua, Suite 1705, Honolulu, Hawaii 96815
Liven & Co., 2222 Kalakaua, Suite 1405, Honolulu, Hawaii 96815.

(c) Steven H. Schwartz, Esq., and Juan Cockburn, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, 701 E Street NW., Room 124 and Room 128, respectively, Washington, DC 20436, shall be the Commission investigative attorneys, party to this investigation; and

(4) For the investigation so instituted, Janet D. Saxon, Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding administrative law judge. Pursuant to § 210.24(e) of the Commission's Rules of Practice and Procedure, the presiding administrative law judge shall determine as expeditiously as possible whether or not temporary relief proceedings should be instituted.

Responses must be submitted by the named respondents in accordance with § 210.21 of the Commission's Rules of Practice and Procedure (19 CFR 210.21). Pursuant to §§ 210.16(d) and 210.21(a) of the rules (19 CFR 201.16(d) and 210.21(a)), such responses will be considered by the Commission if received not later than 20 days after the date of service of the complaint. Responses to the motion for temporary relief may be submitted by the named respondents in accordance with § 210.24(e)(3) of the Commission's rules. Any such responses must be filed within 20 days after service of the motion. Extensions of time for submitting responses to the complaint and/or the motion of temporary relief will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter both an initial determination and a final determination containing such findings.

The complaint, except for any confidential information contained therein, is available for imspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Room 156, Washington, DC 20436, telephone 202–523–0471. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–724–0002.

Issued: October 18, 1985.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 85–25931 Filed 10–29–85; 8:45 am]

BILLING CODE 7020–02–M

[Investigations Nos. 701–TA–258–260 (Preliminary) and 731–TA–283–285 (Preliminary)]

Certain Table Wine From the Federal Republic of Germany, France, and Italy

Determinations

On the basis of the record [1] developed in the subject investigations, the Commission determines, pursuant to section 703(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a)), that there is no reasonable indication that an industry in the United States is materially injured or threatened with material injury, or that the establishment of an industry in the United States is materially retarded, by reason of imports from the Federal Republic of Germany, France, and Italy of certain table wine,[2] provided for in item 167.30 of the Tariff Schedules of the United States (TSUS), which are alleged to be subsidized by the Governments of the Federal Republic of Germany (investigation No. 701–TA–258 (Preliminary)), France (investigation No. 701–TA–259 (Preliminary)), and Italy (investigation No. 701–TA–260 (Preliminary)).

The Commission also determines, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)), that there is no reasonable indication that an industry in the United States is materially injured or threatened with material injury, or that the establishment of an industry in the

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[1] The record is defined in § 207.2(i) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(i)).

[2] "Certain table wine" is defined as still wine produced from grapes, containing not over 14 percent of alcohol by volume, in containers each holding not over 1 gallon, other than wines categorized by the appropriate authorities in the Federal Republic of Germany as "Qualitatswein mit Pradikat," in France as "Appellation d'Origine Controlee" or "Vins Delimites de Qualite Superieure," and in Italy as "Denominazione di Origine Controllata."

United States is materially retarded, by reason of imports from the Federal Republic of Germany (investigation No. 731-TA-283 (Preliminary)), France (investigation No. 731-TA-284 (Preliminary)), and Italy (investigation No. 731-TA-285 (Preliminary)) of certain table wine, provided for in TSUS item 167.30, which are alleged to be sold in the United States at less than fair value (LTFV).

Background

On September 10, 1985, petitions were filed with the Commission and the Department of Commerce by counsel on behalf of the American Grape Growers Alliance for Fair Trade, alleging that imports of the subject merchandise are being subsidized and are being sold in the United States at less than fair value. Accordingly, effective September 10, 1985, the Commission instituted preliminary countervailing duty and antidumping investigations under sections 703(a) and 733(a), respectively, of the Tariff Act of 1930 to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of such merchandise.

Notice of the institution of the Commission's investigations and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of September 18, 1985 (50 FR 37919). The conference was held in Washington, DC, on October 1, 1985, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in these investigations to the Secretary of Commerce on October 25, 1985. The views of the Commission are contained in USITC Publication 1771 (October 1985), entitled "Certain Table Wine from the Federal Republic of Germany, France, and Italy: Determinations of the Commission in Investigations Nos. 731-TA-258-260 (Preliminary) and 701-TA-283-285 (Preliminary) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigations."

By order of the Commission.

Issued: October 25, 1985.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-25929 Filed 10-29-85; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-230]

Certain Unitary Electromagnetic Flowmeters With Sealed Coils; Investigation

AGENCY: International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on September 24, 1985, pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337), on behalf of Fischer & Porter Company, 200 Witmar Road, Horsham, Pennsylvania 19044. An amendment to the complaint was filed on October 10, 1985. The complaint, as amended, alleges unfair methods of competition and unfair acts in the importation of certain unitary electromagnetic flowmeters with sealed coils into the United States, or in their sale, by reason of alleged infringement of the claims of U.S. Letters Patent 4,420,982. The complaint further alleges that the effect or tendency of the unfair methods of competition and unfair acts is to destroy or substantially injure an industry, efficiently and economically operated, in the United States.

The complainant requests that the Commission institute an investigation, and, after a full investigation, issue a permanent exclusion order and permanent cease and desist orders.

FOR FURTHER INFORMATION CONTACT: Gary Rinkerman, Esq., or Steven H. Schwartz, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, telephone 202-523-1273 or 202-523-4877, respectively.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930 and in § 210.12 of the Commission's Rules of Practice and Procedure (19 CFR 210.12).

Scope of investigation: Having considered the complaint, the U.S. International Trade Commission, on October 21, 1985, ordered that—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, an investigation be instituted to determine whether there is a violation of subsection (a) of section 337 in the unlawful importation of certain unitary electromagnetic flowmeters with sealed coils into the United States, or in their sale, by reason of alleged infringement of the claims of U.S. Letters Patent 4,420,982, the effect or tendency of which is to destroy or substantially injure an industry, efficiently and economically operated, in the United States;

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is—

Fischer & Porter Company, 200 Witmar Road, Horsham, Pennsylvania 19044

(b) The respondents are the following companies, alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Krohne Messtechnik GmbH & Company KG, P.O. Box 100 970, 4100 Duisburg, Federal Republic of Germany

Krohne-America, Inc., Dearborn Road, Peabody, Massachusetts 01960

(c) Gary Rinkerman, Esq., and Steven H. Schwartz, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, 701 E Street NW., Room 128 and Room 124, respectively, Washington, DC 20436, shall be the Commission investigative attorneys, party to this investigation; and

(3) For the investigation so instituted, Janet D. Saxon, Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding administrative law judge.

Responses must be submitted by the named respondents in accordance with § 210.21 of the Commission's Rules of Practice and Procedure (19 CFR 210.21). Pursuant to §§ 201.16(d) and 210.21(a) of the rules such responses will be considered by the Commission if received not later than 20 days after the date of service of the complaint. Extensions of time for submitting responses will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter both an initial determination and a final determination containing such findings.

The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Room 156, Washington, DC 20436, telephone 202-523-0471. Hearing-impaired individuals are advised that information on this matter can be obtained by

contacting the Commission's TDD terminal on 202-724-0002.

By order of the Commission.

Issued: October 22, 1985.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-25928 Filed 10-29-85; 8:45 am]

BILLING CODE 7020-02-M

[Investigations Nos. 701-TA-261-264 (Preliminary) and 731-TA-289-291 (Preliminary)]

Welded Steel Wire Fabric for Concrete Reinforcement From Italy, Korea, Mexico, and Venezuela

AGENCY: International Trade Commission.

ACTION: Institution of preliminary countervailing duty and antidumping investigations and scheduling of a conference to be held in connection with these investigations.

SUMMARY: The Commission hereby give notice of the institution of preliminary countervailing duty investigations Nos. 701-TA-261-264 (Preliminary) under section 703(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Italy, Korea, Mexico, and Venezuela of cloth, gauze, fabric, screen, netting, and fencing, not cut to shape, for concrete reinforcement, provided for in item 642.80 of the Tariff Schedules of the United States, which are alleged to be subsidized by the Governments of Italy, Korea, Mexico, and Venezuela. As provided in section 703(a), the Commission must complete preliminary countervailing duty investigations in 45 days, or in these cases by December 9, 1985.

The Commission also gives notice of the institution of preliminary antidumping investigations Nos. 731-TA-289-291 (Preliminary) under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Italy, Mexico, and Venezuela of cloth, gauze, fabric, screen, netting, and fencing, not cut to shape, for concrete reinforcement, provided for in item 642.80 of the Tariff Schedules of the United States, which are alleged to be sold in the United States at less than fair value. As provided in section 733(a), the Commission must complete preliminary antidumping investigations in 45 days, or in these cases by December 9, 1985.

For further information concerning the conduct of these investigations and rules of general application, consult the Commission's Rules of Practice and Procedure, Part 207, Subparts A and B (19 CFR Part 207), and Part 201, Subparts A through E (19 CFR Part 201).

EFFECTIVE DATE: October 24, 1985.

FOR FURTHER INFORMATION CONTACT: David Coombs (202-523-1376), Office of Investigations, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-724-0002.

SUPPLEMENTARY INFORMATION

Background.—These investigations are being instituted in response to petition filed on October 24, 1985 by the Wire Reinforcement Institute, Inc., McLean, Virginia.

Participation in these investigations.—Persons wishing to participate in these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's rules (19 CFR 201.11), not later than seven (7) days after publication of this notice in the **Federal Register**. Any entry of appearance filed after this date will be referred to the Chairwoman, who will determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Service list.—Pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d)), the Secretary will prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to these investigations upon the expiration of the period for filing entries of appearance. In accordance with §§ 201.16(c) and 207.3 of the rules (19 CFR 201.16(c) and 207.3), each document filed by a party to these investigations must be served on all other parties to these investigations (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service.

Conference.—The Commission's Director of Operations has scheduled a conference in connection with these investigations for 9:30 a.m., on November 14, 1985, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, DC. Parties wishing to participate in the conference should contact David Coombs (202-523-1376) not later than November 12, 1985, to arrange for their appearance. Parties in support of the imposition of countervailing and/or antidumping duties in these investigations and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference.

Written submissions.—Any person may submit to the Commission on or before November 15, 1985, a written statement of information pertinent to the subject of these investigations, as provided in § 207.15 of the Commission's rules (19 CFR 207.15). A signed original and fourteen (14) copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the rules (19 CFR 201.8). All written submissions except for confidential business data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any business information for which confidential treatment is desired must be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of section 201.6 of the Commission's rules (19 CFR 201.6).

Authority: These investigations are being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.12 of the Commission's rule (19 CFR § 207.12).

By order of the Commission.

Issued: October 25, 1985.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-25930 Filed 10-29-85; 8:45 am]

BILLING CODE 7020-02-M

INTERSTATE COMMERCE COMMISSION

[Docket Nos. AB-32 (Sub-33X) and AB-264 (Sub-1X)]

Boston and Maine Corp.; Discontinuance of Service Exemption in Franklin County, MA, and Vermont and Massachusetts Railroad Co.; Abandonment Exemption in Franklin County, MA; Exemption

Applicants, Boston and Main Corporation (B&M) and Vermont and

Massachusetts Railroad Company (V&M), have filed a notice of exemption under 49 CFR Part 1152, Subpart F—*Exempt Abandonments*, respectively, to discontinue service over and abandon the Turners Falls Branch rail line between milepost 0.0 and milepost 3.74, a distance of approximately 3.74 miles, in Franklin County, MA.

Applicants have certified (1) that no local traffic has moved over the line for at least 2 years and that no overhead traffic moves over the line, and (2) that no formal compliant filed by a user of rail service on the line (or by a State or local government entitiy acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or any U.S. District Court, or has been decided in favor of the complainant within the 2-year period. The appropriate State agency has been notified in writing at least 10 days prior to the filing of this notice.

As a condition to the use of this exemption, any employee affected by the abandonment shall be protected pursuant to *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979).

The exemption will be effective November 30, 1985 (unless stayed pending reconsideration). Petitions to stay must be filed by November 12, 1985, and petitions for reconsideration, including environmental, energy, and public-use concerns, must be filed by November 20, 1985 with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423

A copy of any petition filed with the Commission must be sent to applicant's representative: John J. Nee, Boston and Maine Corporation, Iron Horse Park, North Billerica, MA 01862–1685.

If the notice of exemption contains false or misleading information, use of the exemption is void *ab initio*.

A notice to the parties will be issued if use of the exemption is conditioned upon environmental or public use conditions.

Decided: October 23, 1985.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

James H. Bayne,

Secretary.

[FR Doc. 85–25839 Filed 10–29–85; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB–43 (Sub-133X)]

Illinois Central Gulf Railroad Co. Abandonment in Obion County, TN; Exemption

Applicant has filed a notice of exemption under 49 CFR Part 1152, Subpart F—*Exempt Abandonments* to abandon its 1.0-mile line of railroad between milepost 450.00 and milepost 451.00 north Union City, TN. Comments were filed by the Railway Labor Executives Association and the United Transportation Union.

Applicant has certified (1) that no local traffic has moved over the line for at least 2 years and that overhead traffic is not moved over the line, and (2) that no formal complaint filed by a user of rail service on the line (or by a State of local governmental entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or any U.S. District court, or has been decided in favor of the complainant within the 2-year period. The appropriate State agency has been notified in writing at least 10 days prior to the filing of this notice.

As a condition to use of this exemption, any employee affected by the abandonment shall be protected pursuant to *Oregon Short Line R. Co.-Abandoment-Goshen*, 360 I.C.C. 91 (1979).

The exemption will be effective November 29, 1985 (unless stayed pending reconsideration). Petitions to stay must be filed by November 12, 1985, and petitions for reconsideration, including environmental, energy, and public use concerns, must be filed by November 19, 1985 with: Office of the Secretary, Case Control Branch, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative: Richard M. Kamowski, 233 North Michigan Ave., Chicago, IL 60601.

If the notice of exemption contains false or misleading information, use of the exemption is void *ad initio*.

A notice to the parties will be issued if use of the exemption is conditioned upon environmental or public use conditions.

Decided: October 15, 1985.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

James H. Bayne,

Secretary.

[FR Doc. 85–25838 Filed 10–29–85; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB–55 (Sub–162X)]

Seaboard System Railroad, Inc.; Abandonment Exemption In McIntosh and Glynn Counties, GA; Exemption

Applicant has filed a notice of exemption under 49 CFR Part 1152 Subpart F—*Exempt Abandonments* to abandon its 14.66-mile line of railroad between mileposts 549.72 near Cox and milepost 564.38 near Thalman in McIntosh and Glynn Counties, GA.

Applicant has certified (1) that no local traffic has moved over the line for at least 2 years and that overhead traffic has been rerouted, and (2) that no formal complaint filed by a user of rail service on the line (or by a State or local governmental entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or any U.S. District Court, or has been decided in favor of the complainant within the 2-year period. The appropriate State agency has been notified in writing at least 10 days prior to the filing of this notice.

As a condition to use of this exemption, any employee affected by the abandonment shall be protected pursuant to *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979).

The exemption will be effective November 29, 1985, (unless stayed pending reconsideration, including environmental, energy, and public use concerns, must be filed by November 19, 1985, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative: Charles M. Rosenberger, 500 Water Street, Jacksonville, FL 32202.

If the notice of exemption contains false or misleading information, use of the exemption is void *ad initio*.

A notice to the parties will be issued if use of the exemption is conditioned upon environmental or public use conditions.

Decided: October 18, 1985.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

James H. Bayne,

Secretary.

[FR Doc. 85–25837 Filed 10–29–85; 8:45 am]

BILLING CODE 7035–01–M

NATIONAL SCIENCE FOUNDATION

Agency Forms Submitted for OMB Review

In accordance with the Paperwork Reduction Act and OMB Guidelines, the National Science Foundation is posting this notice of information.

Agency Clearance Officer: Herman G. Fleming, (202) 357–9421

OMB Desk Officer: Carlos Tellez, (202) 395–7340

Title: 1986 Survey of Science and Engineering Graduates

Affected Public: Individuals

Number of Responses: 20,100 responses; total of 2,512 burden hours.

Abstract: The information provided in this survey will enable the National Science Foundation to comply with the legislative requirement to collect information about scientific and technical personnel that may be used in policy and planning activities by private industry, educational institutions, and government agencies.

Dated: October 25, 1985.

Herman G. Fleming,

NSF Reports Clearance Officer.

[FR Doc. 85–25836 Filed 10–29–85; 8:45 am]

BILLING CODE 7555–01–M

Agency Forms Submitted for OMB Review

In accordance with the Paperwork Reduction Act and OMB Guidelines, the National Science Foundation is posting this notice of information.

Agency Clearance Officer: Herman G. Fleming, (202) 357–9421

OMB Desk Officer: Carlso Tellez, (202) 395–7340

Title: 1986 National Survey of Natural and Social Scientists and Engineers

Affected Public: Individuals

Number of Responses: 55,000 responses, total of 5,775 burden hours.

Abstract: The data collected in this survey partly enable the National Science Foundation to fulfill the legislative requirement which obligates the agency to maintain a register and otherwise act as a central clearing house for information about the scientific and technical population in the U.S. The information provided allows for policy and planning activities by government agencies, private industries and academic institutions.

Dated: October 25, 1985.

Herman G. Fleming,

NSF Reports Clearance Officer.

[FR Doc. 85–25835 Filed 10–29–85; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–412]

Beaver Valley Power Station, Unit 2; Safety Evaluation Report

Notice is hereby given that the Office of Nuclear Reactor Regulation has published a Safety Evaluation Report (SER) on the proposed operation of the Beaver Valley Power Station Unit 2, located in Beaver County, Pennsylvania. Notice of receipt of the application by Duquesne Light Company Ohio Edison Company, the Cleveland Electric Illuminating Company and the Toleo Edison Company to construct and operate Beaver Valley Unit 2 was published in the **Federal Register** on June 1, 1983 (48 FR 24488).

The report is being referred to the Advisory Committee on Reactor Safeguards and is being made available at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001 for inspection and copying. The report (Document No. NUREG–1057) can be purchased by calling (202) 275–2060 or (202) 275–2171, or by writing to the Superintendent of Documents, U.S. Government Printing Office, P.O. Box 37082, Washington, DC 20013–7082. All orders should clearly identify the NRC publication number and the requester's GPO deposit account, or VISA or Mastercard number and expiration date. NUREG–1057 can also be purchased from the National Technical Information Service, Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161.

Dated this 22nd day of October, 1985.

For the Nuclear Regulatory Commission.

George W. Knighton,

Chief, Licensing Branch No. 3, Division of Licensing.

[FR Doc. 85–25903 Filed 10–29–85; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–361 and 50–362]

Southern California Edison Co. et al.; Consideration of Issuance of Amendments to Facility Operating Licenses and Proposed no Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating License Nos. NPF–10 and NPF–15, issued to Southern California Edison Company, San Diego Gas and Electric Company, The City of Riverside, California and The City of Anaheim, California (the licensees), for operation of the San Onofre Nuclear Generating Station, Units 2 and 3 located in San Diego County, California.

The amendments would revise the technical specifications relating to the maximum enrichment of the fuel assemblies and the criticality requirements for storage of fuel in the fuel storage areas (reference PCN–199). These technical specifications are being changed because the Cycle 3 fuel enrichment is being changed from 3.7% to 4.1% to accommodate an 18-inch refueling cycle. Other amendments have been requested to modify the technical specifications associated with reactor operation with the revised enrichment, and are now being evaluated by the NRC staff. The proposed amendments were requested by the licensee's letters of August 23, October 10, and October 16, 1985.

Before issuance of the proposed license amendments, 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 request for amendments involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facilities in accordance with the proposed amendments would not (1) involve 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 Commission has provided guidance concerning the application of standards for determining whether a significant hazards consideration exists by providing certain examples (48 FR 14870) of amendments that are considered not likely to involve significant hazards considerations. Example (i) relates to a purely administrative change to the Technical Specifications: For example a change to achieve consistency throughout technical specifications, correction of an error, or a change in nomenclature. Example (vi) relates to a change which either may result in some increase to the probability or consequences of a previously-analyzed accident or may reduce in some way a safety margin, but where the results of the change are clearly within all acceptable criteria with respect to the system or component

specified in the Standard Review Plan: for example, a change resulting from the application of a small refinement of a previously used calculational model or design method. The proposed change is similar to these two examples of 48 FR 14870.

Description of Amendment Request: The proposed change would revised Technical Specification 5.3.1, "Fuel Assemblies." Technical Specification 5.3.1 specifies design features of the fuel assemblies including the allowed enrichment of U-235. Currently, Technical Specification 5.3.1 specifies a maximum enrichment for reload assemblies of 3.7 weight percent. Fuel assemblies which will be used for cycle 3, a nominal 18-month cycle, will require higher U-235 content. The proposed change revises Technical Specification (T.S.) 5.3.1 to increase the maximum allowed enrichment for reload fuel to 4.1 weight percent.

The proposed change would also change T.S. 5.6.1, "Fuel Storage-Criticality." This T.S. specifies that the spent fuel storage racks are designed and shall be maintained with a k_{eff} less than or equal to 0.95 with a conservative allowance of 0.014 delta k/k_{eff} for uncertainties. The proposed change would delete reference to a specific value of uncertainty in reactivity.

Basis for Proposed No Significant Hazards Consideration Determination: The pertinent acceptance criteria are found in Standard Review Plan Sections 9.1.1 "New Fuel Storage," and 9.1.2 "Spent Fuel Storage." Specifically, these sections require that K_{eff} be less than 0.95 when moderated with unborated water. The proposed change would increase the allowed U-235 content in fuel assemblies from 3.7 weight percent to 4.1 weight percent. The worst case K_{eff} calculated are 0.876 for new fuel storage and 0.936 for spent fuel storage. These calculated results are well within the SRP acceptance criteria. Therefore, the NRC staff proposes to determine that this part of the proposed change is similar to Example (vi) of 48 FR 14870 and does not involve a significant hazards consideration.

The proposed change would also delete the specific value for the uncertainty allowance included in the T.S. 5.6.1. This inclusion of specific uncertainty values is inconsistent with other technical specifications. For example, set point values quoted in other technical specifications include allowances for uncertainties, but the actual values of the uncertainties are not included in technical specifications. The proposed change to T.S. 5.6.1 resolves this inconsistency within the technical specifications. Therefore, this change is similar to Example (i) of 48 FR 14870 and on this basis, the NRC staff proposes to determine that the proposed change does not involve a significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publicaton 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, DC 20555, Attn: Docketing and Service Branch.

By November 29, 1985, the licensees may file a request for a hearing with respect to issuance of the the amendments to the subject facility operating licenses 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 petititon 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 sheduled 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 which 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 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 requests involves no significant hazards consideration, the Commission may issue the amendments and make them effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendments.

Normally, the Commission will not issue the amendments 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 amendments before the expiration of the 30-day notice period, provided that its final determination is that the amendments involve 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, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW. Washington, DC, 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 George W. Knighton: 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, DC 20555, and to Charles R. Kocher, Esq., Southern California Edison Company, 2244 Walnut Grove Avenue, P.O. Box 800 Rosemead, California 91770 and Orrick, Herrington & Sutcliffe, Attn: David R. Pigott, Esq., 600 Montgomery Street, San Francisco, California 94111.

Nontimely fillings 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 presiding Atomic Safety and Licensing Board, that the petitioner and/or request should be granted 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 applications for amendments which are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the San Clemente Library, 242 Avenida Del Mar, San Clemente, California 92672.

Dated at Bethesda, Maryland, this 25th day of October, 1985.

For the Nuclear Regulatory Commission.

George W. Knighton,

Chief, Licensing Branch No. 3, Division of Licensing.

[FR Doc. 85–25904 Filed 10–29–85; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50–433]

University of California-Santa Barbara; Proposed Issuance of Order Authorizing Disposition of Component Parts and Terminating Facility License

The U.S. Nuclear Regulatory Commission (Commission) is considering issuance of Orders to authorize the University of California, Santa Barbara, (licensee) to dispose of the component parts of the research reactor in their possession, in accordance with the licensee's application dated September 9, 1985, and terminating the Facility Operating License No. R–124.

The first of these Orders would be issued following the Commission's review and approval of the licensee's detailed plan for decontamination of the facility and disposal of the radioactive components, or some alternate disposition plan for the facility. This Order would authorize implementation of the approved plan. Following completion of the authorized activities and verification by the Commission that acceptable radioactive contamination levels have been achieved, the Commission would issue a second Order termination the facility license and any further NRC jurisdiction over the facility. Prior to issuance of each Order, the Commission will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations.

By November 29, 1985, the licensee may file a request for a hearing with respect to issuance of the subject Orders 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 petition for leave to intervene. Requests 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 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 to the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any Order which may be entered on the petitioner's interest. The petition should also indentify 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 for leave to intervene which 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 action 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.

A request for a hearing or a petition for leave to intervene shall be filed with the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Section, or may be delivered to the Commission's Public Document Room, 1717 H Street NW., Washington, DC by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner or representative for 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 Indentification Number 3737 and the following message addressed to Cecil O.

Thomas: (petitioner's name and telephone number); (date petition was mailed); University of California, Santa Barbara; and publication date and page number of the **Federal Register** notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington DC 20555, and to Mr. Philip E. Spiekerman, attorney for the licensee, Office of General Counsel, University of California, 590 University Hall, Berkeley, California 94720.

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 of 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)–(v) and 2.714(d).

For further details with respect to this action, see the licensee's application dated September 9, 1985, which is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC.

Dated at Bethesda, Maryland this 24th day of October 1985.

For the Nuclear Regulatory Commission.

Cecil O. Thomas,

Chief, Standardization and Special Projects Branch, Division of Licensing.

[FR Doc. 85-25905 Filed 10-29-85; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-29]

Yankee Atomic Electric Co.; 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-3 issued to Yankee Atomic Electric Company, for operation of the Yankee Nuclear Power Station, located in Franklin County, Massachusetts.

The amendment would modify the Technical Specification (TS) surveillance interval for the second level (degraded grid voltage) undervoltage protection. The current interval of once per 18 months would be changed to a monthly test interval. This change has been requested by the licensee's application for amendment dated October 16, 1985.

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 Commission has provided guidance concerning the application of standards for making a no significant hazards consideration determination by providing certain examples (April 6, 1983, 48 FR 14870). Example (ii) of actions not likely to involve a significant hazards consideration involves a change that constitutes an additional limitation, restriction or control not presently included in the TS: For example, a more stringent surveillance requirement. The proposed change would require the surveillance test for degraded grid voltage to be performed monthy instead of every 18 months, which is a more stringent requirement than currently exists. Based on this discussion, the staff proposes to determine that the requested action would not involve a 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.

Written comments should be addressed to the Rules and Procedures Branch, Division of Rules and Records, Office of Administration, U.S. Nulcear Regulatory Commission, Washington, DC 20555. Copies of comments received may be examined at the NRC Public Document Room, 1717 H Street NW., Washington, DC.

By November 29, 1985, 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 intevene. 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 on 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 petititon to intervene which 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 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 the 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, DC 20555, Att: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, 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 A. Zwolinski, Chief, Operating Reactors Branch No. 5, Division of Licensing: 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 petititon should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and Thomas Dignan, Esquire, Ropes and Gray, 225 Franklin Street, Boston, Massachusetts 02110, attorney for the licensee.

Nontimely filings on 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 presiding Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of 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 Street NW., Washington, DC, and at the Greenfield Community College, 1 College Drive, Greenfield, Massachusetts 01301.

Dated at Bethesda, Maryland, this 25th day of October 1985.

For the Nuclear Regulatory Commission.

John A. Zwolinski,

Chief, Operating Reactors Branch No. 5, Division of Licensing.

[FR Doc. 85-25906 Filed 10-29-85; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards Combined Subcommittees on Reliability and Probabilistic Assessment and Safety Philosophy, Technology, and Criteria; Meeting

The ACRS Subcommittees on Reliability and Probabilistic Assessment and Safety Philosophy, Technology, and Criteria will hold a combined meeting on November 6, 1985, Room 1167, 1717 H Street, NW, Washington, DC.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Wednesday, November 6, 1985—1:00 p.m. until the conclusion of business.

The Subcommittees will: (1) Continue to review of the two-year trial use of the Proposed Safety Goal Policy, (2) be briefed on the status of the NRC Staff's work on USI A-17, "System Interactions in Nuclear Power Plants," and (3) review the status of the ongoing NRC Staff work on steam generator overfill.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittees, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittees will then hear presentations by and hold discussions with representatives of the NRC Staff, its consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Dr. Richard Savio (telephone 202/634-3267) between 8:15 a.m. and 5:00 p.m. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Date: October 23, 1985.

Morton W. Libarkin,

Assistant Executive Director for Project Review.

[FR Doc. 85-25901 Filed 10-29-85; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards Subcommittee on Millstone Nuclear Power Station Units 1, 2 and 3; Meeting

The ACRS Subcommittee on Millstone Nuclear Power Station Units 1, 2 and 3 will hold a meeting on November 18 and 19, 1985, at the Northeast Nuclear Energy Company's Training Center, Waterford, CN.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Monday, November 18, 1985—4:00 p.m. until the conclusion of business

Tuesday, November 19, 1985—8:30 a.m. until the conclusion of business

The Subcommittee will review the application of the Northeast Nuclear Nuclear Energy Company for conversion of the Provisional Operating License (POL) for Millstone Unit 1 to a Full Term Operating License (FTOL).

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the Northeast Nuclear Energy Company, NRC Staff, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Mr. John Schiffgens (telephone 202/634–1414) between 8:15 a.m. and 5:00 p.m. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Date: October 25, 1985.

Morton W. Libarkin,

Assistant Executive Director for Project Review.

[FR Doc. 85–25900 Filed 10–29–85; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards Subcommittee on Palo Verde/CE Reactors; Meeting

The ACRS Subcommittee on Palo Verde/CE Reactors will hold a meeting on November 5, 1985, Room 1046, 1717 H Street, NW, Washington, DC.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Tuesday, November 5, 1985—8:30 a.m. until the conclusion of business

The Subcommittee will: (1) Review Arizona Nuclear Power's test program experience on Unit 1, and (2) discuss the issue of rapid depressurization for CE reactors without PORVs given recent operating experience with the auxiliary pressurizer spray system at Palo Verde Unit 1.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, its consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Mr. Paul Boehnert or Mr. Dean Houston (telephone 202/634–3267) between 8:15 a.m. and 5:00 p.m. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Date: October 25, 1985.

Morton W. Libarkin,

Assistant Executive Director for Project Review.

[FR Doc. 85–25899 Filed 10–29–85; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF MANAGEMENT AND BUDGET

Proposed Revision to Circular A–110

AGENCY: Financial Management Division, Office of Management and Budget.

ACTION: Proposed Revision to Circular A–110.

SUMMARY: This notice offers interested parties an opportunity to comment on a proposed revision to OMB Circular A–110, "Uniform Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations." The revision would require these recipients to hold Federal funds in accounts that pay interest.

FOR FURTHER INFORMATION CONTACT: Palmer A. Marcantonio, Financial Management Division (202) 395–3993.

Dated: October 15, 1985.

John J. Lordan,

Deputy Associate Director for Financial Management.

Office of Management and Budget

Circular A–110, "Uniform Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations"

AGENCY: Office of Management and Budget.

ACTION: Proposed revision to the grant payment policies of Circular A–110, "Uniform Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations."

SUMMARY: This notice offers interested parties an opportunity to comment on a proposed revision to OMB Circular A–110, "Uniform Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations." The revision would require these recipients to hold Federal funds in accounts that pay interest.

The revision is based on a recommendation by the Inspector General (IG), Department of Health and Human Services. The IG made an audit to determine what percentage of grantees were using interest bearing accounts for deposits of Federal funds. The IG reviewed about 4,000 nonprofit grantees of the Office of Human Development Services and the Public

Health Service. The review disclosed that 80 percent of the grantees did not earn interest on Federal funds kept in banks, 16 percent earned interest but did not report or return any of it to the Federal Government and only 4 percent earned and returned interest. From the limited test made, the IG estimated that the Federal Government lost about $15 million in potential interest income.

OMB Circular A-110 provides that Federal cash made available to recipients of grants shall be timed to coincide with their cash needs. This proposed revision is not intended to change that policy by encouraging grantees to maintain unnecessary balances of Federal funds. The revisions recognizes that all Federal cash will not always be disbursed immediately upon receipt. Therefore, it is proposed that when cash is available it should be deposited in interest bearing accounts.

It is proposed that the following paragraph 8 be added to Attachment I, "Payment Requirements," of Circular A-110.

Recipients shall maintain Federal funds in interest bearing accounts. Interest earned on such accounts shall be remitted to the Federal agency that provided the funds. Where funds from several agencies are deposited in the same account, interest shall be remitted to the agencies on a pro rata basis. Interest amounting to less than $100 a year on all Federal funds need not be remitted.

The Office of Management and Budget has, as yet, made no decision with respect to the proposed revision. All interested parties are encouraged to make their views known.

FOR FURTHER INFORMATION CONTACT: Palmer A. Marcantonio, Financial Management Division, Office of Management and Budget, Washington, D.C. 20503, (202) 395-3993.

Comments should be received within 60 days of this notice. All comments should be submitted in duplicate.

[FR Doc. 85-25819 Filed 10-29-85; 8:45 am]

BILLING CODE 3110-01-M

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

White House Science Council (WHSC); Meeting

The White House Science Council, the purpose of which is to advise the Director, Office of Science and Technology Policy (OSTP), will meet on November 14 and 15, 1985 in Room 5104, New Executive Office Building, Washington, DC. The meeting will begin at 6:00 p.m. on November 14, recess and reconvene at 8:00 a.m. on November 15. Following is the proposed agenda for the meeting:

(1) Briefing of the Council, by the Assistant Directors of OSTP, on the current activities of OSTP.

(2) Briefing of the Council by OSTP personnel and personnel of other agencies on proposed, ongoing, and completed panel studies.

(3) Discussion of composition of panels to conduct studies.

The November 14 session and a portion of the November 15 session will be closed to the public.

The briefing on some of the current activities of OSTP necessarily will involve discussion of material that is formally classified in the interest of national defense or for foreign policy reasons. This is also true for a portion of the briefing on panel studies. As well, a portion of both of these briefings will require discussion of internal personnel procedures of the Executive Office of the President and information which, if prematurely disclosed, would significantly frustrate the implementation of decisions made requiring agency action. These portions of the meeting will be closed to the public pursuant to 5 U.S.C. 552b(c) (1), (2), and 9(B).

A portion of the discussion of panel composition will necessitate the disclosure of information of a personal nature, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. Accordingly, this portion of the meeting will also be closed to the public, pursuant to 552b(c)(6).

The portion of the meeting open to the public will begin approximately 10:00 a.m. Because of the security in the New Executive Office Building, persons wishing to attend the open portion of the meeting should contact Annie L. Boyd, Secretary, White House Science Council at (202) 456-7740, prior to 3:00 p.m. on November 13. Ms. Boyd is also available to provide further information regarding this meeting.

Dated: October 21, 1985.

Jerry D. Jennings,

Executive Director, Office of Science and Technology Policy.

[FR Doc. 85-25953 Filed 10-29-85; 8:45 am]

BILLING CODE 3170-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35-23875; 70-6985]

Middle South Utilities, Inc., et al.; Proposed Amendments to Domestic and Foreign Bank Loan Agreements

October 24, 1985.

Middle South Utilities, Inc. ("MSU"), 225 Baronne Street, New Orleans, Louisiana 70112, a registered holding company, its electric generating subsidiary, Middle South Energy, Inc. ("MSE"), P.O. Box 61000, New Orleans, Louisiana 70161, and MSU's electric utility subsidiaries, Arkansas Power & Light Company, P.O. Box 551, Little Rock, Arkansas 72203, Louisiana Power & Light Company, 142 Delaronde Street, New Orleans, Louisiana 70174, Mississippi Power & Light Company P.O. Box 1640, Jackson, Mississippi 39205, and New Orleans Public Service Inc., 317 Baronne Street, New Orleans, Louisiana 70112, have filed with this Commission a further post-effective amendment to the declaration in this proceeding pursuant to sections 6(a) and 7 of the Public Utility Holding Company Act of 1935 ("Act").

By supplemental order in this proceeding dated August 2, 1985 (HCAR No. 23782), this Commission authorized the conversion of MSE's revolving credit borrowing to term loans pursuant to a Third Amended and Restated Bank Loan Agreement ("Domestic Bank Loan Agreement") among MSE, Manufacturers Hanover Trust Company, and Citibank, N.A., as agents, and the banks listed therein ("U.S. Banks") and a Fourth Amendment to Loan Agreement among MSE, Credit Suisse First Boston Limited, as agent, and the banks listed therein, respectively. MSE presently has $1,476,417,500 outstanding debt under the Domestic Bank Loan Agreement.

MSE plans to defer the payment of the first installment due under the Domestic Bank Loan Agreement on November 1, 1985, to no later than February 3, 1986. The deferral will be accomplished by waiver of the U.S. Banks pursuant to the terms of the Domestic Bank Loan Agreement expected prior to November 1, 1985.

MSE now proposes, in accordance with a request of the U.S. Banks, to amend the Domestic Bank Loan Agreement as follows: (1) An additional 1 percent per annum interest will be added to the deferred installment from November 1, 1985, to the date of payment. (2) With limited exceptions, MSE will not pay any dividends on its common stock during 1985.

The amended declaration and any further amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by November 18, 1985, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the declarants at the addresses specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the declaration, as now amended or as it may be further amended, may be permitted to become effective.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85-25827 Filed 10-29-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-22556; File No. SR-NYSE-85-33]

Self-Regulatory Organizations; New York Stock Exchange, Inc.; Order Approving Proposed Rule Change

The New York Stock Exchange, Inc. ("NYSE") submitted on September 9, 1985, copies of a proposed rule change pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") and Rule 19b-4 thereunder, to require that specialists submit, in an automated format prescribed by the Exchange, reports on their proprietary trading in their specialty stocks and in any options to hedge their specialty stock positions. The NYSE anticipates that such submissions may be required on a daily basis, rather than on a "periodic call" basis (under current Exchange policy, this is a spot check of 8 weekly periods) during the year as is currently required. The Exchange's proposal does not contain new requirements as to the information to be submitted, but simply changes the format in which, and frequency with which, information is to be submitted.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by the issuance of a Commission release (Securities Exchange Act Release No. 22398, September 11, 1985) and by publication in the **Federal Register** (50 FR 38601, September 23, 1985). No comments were received with respect to the proposed rule change.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of section 6(b)(5), and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Dated: October 24, 1985.

John Wheeler,

Secretary.

[FR Doc. 85-25907 Filed 10-29-85; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organization; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Philadelphia Stock Exchange, Inc.

October 21, 1985.

The above named national securities exchange has filed applications with the Securities and Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following security:

Phillip Morris Companies, Inc.
Common Stock, $1.00 Par Value (File No. 7-8637)

This security is listed and registered on one or more other national securities exchange and is reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before November 8, 1985, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such application is consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85-25828 Filed 10-29-85; 8:45 am]

BILLING CODE 8010-01-M

TENNESSEE VALLEY AUTHORITY

Forms Under Review by the Office of Management and Budget

AGENCY: Tennessee Valley Authority.

ACTION: Forms Under Review by the Office of Management and Budget.

SUMMARY: The Tennessee Valley Authority (TVA) has sent to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35).

Request for information, including copies of the forms proposed and supporting documentation, should be directed to the Agency Clearance Officer whose name, address, and telephone number appear below. Questions or comments should be directed to the Agency Clearance Officer and also to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503; Attention: Desk Officer for Tennessee Valley Authority, 395-7313.

Agency Clearance Officer: Mark R. Winter, Tennessee Valley Authority, 100 Lipton Building, Chattanooga, TN 37401; (615) 751-2524, FTS 858-2524.

Type of Request: Regular Submission
Title of Information Collection: TVA Revised Home Insulation Program (Energy Package)
Frequency of Use: One response per participating customer
Type of Affected Public: Individuals or Households
Small Businesses or Organizations Affected: No
Federal Budget Functional Category Code: 271
Estimated Number of Annual Responses: 66,850
Estimated Total Annual Burden Hours: 20,055

Need For and Use of Information: This information is needed to determine applicable energy improvements for residences in the Tennessee Valley region. Data will be used to establish standards for various residential conservation programs and recommendations to consumers outlining the methods and actions

necessary to conserve and/or manage electrical energy.

Dated: October 22, 1985.

John W. Thompson,

Manager of Corporate Services, Senior Agency Official.

[FR Doc. 85-25821 Field 10-29-85; 8:45 am]

BILLING CODE 8120-01-M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

[Docket No. 85-6W; Notice 1]

Pipeline Safety Waiver; The International Paper Co.

The International Paper Company ("IPCO") has requested a waiver from the coating provisions of 49 CFR 192.455(a)(1) for a segment (200 feet) of the Natchez Pipeline located in a crossing of the Mississippi River.

The petition describes the Natchez Pipeline as owned and operated by IPCO to transport purchased gas from a Chevron gas processing plant in Tensas Parish, Louisiana, some 17.8 miles, crossing the Mississippi River, to Natchez, Mississippi, where the gas is consumed in IPCO's pulp processing mill. IPCO has applied to the Federal Energy Regulatory Commission, which has jurisdiction over the Natchez Pipeline, for permission to connect the Natchez Pipeline to a pipeline of the Southern Natural Gas Company and to a new well owned by Exxon. According to further information provided by IPCO, the Natchez Pipeline consists of Grade B pipe 6⅝ inch O.D., with wall thickness of .250, .344, and .432 inch. It currently transports at least 1 MMcfd at 100 psi and, after connection to the new sources, may carry up to 11 MMcfd at 650 psi.

As justification of the waiver IPCO offered the following:

> In 1983 the segment of the Natchez pipeline crossing under the Mississippi River was completely severed at a weld. Upon inspection, it was discovered that because of shifts in the river bottom, a significant portion of the pipeline was no longer covered by the riverbed. The break in the pipeline was apparently caused by a tree or some other drift material that was caught in the current and had lodged and pushed against the explosed line.
>
> By way of repair, 40 feet of the line was replaced with ASTM A-106 Grade B pipe and 160 feet with ASTM A-53 Grade B pipe, the exposed pipe was buried beneath the riverbed, and Rip-Rap over mats were placed on top of the newly buried pipeline. The newly installed pipe, however, was uncoated, as had been the pipe that was replaced. IPCO personnel involved in the repairs were unaware that any federal pipeline safety standards might apply to the repair.
>
> Because the pipeline is beneath the riverbed and Rip-Rap, it is estimated that to raise, coat, and reinstall the pipe replaced in 1983 would cost in excess of $1,000,000. The line can be cathodically protected at significantly less expense.
>
> Coating the line replaced in 1983 would not measurably add to the pipeline's safety. Much of the protection against corrosion that coating provides can be attained through cathodic protection, which IPCO will install (and which is substantially less expensive). Further, the hazards associated with raising the line to coat the new segments may more than offset any improvement in safety.
>
> In addition, as discussed above, raising, coating, and reinstalling the replaced pipeline would be prohibitively expensive, costing in excess of $1 million, or over $5,000 per foot of pipeline. The marginal (if any) improvement in safety from coating the pipeline simply does not justify an expense of this magnitude.

With certain exceptions, each buried or submerged metallic gas pipeline installed after July 31, 1971, must be protected against external corrosion by an external coating (§ 192.455(a)(1)) and by a cathodic protection system (§ 192.455(a)(2)). These requirements were adopted from the National Association of Corrosion Engineers Standard RP-01-69, which was based on industry experience in obtaining the most efficient external corrosion protection for pipelines. However, cathodic protection alone can provide adequate external corrosion protection, although at higher cost if additional electrical power is needed. The absence of coating should not affect the ability of a properly designed cathodic protection system to meet the criteria in Appendix D of Part 192 and thus provide adequate external corrosion control.

Therefore, RSPA is considering granting IPCO a waiver from the coating requirements of § 192.455(a)(1) as requested, because adequate corrosion control can be provided by cathodic protection alone, the segment of pipeline involved is located in the Mississippi River where a leak would present a small risk to the public, and compliance with the coating rule at this stage would entail undue costs and possibly create construction defects due to the difficult working conditions around this underwater pipeline.

Interested persons are invited to comment on the proposed waiver by submitting in triplicate such data, views or arguments as they may desire. Communications should identify the Docket and Notice numbers and be submitted to Dockets Branch, Room 8426, Research and Special Programs Administration, Department of Transportation, Washington, DC 20590.

All comments received before November 29, 1985, will be considered before final action is taken. Late filed comments will be considered so far as practicable. All comments will be available for inspection at the Dockets Branch, Research and Special Programs Administration between the hours of 8:30 a.m. to 5:00 p.m., before and after the closing date for comments. No public hearing is contemplated, but one may be held at a time and place set in a Notice in the **Federal Register** if requested by an interested person desiring to comment at a public hearing and raising a genuine issue.

(49 U.S.C. 1672; 49 CFR § 1.53(a); Appendix A of Part 1, and Appendix A of Part 106)

Issued in Washington, DC on October 25, 1985.

Lucian M. Furrow,

Acting Associate Director for Pipeline Safety Regulation, Materials Transportation Bureau.

[FR Doc. 85-25851 Filed 10-29-85; 8:45 am]

BILLING CODE 4910-60-M

[Docket No. IRA-34]

Application for Inconsistency Ruling; Public Notice and Invitation to Comment; Illinois

AGENCY: Materials Transportation Bureau (MTB), Research and Special Programs Administration (RSPA), DOT.

ACTION: Public and invitation to comment.

SUMMARY: Wisconsin Electric Power Company has applied for an administrative ruling on the question of whether an Illinois statute, which imposes a fee of $1000 per cask upon owners of spent nuclear fuel being transported through Illinois, is inconsistent with the Hazardous Materials Transportation Act or the regulations promulgated thereunder and, therefore, preempted under 49 U.S.C. 1811(a).

DATES: Comments received on or before December 20, 1985, will be considered before an inconsistency ruling is issued.

ADDRESSES: The application and all related correspondence and comments may be reviewed in the Dockets Branch, Materials Transportation Bureau, Room 8426, 400 Seventh Street, SW., Washington, DC 20590. Comments on the application may be submitted to the Dockets Branch at the above address. To ensure proper handling, indicate Docket No. IRA-34 on your submission. Three copies of each submission are requested.

A copy of each comment must also be sent to the following individuals:

Mr. Jack McKay, Shaw, Pittman, Potts & Trowbridge, 1800 M Street, NW., Washington, DC 20036
Mr. Henry L. Henderson, Assistant Attorney General, Environmental Control Division, 100 West Randolph Street, 13th Floor, Chicago, Illinois 60601

Certification of the fact that copies have been sent to these individuals is to be indicated on any comments submitted to the Dockets Branch. [The following format is suggested: "I hereby certify that copies of this comment have been sent to Messrs. McKay and Henderson at the addresses noted in the **Federal Register.**"]

FOR FURTHER INFORMATION CONTACT: Elaine Economides, Office of the Chief Counsel, Research and Special Programs Administration, 400 Seventh Street, SW., Washington, DC 20590. (Tel: 202/755-4972.)

SUPPLEMENTARY INFORMATION:

1. Background

The Hazardous Materials Transportation Act (HMTA) (49 U.S.C. 1801–1812) was enacted on January 3, 1975, to "improve the regulatory and enforcement authority of the Secretary of Transportation to protect the Nation adequately against the risks to life and property which are inherent in the transportation of hazardous materials in commerce" (49 U.S.C. 1801). Substantive regulations implementing the HMTA are known as the Hazardous Materials Regulations (HMR) and are codified at 49 CFR Parts 171–179.

Section 112(a) of the HMTA (49 U.S.C. 1811(a)) expressly preempts "any requirement of a State or political subdivision thereof, which is inconsistent with any requirement" of the HMTA or the HMR. Procedural regulations implementing section 112(a) of the HMTA are codified at 49 CFR 107.201–107.211 and provide for the issuance of inconsistency rulings. Briefly, an inconsistency ruling is an administrative opinion as to the relationship between a State or political subdivision requirement and a requirement of the HMTA or the HMR. Section 107.209(c) sets forth the following two-prong test for determining whether a State political subdivision requirement is inconsistent:

(1) Whether compliance with both the State or political subdivision requirement and the [HMTA] or the regulations issued under the [HMTA] is possible; and

(2) The extent to which the state or political subdivision requirement is an obstacle to the accomplishment and execution of the [HMTA] and the regulations issued under the [HMTA].

For a more extensive discussion of general authority and preemption under the HMTA, prospective commenters are directed to section VII of the General Preamble to Inconsistency Ruling IR–7 through 15 (49 FR 46632, 46632–46634; November 27, 1984).

2. The Application for Inconsistency Ruling

On March 21, 1985, Wisconsin Electric Power Company (WEPCO) applied for an administrative ruling on the question of whether a provision of the Illinois Nuclear Safety Preparedness Act ("the Illinois Act") is inconsistent with the HMTA or HMR and, therefore, preempted. According to WEPCO's application, the Illinois Act was amended in September 1984 by P. A. 83–13421 to impose, for the first time, fee assessments on owners of spent nuclear fuel traversing the state. The specific requirement on which WEPCO seeks an inconsistency ruling is Illinois Revised Statute, chapter 111½, paragraph 4304(7) which reads as follows:

> Sec. 4304. Persons engaged within this State in the business of producing electricity utilizing nuclear energy or operating facilities for storing spent nuclear reactor fuel for others shall pay fees to cover the cost of establishing plans and programs to deal with the possibility of nuclear accidents. The fees shall be used exclusively to fund those Departmental and other government activities defined as necessary by the Director to implement and maintain the plans and programs authorized by this Act. The Illinois Emergency Services and Disaster Agency and local governments incurring expenses attributable to implementation and maintenance of the plans and programs authorized by this Act may apply to the Department for reimbursement of those expenses. Upon approval by the Director of such claims, the Department shall reimburse such agency and local governments from fees collected pursuant to this Section, except that such reimbursements shall not exceed $350,000 for such Agency, nor $150,000, in the aggregate, for local governments in any year. Such fees shall consist of the following: . . .
>
> (7) A fee assessed at the rate of $1,000 per cask for shipments of spent nuclear fuel transversing the State to be paid by the owner of such shipments.

Citing the Department's finding that a Vermont transport fee on spent nuclear fuel is inconsistent with the HMTA (IR–15, 49 FR 46660, 46664; November 27, 1984), WEPCO asserts that the Illinois provision is virtually indistinguishable from the Vermont regulation. WEPCO, therefore, "requests a determination that (1) Illinois P.A. 83–13421 is a routing rule insofar as it attempts to impose fees on the transport of spent nuclear fuel; and (2) such fee assessments would redirect the movement of radioactive materials on the public highways and that this routing rule is inconsistent with the requirements of the HMTA and regulations promulgated thereunder." (Application at 3–4).

As required by 49 CFR 107.205, WEPCO served a copy of its application on the State of Illinois. On May 8, 1985, Illinois submitted its comments on the application. Illinois challenged the WEPCO application on both procedural and substantive grounds. The principal arguments are summarized below.

Illinois argues that, far from being an obstacle to the accomplishment of the HMTA, the challenged fee requirement "further HMTAs safety goals by operating in an area properly abdicated by the federal regulatory scheme and left to the states" (Illinois response at 9). In support of this, Illinois cites Inconsistency Rulings IR–2 (44 FR 75566, December 20, 1979; decision on appeal, 45 FR 71881, October 30, 1980) and IR–8 (49 FR 46637, November 27, 1984) wherein the Department recognized the role of state and local governments in emergency preparedness and response. Asserting that the Federal regulatory scheme "has abdicated the field of site-specific emergency preparedness to the states", Illinois argues that its efforts to fill this void" are appropriate and permissible under the Tenth Amendment to the United States Constitution and are not proper subjects of the preemption doctrine." (Illinois response at 11).

Illinois further asserts that the Vermont transport fee found to be inconsistent in IR–15 is clearly distinguishable from the challenged Illinois requirement because the Vermont fee was part of a pre-shipment permit scheme, whereas the Illinois fee is not tied to any such permit requirement. "A shipment is neither delayed nor refused access to Illinois pending payment of the INSPA fee . . ." (Illinois response at 14).

Illinois also argues that fees are not *per se* routing rules and that the Illinois fee does not effectively redirect the movement of spent fuel by public highway.

3. Public Comment

Comments should be restricted to the following issue: Whether section 4304(7) of chapter 111½ of the Illinois Revised Statutes is inconsistent with the HMTA or the regulations issued thereunder. As set forth at 49 CFR 107.209(c), two factors must be considered: (1) Whether compliance with both section 4304(7) and the HMTA or HMR is possible; and (2) the extent to which section 4304(7) presents an obstacle to the

accomplishment and execution of the HMTA and HMR.

Since the application is for an inconsistency ruling and not for a nonpreemption determination, comments regarding the effect of section 4307(7) on safety or interstate commerce as these may relate to a waiver of preemption under 49 U.S.C. 1811(b) are inappropriate at this time and will not be considered.

Persons intending to comment on the application should examine the HMTA (49 U.S.C. 1801–1812); the HMR (49 CFR Parts 171–179); the procedural regulations governing the Department's consideration of applications for inconsistency rulings (49 CFR 107.201–107.211); the following inconsistency rulings—IR–2 (*supra*), IR–3 (46 FR 18918, March 26, 1981; decision on appeal, 47 FR 18457, April 29, 1982), IR–6 (48 FR 760, January 6, 1983), IR–7 through 15 (*supra*), and IR–16 (50 FR 20872, May 20, 1985); and the text of section 3404(7) of Illinois Revised statutes, chapter 111½ which is provided in this notice.

Issued in Washington, DC, on October 24, 1985.

Alan I. Roberts,

Associate Director for Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 85–25850 Filed 10–29–85; 8:45 am]

BILLING CODE 4910-60-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Supplement to Dept. Cir.—Public Debt Series—No. 30–85]

Treasury Notes, Series AB–1987

Washington, October 24, 1985.

The Secretary announced on October 23, 1985, that the interest rate on the notes designated Series AB–1987, described in Department Circular—Public Debt Series—No. 30–85 dated October 18, 1985, will be 8⅞ percent. Interest on the notes will be payable at the rate of 8⅞ percent per annum.

Gerald Murphy,

Acting Fiscal Assistant Secretary.

[FR Doc. 85–25829, Filed 10–29–85; 8:45 am]

BILLING CODE 4810-40-M

Fiscal Service

Union Indemnity Insurance Company of New York; Surety Companies Acceptable on Federal Bonds; Liquidation

Union Indemnity Insurance Company of New York, a New York Corporation, formerly held a Certificate of Authority as an acceptable surety on Federal bonds and was last listed as such at 49 FR 27261, July 2, 1984. The company's authority was terminated by the Department of the Treasury effective April 18, 1985. Notice of the termination was published in the Federal Register of April 29, 1985, on page 16770.

On July 16, 1985, upon a petition by the Superintendent of Insurance of the State of New York, the Supreme Court of the State of New York issued an Order of Liquidation with respect to Union Indemnity. The Superintendent of Insurance was appointed as the Liquidator of Union Indemnity. All persons having claims against Union Indemnity must file their claims by July 17, 1986, or be barred from sharing in the distribution of assets.

Please note that all liabilities have been fixed as of 12:01 A.M., Eastern Daylight Savings Time, August 17, 1985. All claims must be filed in writing and shall set forth the amount of the claim, the facts upon which the claim is based, any priorities asserted, and any other pertinent facts to substantiate the claim. It is recommended that claimants asserting priority status under 31 U.S.C. 3713 who have yet filed their claim should do so, in writing, to: Office of the United States Attorney, Southern District of New Yok, 1 Saint Andrews Plaza, New York, NY 10007. Attn: Jordan Stanzler, Assistant United States Attorney.

The above office will be consolidating any and all claims against Union Indemnity on behalf of the United States Government. Any questions concerning filing of claims may be directed to Mr. Stanzler at (212) 791–9175.

Government agencies involved in Federal surety bonding operations where third parties such as subcontractors, materialmen, and suppliers may have a claim against the company are requested to use their best efforts to notify such third parties of the liquidation, assist them in filing claims, inform them of their priority status based on section 3713 of Title 31 of the United States Code and provide them with copies of this **Federal Register** Notice. If priority status is not being granted, please notify the Department of Treasury at the address indicated below.

Questions concerning this notice may be directed to the Surety Bond Branch, Finance Division, Financial Management Service, Department of the Treasury, Washington, D.C. 20226, telephone (202) 634–2319. An informational notice containing additional information concerning the filing of claims will be distributed by this office to Federal agencies.

Dated: October 21, 1985.

W.E. Douglas,

Commissioner, Financial Management Service.

[FR Doc. 85–25849 Filed 10–29–85; 8:45 am]

BILLING CODE 4810-35-M

VETERANS ADMINISTRATION

Station Committee on Educational Allowances; Meeting

Notice is hereby given pursuant to Section V, Review Procedure and Hearing Rules, Station Committee on Educational Allowances that on November 22, 1985, at 1:00 p.m., the Veterans Administration Regional Office Station Committee on Educational Allowances shall at Estes Kefauver Federal Building—U.S. Courthouse, Room A–220, 110 Ninth Avenue, South, Nashville, Tennessee, conduct a hearing to determine whether Veterans Administration benefits to all eligible persons employed at Auto Paint and Body Specialist, 1404 N.W. Broad Street, Murfreesboro, Tennessee 37130, should be discontinued, as provided in 38 CFR 21.4134, because a requirement of law is not being met or a provision of the law has been violated. All interested persons shall be permitted to attend, appear before, or file statements with the Committee at that time and place.

Dated: October 22, 1985.

R.S. Bielak,

Director, VA Regional Office.

[FR Doc. 85–25909 Filed 10–29–85; 8:45 am]

BILLING CODE 8320-01-M

Veterans Administration Medical Center, Knoxville, Iowa; Replace Laundry, Finding of No Significant Impact

The Veterans Administration (VA) has assessed the potential environmental impacts that may occur as a result of the construction of a Replacement Laundry and has determined that the potential environmental impacts from the development of this project will be minimal.

The proposed increased demand on electricity will require a new 1200 KVA transformer. Due to the proposed high efficiency laundry system, there will be no increased demand for water.

The land being proposed for the laundry is presently paved; therefore, there will be no change to the ecosystem. There is no native wildlife in the area that will be adversely affected.

Findings conclude that the proposed action will not cause a significant effect on the physical and human environment.

Mitigating action should include noise abatement measures which will be included in the construction specification.

The VA will adhere to all applicable Federal, State and local environmental regulations during construction and operation of this project. The significance of the identified impacts has been evaluated relative to considerations of both context and intensity as defined by the Council on Environmental Quality (Title 40 CFR 1508.27).

An Environmental Assessment has been performed in accordance with the requirements of the National Environmental Policy Act Regulations, Sections 1501.3 and 1508.9. A "Finding of No Significant Impact" has been reached based upon the information presented in this assessment.

The assessment is being placed for public examination at the Veterans Administration, Washington, D.C. Persons wishing to examine a copy of the document may do so at the following office: Director, Office of Environmental Affairs (088A), Room 512, Veterans Administration, 811 Vermont Avenue, NW., Washington, DC 20420. (202) 389-3717. Questions or requests for single copies of the Environmental Assessment may be addressed to the above office.

Dated: October 22, 1985.

By direction of the Administrator.

Everett Alvarez, Jr.,

Deputy Administrator.

[FR Doc. 85-25892 Filed 10-29-85; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 50, No. 210
Wednesday, October 30, 1985

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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1

INTERNATIONAL TRADE COMMISSION

[USITC SE-85-46]

TIME AND DATE: Tuesday, November 5, 1985, at 10:00 a.m.

PLACE: Room 117, 701 E Street, NW., Washington, DC 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratification List.
4. Petitions and Complaints:
5. Investigation No. 731-TA-287 [Preliminary] (In-shell pistachio nut from Iran)—briefing and vote.
6. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202) 523-0161.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-25937 Filed 10-28-85; 10:07 am]

BILLING CODE 7020-02-M

2

INTERNATIONAL TRADE COMMISSION

[USITC SE-85-47]

TIME AND DATE: Friday, November 8, 1985 at 11:00 a.m.

PLACE: Room 117, 701 E Street, NW., Washington, DC 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Petitions and Complaints:
   a. Certain glass firescreens for fireplaces (Docket No. 1249).
   b. Certain pharmaceutical closures (Docket No. 1250).
2. Investigation No. 731-TA-288 [Preliminary (Erasable programmable read only memories from Japan)]—briefing and vote.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202) 523-0161.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-25938 Filed 10-28-85; 10:07 am]

BILLING CODE 7020-02-M

3

INTERSTATE COMMERCE COMMISSION

TIME AND DATE: 9:30 a.m., Wednesday, November 6, 1985.

PLACE: Hearing Room A, Interstate Commerce Commission, 12th & Constitution Avenue, NW., Washington, DC 20423.

STATUS: Open Special Conference.

MATTERS TO BE DISCUSSED: Q02

Ex Parte No. 392 (Sub-No. 1)—Class Exemption for the Acquisition and Operation of Rail Lines Under 49 U.S.C. 10901

No. MC-F-16248, et al.—Burlington Northern, Inc.—Control Exemption—Victory Freightways, Inc.

CONTACT PERSON FOR MORE INFORMATION: Alvin H. Brown, Office of Public Affairs, Telephone: (202) 275-7252.

James H. Bayne,

Secretary.

[FR Doc. 85-25841 Filed 10-25-85; 12:14 pm]

BILLING CODE 7035-01-M

Federal Register

Wednesday
October 30, 1985

Part II

Environmental Protection Agency

40 CFR Part 464

Metal Molding and Casting Industry Point Source Category Effluent Limitations Guidelines, Pretreatment Standards and New Source Performance Standards; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 464

[FRL-2898-7]

Metal Molding and Casting Industry Point Source Category Effluent Limitations Guidelines, Pretreatment Standards and New Source Performance Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final regulation.

SUMMARY: This regulation establishes effluent limitations guidelines and standards that limit the discharge of pollutants into navigable waters and publicly owned treatment (POTWs) by existing and new sources engaged in metal molding and casting operations. The Clean Water Act and a consent decree require EPA to issue this regulation.

EPA is promulgating effluent limitations guidelines attainable by the application of the "best practicable control technology currently available" (BPT) and the "best available technology economically achievable" (BAT), pretreatment standards applicable to existing and new discharges to POTWs (PSES and PSNS, respectively), and new source performance standards (NSPS) attainable by the application of the "best available demonstrated technology."

DATES: In accordance with 40 CFR Part 23 (50 FR 7268, February 21, 1985), this regulation shall be considered issued for purposes of judical review at 1:00 p.m. Eastern time on November 13, 1985. These regulations shall become effective December 13, 1985.

The compliance date for pretreatment standards for existing sources PSES is October 31, 1988. The compliance date for new source performance standards (NSPS) and pretreatment standards for new sources (PSNS) is the date the new source begins operation.

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 Section XV—Availability of Technical Information for information on those documents. Copies of the technical and economic documents may be obtained from the National Technical Information Service, Springfield, Virginia 22161 (Phone: (703) 487–4600). For additional technical information, contact Mr. Donald F. Anderson, Industrial Technology Division (WH-552), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460 (Phone (202) 382–7189). For additional economic information, contact Ms. Dena Caldwell, Office of Analysis and Evaluation (WH–586), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460 (Phone (202) 382–5397).

On January 3, 1986, the complete public record for this rulemaking, including the Agency's responses to comments received during rulemaking, will be available for review in EPA's Public Information Reference Unit, Room 2404 (Rear) (EPA Library), 401 M Street, SW., Washington, DC. The EPA public information regulation (40 CFR Part 2) provides that a reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. Donald F. Anderson at (202) 382–7189.

SUPPLEMENTARY INFORMATION:

Overview

This preamble describes the legal authority, background, the technical and economic bases, and other aspects of the final regulation. The abbreviations, acronyms, and other terms used in the Supplementary Information sections are defined in Appendix A to this notice.

Organization of This Notice

I. Legal Authority
II. Scope of This Rulemaking
III. Background
IV. Methodology and Data Gathering Efforts
V. Summary of Changes to Proposed Regulations
VI. Control and Treatment Options and Technology Basis for the Final Regulation
VII. Pollutants Excluded From Regulation
VIII. Economic Considerations
IX. Non-Water Quality Aspects of Pollution Control
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A—Abbreviations, Acronyms And Other Terms Used In This Notice
B—Pollutant Parameters Regulated
C—Toxic Pollutants Not Detected or Not Detected At or Above the Nominal Analytical Limits of Quantitation in Any Subcategories of the Metal Molding and Casting Point Source Category
D—Aluminum Subcategory—Toxic Pollutants Not Detected or Not Detected At or Above the Nominal Analytical Limits of Quantitation; Toxic Pollutants Present in Amounts Too Small to be Reduced Effectively by Technologies Known to the Administrator; and Toxic Pollutants Detected in the Effluent From Only a Small Number of Sources
E—Copper Subcategory—Toxic Pollutants Not Detected or Not Detected At or Above the Nominal Analytical Limits of Quantitation; Toxic Poillutants Present in Amounts Too Small to be Reduced Effectively by Technologies Known to the Administrator; Toxic Pollutants Detected in the Effluent From Only a Small Number of Sources; and Toxic Pollutants for Which Equal or More Stringent Protection Is Provided by Existing Effluent Limitations and Standards
F—Ferrous Subcategory—Toxic Pollutants Not Detected or Not Detected At or Above the Nominal Analytical Limits of Quantitation; Toxic Pollutants Present in Amounts Too Small to be Reduced Effectively by Technologies Known to the Administrator; Toxic Pollutants Detected in the Effluent From Only a Small Number of Sources; and Toxic Pollutants for Which Equal or More Stringent Protection Is Provided by Existing Effluent Limitations and Standards
G—Zinc Subcategory—Toxic Pollutants Not Detected or Not Detected At or Above the Nominal Analytical Limits of Quantitation; Toxic Pollutants Present in Amounts Too Small to be Reduced Effectively by Technologies Known to the Administrator; and Toxic Pollutants Detected in the Effluent From Only a Small Number of Sources
H—Subcategories and Process Segments Not Regulated Because They Do Not Generate Process Wastewaters
I—Other Subcategories And Process Segments Not Regulated by the Metal Molding and Casting Regulations
J—Metal Molding and Casting Flow Rates and Recycle Rates
K—Metal Molding and Casting Treatment Effectiveness Concentrations Lime and Settle
L—Metal Molding and Casting Treatment Effectiveness Concentrations for Lime and Settle, Filtration
M—Total Toxic Organic (TTO) Concentrations for PSES AND PSNS Mass Limitations

I. Legal Authority

This regulation is 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 U.S.C. 1251 *et seq.*, as amended by the Clean Water Act of 1977, Pub. L. 95–217), also referred to as "the Act". It is also promulgated in response to 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, January 6, 1984, July 5, 1984, and January 7, 1985.

II. Scope of This Rulemaking

This final regulation, which was proposed on November 15, 1982 (47 FR 51512), establishes effluent limitations guidelines and standards for existing and new metal molding and casting facilities. The metal molding and casting category includes those plants that remelt and cast metal. These plants form a cast intermediate or final product by pouring or forcing the molten metal into a mold.

For the purpose of this final rule, the metal molding and casting category is divided into four subcategories and 28 process segments. The pollutants regulated for each of the subcategory segments under the BPT, BAT, NSPS, PSES, and PSNS regulations are identified in Appendix B.

EPA is promulgating BPT effluent limitations guidelines for four subcategories of the metal molding and casting category. BCT effluent limitations guidelines are reserved until the promulgation of the final BCT methodology. EPA is promulgating NSPS equal to BAT effluent limitations for each subcategory segment being regulated. BAT limitations more stringent than BPT limitations are being promulgated for the copper and zinc casting subcategories and for the ferrous subcategory except for (a) plants where steel is the primary metal cast or (b) plants pouring less than 3,557 tons of metal per year where malleable iron is the primary metal cast. BAT limitations equal to BPT limitations are being promulgated for the aluminum casting subcategory and for direct dischargers in the ferrous subcategory where steel is the primary metal cast and for direct dischargers pouring less than 3,557 tons of metal per year where malleable iron is the primary metal cast. PSES and PSNS are being promulgated equal to BAT for all subcategories except in the ferrous subcategory for indirect dischargers pouring less than 1,784 tons of metal per year where gray iron is the primary metal cast. In this case, PSES and PSNS are equal to BPT. Indirect dischargers in the metal molding and casting category also must comply with 40 CFR Part 403—General Pretreatment Regulations, in addition to PSES and PSNS.

III. Background

A. The Clean Water Act

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 required to issue effluent limitations guidelines, pretreatment standards, and new source performance standards for industrial dischargers.

In addition to these regulations for designated industrial categories, EPA was required to promulgate effluent limitations and standards applicable to all dischargers of toxic pollutants. 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" that was approved by the Court. This agreement required EPA to develop a program and adhere to a schedule for controlling 65 "priority" toxic pollutants and classes of pollutants. In carrying out this program, EPA must promulgate BAT effluent limitations guidelines, pretreatment standards, and new source performance standards 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, January 6, 1984, July 5, 1984, and January 7, 1985.

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" toxic pollutants and classes of pollutants. In addition to strengthening 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 establish several different kinds of effluent limitations guidelines and standards. These are discussed in detail in the preamble to the proposed regulation and in the proposed technical Development Document. They are summarized briefly below:

1. Best Practicable Control Technology Currently Available (BPT)

BPT effluent limitations guidelines 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 for control of familiar (i.e., classical) pollutants.

In establishing BPT effluent limitations guidelines, EPA considers the total cost in relation to the effluent reduction benefits, the age of equipment and facilities involved, the processes employed, process changes required, engineering aspects of the control technologies, and non-water quality environmental impacts (including energy requirements). The Agency balances the category-wide or subcategory-wide cost of applying the technology against the effluent reduction benefits.

2. Best Available Technology Economically Achievable (BAT)

BAT effluent limitations guidelines, in general, represent the best existing performance in the category or subcategory. The Act establishes BAT as the principal national means of controlling the direct discharge of toxic and nonconventional pollutants to navigable waters.

In establishing BAT, the Agency considers the age of the equipment and facilities involved, the processes employed, the engineering aspects of the control technologies, process changes, the cost of achieving such effluent reduction, and non-water quality environmental impacts.

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 the 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 a conventional pollutant 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 the BCT effluent limitations guidelines 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 discharge of 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 than BPT.

EPA has not yet promulgated a methodology for establishing BCT effluent limitations guidelines. Therefore, in today's rulemaking, EPA is not establishing BCT effluent limitations guidelines for the metal molding and casting category. When the final BCT methodology is promulgated, EPA will use this methodology to determine whether BCT effluent limitations guidelines should be established for the four subcategories of the metal molding and casting category.

4. New Source Performance Standards (NSPS)

NSPS are based on the performance of 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 (POTWs). They must be achieved within three years of promulgation. The Clean Water Act of 1977 requires pretreatment standards for toxic pollutants that pass through POTWs in amounts that would violate direct discharger effluent limitations guidelines or interfere with either 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 BAT effluent limitations guidelines for removal of toxic pollutants. EPA generally determines that there is pass through of toxic pollutants if the nation-wide average percentage of toxic 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 categorical pretreatment standards, 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 that 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 NSPS.

B. Overview of the Industry

Metal molding and casting plants are included within the United States Department of Commerce, Bureau of the Census Standard Industrial Classification (SIC) Major Group 33-Primary Metal Industries. Those parts of this Major Group 33 covered by this regulation are the Subgroup SIC Nos. 3321, 3322, 3324, 3325, 3361, 3362, and 3369. The types of metal associated with these SIC codes and considered for regulation under this category are: gray iron, ductile iron, malleable iron, steel, aluminum, copper, magnesium, and zinc and their respective alloys. The casting of these metals represents over 98 percent of the total of all metals cast in the country. The Agency also considered for regulation the casting of nickel, tin, and titanium but has determined that no process wastewater pollutants result from the casting of these metals.

The Agency's data from a 1977 survey of the industry indicate that over 3,600 commercial casting plants are located in the United States employing approximately 300,000 workers and producing over 19 million tons per year of cast products. Plants in this industry include both "job shops" (plants that sold 50 percent or more of their production to customers outside the corporate entity) and "captive plants" (plants that sold 50 percent or more of their products internally or were used within the corporate entity). They vary greatly in metal cast, production, wastewater source and volume, size, age, and number of employees.

Annual castings production has ranged between 15 and 20 million tons during most of the last 20 years. Ferrous castings have accounted for about 90 percent of the total tons produced annually since 1956.

The number of smaller ferrous foundries has dropped dramatically in the past 20 years, while the number of large and medium size ferrous foundries has moderately increased. Among the nonferrous metals, aluminum casting has been increasing whereas the trends for the other metals are mixed. There is a trend toward a decreasing percentage of zinc casting shipments compared with total metal molding and casting shipments and compared to aluminum casting shipments.

Metal casting is done in several ways, and the selection and use of a particular manufacturing process, e.g., type of mold medium, is often governed by the type of metal cast and by the intricacy and tolerances required of the cast product. However, the variety of manufacturing processes can be typified by essentially six standard process steps: (1) Metal is remelted in a furnace, (2) molds are prepared, (3) the molten metal is poured or injected into a mold, (4) the mold medium is separated from the casting, (5) the casting is cooled, and (6) the casting is further processed before shipment.

Of the 3853 commercial metal molding and casting plants projected to operate in the United States in 1986, only 1059 will generate process wastewater. Among the 1059 plants, 259 will have no discharge of process wastwater, 301 will discharge directly to surface waters, and 499 will discharge indirectly to POTWs.

Water is used throughout these various process steps at plants with process wastewater discharges. Process water becomes contaminated either through its use in air pollution control devices associated with the various manufacturing processes or through direct contact of the water with some part of the process or casting. The pollutant characteristics of the resulting wastewaters may vary depending on the type of metal cast, the manufacturing process employed, and the type of air pollution control device associated with the manufacturing process. About 80 percent of the wastewater associated with metal molding and casting operations is generated by air pollution control devices. This wastewater does not contact directly the products cast.

The most significant pollutants and pollutant properties present in metal molding and casting industry wastewaters are suspended solids, oil and grease, copper, lead, zinc, nickel, iron, aluminum, nonconventional phenols, pentachlorophenol, parachlorometa cresol, chrysene, benzo(a)pyrene, benzo(a)anthracene, benzo-(b)fluoranthene, benzo(k)fluoranthene, pyrene, dichloromethane, trichloromethane, bis(2-ethyl hexyl) phthalate, and pH.

C. Applicability

For the purpose of this final rule, these regulations are applicable to wastewater discharges from metal molding and casting plants included within the United States Department of Commerce, Bureau of the Census Standard Industrial Classification (SIC) Major Group 33—Primary Metal Industries. Those parts of major group 33 covered by this regulation are subgroup SIC Nos. 3321, 3322, 3324, 3325, 3361, 3362, and 3369. Twenty-eight process segments in four subcategories are specifically covered by these regulations.

The casting of copper ingots, pigs, or other cast shapes is covered under these regulations. The casting of ingots, pigs, or other cast shapes related to primary nonferrous metal smelting (except copper smelting) are not included in this category; these operations are covered under regulations for the nonferrous metals manufacturing category (see 40 CFR Part 421). Whenever the casting of aluminum or zinc is performed as an integral part of aluminum or zinc forming and is located on-site of an aluminum or zinc forming plant, then the aluminum casting operation is covered by the aluminum forming regulations (see 40 CFR Part 467) and the zinc casting operations are covered under the nonferrous forming regulations (see 40 CFR Part 471). The casting of ferrous ingots, pigs, or other cast shapes is primarily a dry operation involving no process wastewater and, consequently, no regulations have been developed covering this operation.

In general, these regulations do not cover processing operations following the cooling of castings (see previous section "Overview of the Industry"). These processing operations, if not covered under 40 CFR Part 467 or 471, are covered by effluent limitations and standards applicable to electroplating and metal finishing. See 46 FR 9462 [January 28, 1981, Part 413] and 47 FR 38462 [August 31, 1982, Parts 413 and 433]. The exceptions include grinding scrubber operations in the aluminum, ferrous, and copper casting subcategories.

IV. Methodology and Data Gathering Efforts

The Agency has gathered background information and supporting data for this regulation since 1974. A substantial portion of the data gathering and analysis efforts occurred before the regulation was proposed. Additional data were obtained after proposal and analyses were performed using these data. These additional data and the analysis results were made available for public comment.

The initial methodology and data gathering efforts used in developing the proposed metal molding and casting regulation were summarized in the preamble to the proposed regulation (47 FR 51512; November 15, 1982) and were described in detail in the *Proposed Development Document for Effluent Limitations Guidelines and Standards for the Metal Molding and Casting (Foundries) Point Source Category* (U.S. EPA, November, 1982).

In summary, before proposal, EPA studied the metal molding and casting category to determine whether differences in the raw materials, final products, manufacturing processes, equipment, age and size of plants, water use, wastewater characteristics, or other factors required the development of separate effluent limitations guidelines and standards for different segments (or subcategories) of the category. This study included the identification of raw waste characteristics, sources and volumes of water used, processes employed, and sources of wastewater. Sampling and analysis of specific wastewaters enabled EPA to determine the presence and concentration of pollutants in wastewater discharges.

EPA also identified wastewater control and treatment technologies for the metal molding and casting category. The Agency analyzed data on the performance, operational constraints, and reliability of these technologies. In addition, EPA considered the impacts of these technologies on air quality, solid waste generation, water scarcity, and energy requirements.

The Agency estimated the costs of each control and treatment technology considered using cost equations based on standard engineering analyses. EPA derived control technology costs for model plants representative of the metal molding and casting plants in the Agency's data base. The Agency then evaluated the potential economic impacts of these costs on the category.

The Agency also developed a financial profile for model plants representative of the plants in EPA's data base using production data from Data Collection Portfolios (DCPs) and financial data from publicly available data. Using financial information and compliance cost estimates, the impacts of the proposed regulations on plants with a discharge were determined. Those impacts were extrapolated to the estimated total number of plants in the metal molding and casting category that discharge wastewaters directly or indirectly to navigable waters.

Following publication of the proposed regulations on November 15, 1982 (see 47 FR 51512), the Agency received numerous comments. A number of significant issues were raised by the commenters; these included the feasibility of complete recycle, the validity of the data base supporting complete recycle, the treatment effectiveness data base, the magnitude of the discharges from die casting operations, the accuracy of EPA's estimates of compliance costs, and the projected economic impacts of the proposed regulations. Comments relating to these issues prompted the Agency to verify its technical data base and to reconsider many aspects of the proposed regulations.

After a review of the data base, the Agency corrected, as appropriate, the errors noted in the comments relating to previously-reported data. As part of these efforts, the Agency made a number of comment verification requests to plants that submitted comments on the proposed regulations or were cited specifically in comments submitted by others. These comment verification activities are discussed in the Agency's first notice of availability and request for comments published in the **Federal Register** on March 20, 1984 at 49 FR 10280. Also discussed in the March 20, 1984 notice are the results of the Agency's analyses of the supplemented data base and any appropriate modifications to or confirmations of the underlying facets of the proposed regulations. The Agency also solicited comments and information concerning a number of other aspects of the rulemaking.

On February 15, 1985, the Agency published, at 50 FR 6572, another notice of availability and request for comments concerning additional data that were gathered and analyses that were completed after March 20, 1984. In the February 15 notice, the Agency summarized the major issues raised in comments on its March 20, 1984 notice and requested additional specific information.

The Agency has reviewed all information received since its November 15, 1982 proposal and the publication of the two notices of availability just described. EPA used the new data and information to analyze and respond to public comments. To the extent that new information confirmed arguments made by commenters, EPA revised its regulatory options and performed additional analyses to evaluate the revised options. These additional analyses and the regulatory options considered by EPA as the bases for the

final regulations are discussed in more detail in the following sections of the preamble.

V. Summary of Changes to Proposed Regulations

In reviewing comments on the proposed regulations and on the March 1984 and February 1985 notices, the Agency conducted extensive analyses of existing data and new data and information submitted by the commenters. As a result, the Agency has made several changes to the proposed regulations. These are summarized below. Where changes have been made as a direct result of comments, this is noted in the following discussions.

A. Industry Coverage

At proposal, the Agency identified 19 process segments in six metal molding and casting subcategories for which it proposed regulations. The subcategories were aluminum, copper, ferrous, lead, magnesium, and zinc casting. The Agency is promulgating final regulations for four of these subcategories (aluminum, copper, ferrous, and zinc casting). The lead casting subcategory operations were transferred to the battery manufacturing category as noted in the Agency's first post-proposal notice of availability (see 49 FR 10280). No regulations are being promulgated for the magnesium casting subcategory for the reasons explained in the next section of this preamble. In this rulemaking, the Agency is promulgating final regulations covering 28 process segments of the metal molding and casting category. The Agency identified additional processes not covered in the proposed regulations which are found at many metal molding and casting plants. Some process segments were combined (e.g., die lube and die casting, now die casting), and some combined process segments (casting quench and mold cooling) were separated into individual process segments. These 28 process segments are as follows:

Subpart A—Aluminum Casting Subcategory

- Casting cleaning
- Casting quench
- Die casting
- Dust collection scrubber
- Grinding scrubber
- Investment casting
- Melting furnace scrubber
- Mold cooling

Subpart B—Aluminum Casting Subcategory

- Casting quench
- Direct chill casting
- Dust collection scrubber
- Grinding scrubber
- Investment casting
- Melting furnace scrubber
- Mold cooling

Subpart C—Ferrous Casting Subcategory

- Casting cleaning
- Casting quench
- Dust collection scrubber
- Grinding scrubber
- Investment casting
- Melting furnace scrubber
- Mold cooling
- Slag quench
- Wet sand reclamation

Subpart D—Zinc Casting Subcategory

- Casting quench
- Die casting
- Melting furnace scrubber
- Mold cooling

These changes were described in the March 1984 notice, and no adverse comments were received.

B. Applied Flow Basis of the Regulations

During the Agency's post-proposal data gathering, review, and analysis efforts, additional applied flow data were acquired and incorporated into the data-base. Median production normalized applied flow rates were listed in Appendix F of the March 20, 1984 **Federal Register** notice at 49 FR 10309–10310, for each of 31 process segments then considered for regulation. Only those applied flow rates applicable to certain of the melting furnace scrubber and dust collection scrubber process segments were questioned in comments on the March 20, 1984 notice. These comments focused on the production normalizing factors (tons of metal poured versus air flow through wet scrubbers) used to develop mass-based limitations for scrubbers. (See the Production Normalizing Parameters discussion later in this section.)

Not all responses to EPA comment verification requests had been received by March 20, 1984. Additional data, including applied flow data, were received after publication of the March 1984 notice; additional analyses were performed after these new data were received. A listing of revised median production normalized applied flows was included in Appendix A of the February 15, 1985 **Federal Register** notice of availability at 50 FR 6579.

The Agency received comments on the February 15, 1985 notice which questioned the decreases in some applied flow rates from those published in the March 20, 1984 notice. The process segments specifically noted as having applied flows that decreased were as follows: aluminum die casting, aluminum mold cooling, copper direct chill casting, and zinc die casting. Other comments questioned applied flow rates for certain other process segments and stated they should be increased. These include the ferrous melting furnace scrubber, the ferrous dust collection, and the zinc melting furnace scrubber process segments. Applied flow data for specific plants with wet scrubbers also were questioned. Finally, a few commenters stated that cupola melting furnaces that have been installed recently have been designed with recuperative energy recovery; they asserted that the air flow normalized applied flow for these new cupolas is much higher than the applied flow allowed by EPA for the ferrous melting furnace scrubber process segment (see Appendix A, February 15, 1985 notice at 50 FR 6579). It was further asserted that additional flow allowances were necessary for multiple venturis, quenchers, after coolers, fan washes, and other ancillary water used in a scrubber system described by one commenter.

The Agency has reviewed plant data used in developing production normalized applied flow rates for the process segments, including all of those cited by the commenters. The Agency also has reviewed the process definitions utilized for these segments to ensure that the data were used properly. As a result of this review, a number of changes have been made to applied flow rates, including clarification of process definitions for die casting and ferrous melting furnace scrubber operations. Appendix J lists the production normalized applied flow rates to be utilized for developing mass-based limitations and standards for all 28 process segments to be included in the promulgated regulations. The most significant changes were clarification of the definition of die casting to exclude data for process waters at some plants that incorporated mold cooling and/or casting quench process wastewater with die casting process wastewater. Similarly, mold cooling data were reviewed for the aluminum and zinc subcategories, where they often are combined with die casting data. Mold cooling data for the copper and ferrous subcategories also were reviewed.

The Agency reviewed the data for the cupola melting furnaces installed in recent years at plants in the ferrous casting subcategory and found that these data did not support the commenters' assertions that these processes required higher flow rates. In fact, the newer designs with below-the-

charge gas take-off for scrubbers had almost the identical air flow normalized applied flow rates as for the older designs. The Agency found that after segregation of the data from plants with multiple scrubbers, the applied flow rate for ferrous melting furnace scrubbers decreased. The Agency did find, however, that where more than one scrubbing device, such as both a fixed and variable venturi or a fixed venturi and a quencher, is used in series to scrub a given gas stream, water use was found to be significantly greater. Thus, effluent limitations and standards for ferrous casting plants having multiple scrubbing devices in series to scrub a given air stream will be based upon the summation of the median applied flow for each of the scrubbing devices. A more detailed discussion of how applied flows were developed is presented in the technical Development Document. Each of the applied flows which changed from the values included in the February 15, 1985 notice is discussed below.

The process definition for die casting was clarified to exclude wastewaters other than die casting wastewaters, such as mold cooling and casting quench wastewaters. Detailed review of the plant files revealed that some of the applied flow data that had been attributed to die casting wastewaters contained noncontact water; these data were excluded. In addition, a substantial number of die casting plants submitted flow data after the close of the comment period for the March 20, 1984 notice. A significant portion of the plants with die casting operations include casting of both aluminum and zinc in the same plant. Therefore, the revised applied flow data bases for aluminum and zinc have been combined, and the resulting median applied flow of 41.4 gallons per ton has been applied to the aluminum (previously 106 gallons per ton) and zinc (previously 109 gallons per ton) die casting process segments. The separate effluent limitations and standards that are established for the mold cooling, casting quench, and other process segments will apply for these processes when they are employed at aluminum and zinc die casting plants.

The Agency reviewed the applied flow data for all of the mold cooling process segments. Detailed review of plant files revealed that some of the applied flow data in the copper and zinc subcategories included noncontact cooling water. In the aluminum subcategory, a number of data points that had been used in the die casting process segment were removed and added to mold cooling as the result of the clarification in the die casting process definition. This was true also for zinc mold cooling where some data from die casting was added. In addition, some data for noncontact cooling water leakage was added to the aluminum mold cooling data base. Data representing commingled noncontact cooling water were removed from the data base and revised median flow rates developed. The applied flow rate for aluminum mold cooling changed from 506 gallons per ton to 1,850 gallons per ton. The applied flow rate for copper mold cooling changed from 5,530 gallons per ton to 2,450 gallons per ton. The applied flow rate for zinc mold cooling changed from 4,000 gallons per ton to 1,890 gallons per ton.

The Agency also reviewed applied flow data for investment casting. Limited data were available for copper and ferrous investment casting. Water use for these processes typically is high on a production normalized basis. However, the amount of metal poured and the total flow of process wastewater typically is small. The production processes are similar and, therefore, water use should be similar, and so the Agency combined all available applied flow data and developed a new median applied flow rate, 17,600 gallons per ton, to be used for all three investment casting process segments. The aluminum investment casting applied flow rate was 20,800 gallons per ton; the copper investment casting applied flow rate was 764 gallons per ton; and the ferrous investment casting applied flow rate was 300 gallons per ton.

The applied flow rate for copper direct chill casting was 4,018 gallons per ton in the March 20, 1984 notice. Additional data were received and the applied flow rate included in the February 15, 1985 notice was 3,130 gallons per ton. One plant submitted revised data to correct data in the record. Other plant flow data were found to be in error. After correcting all data errors, the Agency recalculated the median applied flow rate for this process segment. The revised median applied flow rate used to develop the final regulations is 5,780 gallons per ton.

The preceding discussions noted that energy efficient cupola melting furnaces installed recently at ferrous plants did not require higher air flow normalized applied flow rates. These cupolas exhibited flow rates virtually the same as for older cupola designs. However, the Agency segregated data for plants with more than one scrubber in series in a given air stream, so that only plants with single scrubbers remained. The water to air ratio decreased somewhat from 13.6 gallons per 1000 standard cubic feet to 10.5 gallons per 1000 standard cubic feet. Ferrous plants with more than one scrubbing device in series in a given air stream will have limitations and standards based upon an applied flow rate of 10.7 gallons per 1000 standard cubic feet for each of the scrubbing devices.

The applied flow data for zinc melting furnace scrubbers also was reviewed. We found that the median applied flow (water to air) ratio was very low when compared to the water to air flow ratios for the other melting furnace scrubber process segments even though this process is very similar as employed in all three regulated nonferrous subcategories. Because the melting furnace scrubber process is similar for all nonferrous subcategories, water to air ratio data for all nonferrous melting furnace scrubbers were combined to establish the basis for the zinc subcategory. The median of that combined data base was 6.07 gallons per 1000 standard cubic feet and is being used for the zinc melting furnace scrubber process segment.

In response to comments, the Agency reviewed other applied flow data as well. For example, one commenter asserted that 3.0 gallons per 1000 standard cubic feet was too stringent for dust collection scrubbers, and that the upper end of the typical range of water to air ratios (3–5 gallons per 1000 standard cubic feet) asserted to be used in scrubber design should be adopted for all scrubbers. Another commenter asserted that a number of the water to air ratios for individual plants in the data base could not be verified or were otherwise considered questionable. Upon review, the Agency has found that these water to air flow data appear to be valid, and the resulting median water to air ratios are correct and achievable based on available data. Therefore, no other changes in applied flow data were warranted.

C. Complete Recycle/No Discharge

In the proposed regulation, no discharge of pollutants based on complete recycle of process wastewater was proposed for 14 of 19 process segments of the metal molding and casting category.

Subsequent to the proposal, the Agency found that there were numerous reporting errors by plants in its complete recycle/no discharge data base. Responses to additional inquiries sent to all plants in the complete recycle/no discharge data base revealed that an appreciable number of plants were

discharging wastewaters on an intermittent basis (once per week to once every five years). Some plants were disposing of wastewaters on land and thus not discharging wastewaters to waters of the United States or POTWs; however, these plants were not demonstrating complete recylce. In summary, the portion of the industry for which complete recycle is demonstrated is much smaller than the Agency believed at proposal. Therefore, the Agency reevaluated completely achievable recycle rates, primarily through evaluation of recycle rates demonstrated within the industry. The Agency also developed a model of recycle systems to better understand the water chemistry of these systems, to assist in identifying achievable ranges of recycle rates, and to supplement the data base for the processes for which recycle experience within the industry was limited. With the assistance of the recycle model, the Agency determined the sensitivity of recycle rates to make-up water quality and sludge moisture content, the effectiveness of chemical addition to control scaling and corrosion, and the sensitivity of attainable recycle rates to recycle from central treatment facilities.

After consideration of demonstrated recycle rates by plants in the industry and after appropriate adjustments based on recycle model analysis, the Agency is promulgating effluent limitations guidelines and standards developed with discharge flow allowances based on high rate recycle for 25 of the 28 regulated process segments of the metal molding and casting category. No discharge of pollutants based on complete recycle of process wastewater is being required in the final BPT, BAT, NSPS, PSES, and PSNS regulations for the grinding scrubber process segments in the aluminum, copper, and zinc subcategories.

A summary of recycle rates used to determine mass-based blowdown flow allowances is presented in Appendix J. It should be noted that the recycle rates presented in Appendix J of this preamble are the same as presented in Appendix A of the February 15, 1985 notice. For a detailed explanation of how these recycle rates were determined, see the February 1985 notice and the technical Development Document. It also must be noted that the recycle rates per se are not being regulated by EPA. The recycle rates are being used to develop production normalized flows which, in turn, are used with treatment effectiveness concentrations and variability factors to develop mass-based limitations. Discussions of treatment effectiveness and variability, mass-based effluent limitations and standards, and development of permit limitations are presented in the following sections of this preamble and in the technical Development Document.

D. Regulated Pollutants

The Agency proposed regulations controlling the discharge of pH, TSS, oil and grease, lead, zinc, phenols (4AAP), acenaphthene, 2,4,6-trichlorophenol, parachlorometacresol, chloroform, phenol, butyl benzyl phthalate, chrysene, and tetrachloroethylene as appropriate for those process segments for which discharge of pollutants were allowed. In the proposed technical Development Document, the Agency presented alternative effluent limitations and standards based on 90 percent recycle and 50 percent recycle. These alternate limitations and standards would also have controlled the discharge of copper. The March 20, 1984 and February 15, 1985 notices indicated EPA was considering regulating pH, TSS, oil and grease, total phenols (4AAP), total toxic organics (TTO), copper, lead, and zinc.

The final regulations control the discharge of TSS, oil and grease, pH, copper, lead, zinc, total phenols (4AAP), and TTO for a number of process segments of the metal molding and casting category. Where TTO is regulated, an alternate monitoring parameter (oil and grease) may be substituted, as explained late in the preamble.

Selection of pollutants being regulated is based on the presence of these pollutants in treatable concentrations. Recalculation of raw wastewater characteristics from the data presented in the March 20, 1984 and February 15, 1985 notices has resulted in somewhat different raw wastewater concentrations and loads. Taking into account raw waste variability, the Agency anticipates that copper, lead, and zinc will be found in treatable concentrations across all process segments. EPA has reached this conclusion, in part, because, where copper, lead, or zinc data were unavailable, treatable levels of the toxic metal pollutant were present in the discharges from other regulated processes employed within the subcategory. Therefore, the Agency is regulating copper, lead, and zinc for all process segments. After re-evaluating the raw waste load data, the Agency found phenols (4AAP) above treatable concentrations in raw wastewaters for ten process segments and toxic organic pollutants in treatable concentrations in raw wastewaters for 22 process segments.

A summary of the development of treatment effectiveness concentrations for all regulated pollutants is presented in the "Treatment Effectiveness Data Base" discussion later in this section of the preamble. A listing of pollutants regulated for each subcategory is presented in Appendix B of this preamble. The specialized definitions sections of the regulation (§§ 464.11, 464.21, 464.31, and 464.41) present a list of toxic organic pollutants which are controlled by means of the TTO (total toxic organics) parameter in each process segment.

E. Production Normalizing Parameters

Production normalizing parameters are used to correlate wastewater volume (flow rate) and pollutant loads to production or production related activities. The Agency received comments on the March 20, 1984 notice which asserted that the production normalizing parameter for wet scrubbers should be air flow through the scrubbers rather than tons of metal poured and tons of sand handled, which were used for developing the mass-based limitations discussed in the preamble of the proposed rule (alternative limitations for options based on 90 percent and 50 percent recycle) and the March 20, 1984 notice. The Agency reviewed the statistical correlation analysis supporting the use of tons of metal and tons of sand handled as the normalizing parameters and found that a computer programming error had been made rendering the results invalid.

The correlation analysis was rerun for wet scrubbers comparing water use to tons of metal poured, tons of sand used, and air flow. The results confirmed the commenters' assertions that air flow through scrubbers is the most appropriate normalizing parameter for the scrubber-based process segments. On the basis of this finding, water use ratios (gallons per minute per 1000 standard cubic feet per minute—gpm per scfm) were calculated separately for all scrubber-based process segments in each separate metal subcategory. These data were presented in summary form in Appendix A of the February 15, 1985 notice at 50 FR 6579, and in the record. The median water use ratios for wet scrubbers served as the basis for developing the compliance costs for model plants and as the production normalizing parameter for developing mass-based effluent limitations and standards. As discussed in a preceding section of this preamble, two of these water to air ratios, for the ferrous and

zinc melting furnace scrubber process segments, were changed in response to comments on the February 15, 1985 notice. See Appendix J of this preamble. Also, see the technical Development Document.

The production normalized applied and blowdown flow rates shown in Appendix J of this preamble are expressed as a function of scrubber air flow (gpm per 1000 scfm, or gallons per 1000 scf). Also, the Agency determined that the most appropriate normalizing parameter for the ferrous wet sand reclamation process segment was the tons of sand reclaimed.

In summary, the Agency has determined that the most appropriate production normalizing parameters are: (a) Air flow through scrubbers for the melting furnace scrubber and dust collection scrubber process segments (grinding scrubbers are not included because no discharge allowance is provided), (b) tons of metal poured for the casting cleaning, casting quench, die casting, investment casting, mold cooling, and slag quench process segments, and (c) tons of sand reclaimed for the wet sand reclamation process segment of the ferrous casting subcategory.

F. Control and Treatment Technologies Considered

1. Treatment Technology Components

The treatment technology components used in the systems which served as the basis for the proposed regulations included both in-plant and end-of-pipe components. The components were as follows:

a. *In-Plant Controls:* In-plant controls were based primarily upon process wastewater recycle. The results of application of recycle (recycle rates) and the limitations and operational requirements (e.g., scaling and corrosion control) has been discussed in detail in the proposal, the March 20, 1984 notice at 49 FR 10265–10295, and the February 15, 1985 notice at 40 FR 6573–6574, 6579 (Appendix A). Appendix J of this preamble presents a summary tabulation of achievable recycle rates used in the development of the final effluent limitations and standards. These recycle rates generally have decreased from 100 percent recycle as proposed for most process segments, and thus allow for treated wastewater discharges. Complete recycle with no discharge allowance has been retained for the three grinding scrubber process segments. The recycle rates presented in Appendix J have not changed from those presented in the February 15, 1985 notice.

b. *End-of-Pipe Treatment Components:* The end-of-pipe treatment components considered at proposal included chemical precipitation and sedimentation, generally referred to as lime and settle. Additional components were as follows: chemical emulsion breaking, oil skimming, filtration, and carbon adsorption. These technologies were summarized at 47 FR 51516–51517, discussed in detail in Section VII of the proposed technical Development Document. In the March 20, 1984 notice, at 49 FR 10297, the Agency indicated consideration of and described additional components including simple settling, chemical oxidation by potassium permanganate, and biological oxidation. In the February 15, 1985 notice, at 49 FR 6575, the Agency indicated that it was also considering including in the lime and settle treatment train enhanced metals removal prior to filtration. The technologies considered were the addition of chemicals to effect metal sulfide and metal carbonate precipitation, and more extensive application among process segments of chemical oxidation to minimize the potential for metals complexing by organic compounds. No other components were considered in developing the final regulations.

2. Control Technology Options

These control technology components were incorporated into control and treatment technology options which serve as the primary basis for the proposed regulations and options considered in the subsequent two notices. In the March 20, 1984 notice, each of the eleven generic processes was determined to require the same technology components for each technology option in all subcategories. The treatment technology options were discussed for each of the eleven generic process segments in the March 20, 1984 notice, at 49 FR 10297–10299. The Agency further simplified the identification of these options in the February 15, 1985 notice, at 50 FR 6575, and 6579–6580 (Appendix B). The basic structure and treatment functions of these options has not been changed since proposal with only minor modifications as described in the two notices. These options, which are identical to those described in the February 15, 1985 notice (see 50 FR 6575), are discussed throughout the balance of this preamble and, for ease of reference, they are repeated here.

a. *Option 1: Recycle, Simple Settle:* This Option is comprised of high rate recycle achieved by settling (and free oil skimming), recycle to the process (including pH adjustment for some processes for scaling and corrosion control, and cooling towers for some processes to remove heat), followed by simple settling of the blowdown stream. This Option was developed as a less costly treatment option in the event that a substantial number of closures might occur, especially among small plants, due to the cost of recycle, lime and settle (Option 2). However, upon recalculation of raw wasteloads and further review of wastewater treatability, the Agency has concluded that Option 1 is not applicable to metal molding and casting wastewaters. The Agency's economic impact analysis showed that, for direct dischargers, there would be only one plant closure at Option 2 that would not also occur at Option 1. Moreover, simple settling does not provide removal of heavy metals, emulsified oils, and phenols from these wastewaters. Therefore, the Agency has not considered blowdown treatment by simple settling to be the best practicable control technology for any portion of this industry.

b. *Option 2: Recycle, Lime and Settle:* This Option augments Option 1 by the addition of chemicals (e.g., lime and polymer) to effect hydroxide precipitation of metals and coagulation of solids prior to settling. Option 2 for aluminum, copper, and ferrous dust collection process segments, the aluminum, copper, ferrous, and zinc melting furnace scrubber process segments, and the ferrous wet sand reclamation process segment include chemical (potassium permanganate) oxidation of the blowdown stream to treat phenolic and other organic compounds. This Option includes sequential emulsion breaking, oil skimming, and chemical (potassium permanganate) oxidation of the entire stream prior to lime and polymer addition and settling followed by recycle to the process for aluminum and zinc die casting.

The Agency has concluded that Option 2 is the minimum BPT technology which can be installed to remove heavy metals, emulsified oil and grease, and phenolic and organic compounds in metal molding and casting wastewaters. Generically, lime and settle treatment, including emulsion breaking, is both available and has been widely applied in this industry. Both short-term EPA data and long-term industry Discharge Monitoring Report (DMR) data are available to characterize the effectiveness of this technology.

Final limitations and standards for total phenols are based on levels achieved at plants employing high rate

recycle plus lime and settle treatment. These plants do not use chemical oxidation technology. For this reason, EPA believes that many plants in this industry will be able to achieve the total phenols limitations and standards without applying chemical oxidation. In those cases where total phenols limitations and standards cannot be met using recycle and lime and settle treatment alone, compliance can be attained through the use of chemical oxidation (potassium permanganate addition). Thus, the Agency has included potassium permanganate addition as part of the model technology for those 10 process segments containing treatable levels of total phenols. Additionally, data from an industry study and an EPA study confirm that the effluent limitations and standards are readily achievable with the additional removal effected by chemical oxidation at those plants that cannot achieve the limitations and standards through the application of recycle and lime and settle treatment alone.

c. *Option 3: Recycle, Lime and Settle, Filtration:* This Option adds filtration of the treated effluent from technologies employed for Option 2 for all process segments to remove residuals of toxic heavy metals and suspended solids. Filtration technology is considered by EPA to be among the best available technologies (BPT) for further treatment of lime and settle (BPT) effluents. This technology is available and has been applied at full scale in at least three plants in this industry.

The Agency has not adopted residual metals removal either by second stage sulfide precipitation or by second stage carbonate precipitation. We have determined that the concentrations of metals residuals that remain after the application of lime and settle treatment technology are well within the range of concentrations observed for other, related industries. These levels are not sufficiently high to justify the added expense of two-stage chemical addition and clarification. For this industry, the Agency believes that filtration would be effective and less costly than the application of second clarification step.

d. *Option 4: Recycle, Lime and Settle, Filtration, Activated Carbon Adsorption:* This Option adds removal of residuals of toxic organic compounds by granular activated carbon columns. This Option was considered for application in further treating Option 3 effluents in the event that treatable concentrations of organics would be present after the application of the Option 3 model technology. This is a technology that is commonly evaluated as a means of removing residual organic compounds. The technology has limited application in the metal molding and casting industry (it has been applied at two metal molding and casting plants) and is an available technology.

Upon completing our review of treatment system performance in the metal molding and casting industry, we found that those plants that employed effective oil and grease removal technologies effectively removed toxic organic pollutants. For this reason, EPA rejected Option 4 as the technology basis for nationally-applicable effluent limitations guidelines and standards. Treatment effectiveness information for activated carbon technology, based on theoretical treatability concentrations, are presented in the technical Development Document supporting the final regulations.

e. *Option 5: Complete Recycle/No Discharge:* This Option is applicable only to the three grinding scrubber process segments where complete recycle/no discharge has been demonstrated and is achievable, and therefore is considered to be the best practicable technology (BPT). This option is comprised of simple settling (e.g., drag tank) and complete recycle of all wastewater back to the process (including pH adjustment for scaling and corrosion control).

3. Treatment Systems Considered for Generic Processes

The technologies described below were considered as the bases for the regulations for each of the eleven generic metal molding and casting processes. The technologies are essentially the same technologies described in the March 1984 and February 1985 notices, as described below. Where the process was included in the proposed regulation, the model treatment system proposed at that time is also discussed. The design and cost of installing and operating the model treatment systems for each generic process will vary across metal subcategories due to differences in applied process water flow rates, recycle and blowdown wastewater flow rates requiring treatment, and the pollutant concentrations in the blowdown (i.e., O&M costs for chemical addition to destroy phenols, precipitate metals, and maintain high rates of recycle if necessary). These variations also will result in different rates of mass discharge, thus supporting the subcategorization scheme based on metal type.

As noted in the proposed technical Development Document, the treatment systems considered by EPA are similar or identical to treatment systems now in place in the industry. The only exceptions to this are chemical oxidation by potassium permanganate which has received limited application in this industry, but has been shown on a bench-scale basis to be very effective in removing readily-oxidizable organics, and granular activated carbon which has been used at only two plants in this industry.

In the March 20, 1984 notice of availability, at 49 FR 10296–10299, the Agency indicated that it was considering less than complete recycle for 27 of the 31 process segments then being considered for regulation. Lime and settle blowdown treatment was being considered for these 27 process segments. Aluminum and zinc die casting included emulsion breaking and lime and settle inside the recycle loop. The Agency also indicated it was considering further treatment by filtration for residual metals removal and activated carbon for residual organics removal. For aluminum and zinc die casting, filtration was not considered necessary inside the recycle loop.

Chemical (potassium permanganate) oxidation was an additional technology component incorporated in lime and settle (Option 2) in the February 15, 1985 notice of availability, at 50 FR 6575. The Agency also indicated it was considering once-through (with no recycle) treatment of wastewater by simple settling and lime and settle, where economic impacts were identified at Option 1 and where these technologies were less costly than Option 1. Treatment train schematic diagrams are presented in the record for each of these generic process segments.

a. *Casting Cleaning:* This process was not included in the proposed regulation. Based on data gathered since the time of proposal, as discussed in the March 1984 notice, the Agency has determined that casting cleaning is a foundry process suitable for regulation in the ferrous and aluminum subcategories.

Casting cleaning wastewaters contain elevated levels of solids, oil and grease, and toxic metal pollutants. The treatment components considered as model technologies for the casting cleaning process included process wastewater settling followed by recycle, chemical addition to maintain recycle, and treatment of the blowdown stream through lime and polymer addition and settling in a clarifying device equipped with oil skimming (Option 2). Filtration (Option 3) was also considered.

b. *Casting Quench:* The casting quench process is included for all four

metal groups. The wastewater from this process was found to vary somewhat from metal group to metal group, but, in all metal groups, high levels of suspended solids, oils and greases, and toxic metals were detected.

The model treatment system included in the proposed regulation consisted of sedimentation followed by complete recycle over cooling towers. In developing the final regulations, the Agency considered sedimentation in a drag tank with oil skimming, followed by recycle with chemical addition to maintain recycle (with recycle over a cooling tower at larger plants), and blowdown treatment through the application of lime and settle treatment including polymer addition (Option 2). Filtration (Option 3) and activated carbon (Option 4) also were considered.

c. *Die Casting:* As described previously, the die casting process description has been revised to include wastewater contributions from waste die lubricants. Casting quench and mold cooling wastewaters are not included as part of this process. Most wastewater constituents originate in leaks from the die casting machine hydraulic systems, and die lubricant solutions. The combined wastewater from the die casting process, though it can be of small volume at numerous plants, is highly contaminated. High levels of toxic metals and toxic organic pollutants were detected at all six die casting plants sampled by EPA. The wastewater also is contaminated with high levels of suspended solids, phenols, and emulsified and free oils and greases.

At proposal, a range of technologies was considered for die casting operations. The model treatment system for zinc die casting included sedimentation, oil skimming, and complete recycle. The proposed aluminum die casting model included physical-chemical treatment by emulsion breaking, hydroxide precipitation, sedimentation, and filtration, followed by recycle.

In developing the final regulations, the Agency considered a modified lime and settle technology which consists of emulsion breaking, oil skimming, chemical oxidation with potassium permanganate, lime and polymer precipitation and sedimentation in a clarifier, followed by recycle with chemical addition to maintain recycle (Option 2). This system treats the entire wastewater volume prior to recycle. Blowdown treatment by filtration (Option 3) and carbon adsorption (Option 4) also were considered.

Biological treatment technology is a viable alternative but was not considered as the basis for the final regulations. This alternative would consist of equalization tanks, followed by an activated sludge biological treatment system consisting of aeration, chemical feed systems, sedimentation, sludge return lines, followed by filtration.

d. *Direct Chill Casting:* As discussed in the March 1984 notice, this process is being regulated by the Agency under the metal molding and casting category within the copper casting subcategory only. This process was not separately identified as a distinct casting process in the proposed regulation. The principal pollutants of concern in direct chill casting wastewaters are toxic metals, suspended solids, and oil and grease.

The treatment components considered by the Agency to control the levels of these pollutants include sedimentation (drag tank) followed by recycle over a cooling tower and chemical addition to maintain recycle, and treatment of the blowdown flow by oil skimming, lime and polymer precipitation, and sedimentation in a clarifier (Option 2). Also, filtration (Option 3) was considered.

e. *Dust Collection:* The Agency is regulating the dust collection process in all metal groups except zinc. The wastewater from the dust collection process can contain high levels of toxic metals, suspended solids, and oil and grease. Also, at several plants, high levels of phenols (4AAP) and several organic toxic pollutants were detected.

The model treatment system included in the proposed regulation for dust collection consisted of sedimentation (drag tank) with oil skimming followed by complete recycle. The treatment system considered in developing the final regulations includes sedimentation (e.g., drag tank) followed by recycle with chemical addition to maintain recycle, with blowdown flow being treated by oil skimming, chemical oxidation with potassium permanganate, lime and polymer precipitation and sedimentation in a clarifier (Option 2). Filtration (Option 3) and carbon adsorption (Option 4) also were considered. This blowdown treatment would control the high levels of toxic metal pollutants and the toxic organic pollutants and phenolic compounds found in dust collection wastewaters.

f. *Grinding Scrubber:* The Agency is regulating the grinding scrubber process in the aluminum, copper, and ferrous subcategories. Grinding scrubber wastewaters contain elevated levels of suspended solids, oil and grease, and several toxic metals.

The model treatment system included in the proposed regulation for the grinding scrubber process consisted of sedimentation followed by complete recycle with no discharge including chemical addition to maintain recycle. This is the same technology identified in the March 1984 and February 1985 notices and considered in developing the final regulations.

g. *Investment Casting:* As discussed in the March 1984 notice, the Agency is regulating the investment casting process for the aluminum, copper, and ferrous subcategories. At proposal, investment casting was included only in the aluminum subcategory. The wastewater for this process segment contains high levels of suspended solids and moderate amounts of oil and grease, and toxic metals.

The model treatment system included in the proposed regulation consisted of lime addition followed by sedimentation in a clarifier with no recycle. The model system now includes a drag tank followed by recycle based on the results of the recycle model analysis. Chemical addition is included to maintain recycle. The blowdown from the recycle system is treated by lime and settle (Option 2). Also, filtration (Option 3), to remove metals residuals, and activated carbon (Option 4), to remove residual organics, were considered.

h. *Melting Furnace Scrubber:* The Agency is regulating the melting furnace scrubber process in all metal groups. The wastewaters from this process contain treatable levels of toxic metals, suspended solids, and oils and greases. Also, treatable levels of phenols (4AAP) and organic toxic pollutants were detected.

The model treatment system included in the proposed regulation for the melting furnace scrubber process varied slightly depending upon the major metal group, but generally consisted of sedimentation followed by recycle (aluminum and zinc) or complete recycle (ferrous), with provisions for oil skimming, chemical addition, and sedimentation in a clarifier. Solids removed from the system would be dewatered by vacuum filters. In the zinc subcategory, potassium permanganate addition also was included to reduce the high levels of phenols (4AAP) found in zinc melting furnace scrubber wastewater.

The treatment system considered as a model for the final regulation for this process consists of sedimentation (drag tanks) followed by high rate recycle with chemical addition to maintain recycle. Blowdown treatment consists of oil skimming, chemical oxidation by potassium permanganate, lime and polymer addition and sedimentation in a

clarifier (Option 2) to control solids and metals. Filtration (Option 3) and carbon adsorption (Option 4) also were considered.

i. *Mold Cooling:* The Agency is regulating the mold cooling process for all metal groups. The wastewater from this process contains treatable levels of suspended solids, oil and grease, and toxic metals. Additionally, the temperature of the process wastewater is elevated, and numerous plants use cooling towers to maintain acceptable temperature levels when high rate recycle is practiced.

The model treatment system included in the proposed regulation consisted of sedimentation followed by complete recycle over a cooling tower. The treatment system considered as a model for developing the final regulations consisted of a drag tank followed by recycle with chemical addition to maintain recycle (with recycle over a cooling tower for larger plants), and blowdown treatment by oil skimming, lime addition and sedimentation in a clarifier (Option 2). Filtration (Option 3) also was considered.

j. *Slag Quench:* The Agency is regulating the slag quench process in the ferrous subcategory, the only metal group where slag is water quenched. The wastewater from this process contains treatable levels of suspended solids and toxic metals.

The model treatment system included in the proposed regulation consisted of sedimentation in a drag tank followed by complete recycle. The Agency considered as the basis for final regulations a system including a drag tank followed by recycle with chemical addition to maintain recycle, with blowdown treatment to include lime and polymer precipitation and sedimentation in a clarifier (Option 2). Filtration (Option 3) also was considered for removal of residual metals and activated carbon (Option 4) was considered for removal of residual organics.

k. *Wet Sand Reclamation:* The Agency is regulating the wet sand reclamation process (formerly the "sand washing" process) in the ferrous casting subcategory. The primary pollutants of concern in this process are suspended solids, phenols (4AAP), toxic organics, and toxic metals, primarily copper, lead, and zinc.

The model treatment system utilized for the proposed regulation consisted of settling in drag tanks, chemical addition for phenol destruction and metals precipitation, sedimentation in a clarifier, and complete recycle.

The Agency considered as the basis for the final regulations a model treatment system for the wet sand reclamation process consisting of the following: primary sedimentation with oil skimming followed by recycle with chemical addition to maintain recycle, with blowdown treatment consisting of chemical addition (for metals precipitation and phenol destruction) and sedimentation in a clarifier (Option 2). Filtration (Option 3) and carbon adsorption (Option 4) also were considered.

G. Treatment Effectiveness Data Base

1. Lime and Settle (Option 2)

At proposal and in the March 1984 and February 1985 notices, the Agency described several methods of developing treatment effectiveness values reflective of the application of high rate recycle and lime and settle treatment including oil removal by emulsion breaking and/or skimming and phenol removal by the addition of potassium permanganate.

a. *Metals:* The Combined Metals Data Base (CMDB) is a data base, from well-operated lime and settle treatment systems employed by plants in various industries, that was used to establish lime and settle treatment effectiveness for several industrial point source categories. At proposal, the Agency used the CMDB as the basis for establishing proposed treatment effectiveness concentrations for lime and settle treatment of wastewaters for those process segments in which complete recycle with no discharge was not proposed. Numerous commenters criticized the Agency for using a data base from industrial sources asserted to be unrelated to the metal molding and casting industry. These commenters stated that limitations should be based on data from treatment systems applied in the metal molding and casting industry. The Agency's methodology for developing limitations from the CMDB also was criticized.

In response to comments on the proposal, the Agency acquired Discharge Monitoring Report (DMR) data on the performance of treatment systems at metal molding and casting facilities. The Agency also assembled data acquired under its supervision by sampling at plants in the industry. The March 20, 1984 notice at 49 FR 10292–10295, presented the statistical methodology used to analyze these EPA and DMR data and the results of the analyses. In brief, the Agency found that (a) raw wastewaters in this industry were similar statistically to those in the CMDB industries, and (b) treated effluent concentrations also were similar to treated effluent concentrations based on the CMDB, with the exception of lead and zinc concentrations based on DMR data. Lead and zinc final effluent concentrations were higher than the CMDB final effluent concentrations.

Subsequent to the March 1984 notice, the Agency obtained additional DMR data. The February 15, 1985 notice, at 50 FR 6575–6576, presented the results of the analyses of the expanded DMR data base and the EPA data base. The Agency developed three approaches to analyze treatment effectiveness data. The first method used short-term EPA data together with long-term DMR data for plants where short-term EPA data were available and confirmed the DMR data. The second method used only short-term EPA data. The third method used short-term EPA plus DMR data for all plants whether or not EPA data were available for confirmation of the DMR data. Long-term DMR data were considered confirmed in cases where EPA short-term sampling data were available for the same plant and, preferably, the same period of time covered by the DMR data, and where the short-term data were consistent with the long-term DMR data. The EPA and DMR data also were segregated for all three approaches into one group of ferrous plants and another group of nonferrous plants. The results of these analyses were tabulated in Appendices D, E, and F of the February 15, 1985 notice, at 50 FR 6580. The Agency indicated its preference for basing treatment effectiveness concentrations on EPA data plus confirmed DMR data (Appendix D), if the Agency decided not to use the CMDB.

Limitations based on the results of this analysis for the first two groups of data (EPA plus confirmed DMR, Appendix D; and EPA data only, Appendix E) generally were similar to effluent concentrations derived from the CMDB. The notable exception was copper for which the concentrations were substantially lower than CMDB copper concentrations for ferrous plants for both data groups, and higher than CMDB for nonferrous plants based on EPA data only. Analysis of the third group of data (EPA plus all DMR data) showed relatively high treatment effectivenss concentrations for lead and zinc. The Agency indicated it would endeavor to expand the Appendix D data base by obtaining confirmation of additional DMR data. The February 1985 notice also explained that final limitations and standards might be based upon additional control technologies to reduce the levels of lead and zinc.

The Agency sent letters requesting additional supporting data and documentation to four plants with lime and settle treatment included in the third data group described above. EPA requested that each plant submit data from short-term (three days) sampling and analysis of its treatment system influent (raw) and effluent. EPA received short-term sampling data from three of the four plants. One of the four plants did not sample its wastewaters because the data requested were already available without sampling. Based upon these data and documentation, the Agency determined that DMR data for three of the four plants could be considered confirmed and used in the development of final effluent limitations and standards. Data for one of the plants could not be used due to the presence of excessive quantities of noncontact cooling water commingled with process wastewaters in the plant's treatment system. The expanded data base, including the data from these three plants, was used in establish lime and settle treatment effectiveness concentrations for the final regulations.

After detailed review of all data and documentation, other changes were made in both the EPA and the DMR data bases for lime and settle treatment. Data were deleted for plants: (1) Where pollutants of concern were present in very low concentrations and/or where no recycle (once through) was practiced and (2) where excessive quantities of noncontact cooling water were present. The reasons for the changes in the data base are presented in the record at § 22.58 and in the technical Development Document.

At proposal and in the subsequent two notices of availability, the Agency's pH requirement was a range of 7.5 to 10.0. In its review and evaluation of treatment effectiveness data, EPA observed no appreciable differences in the metals concentrations in treated effluents at pH 7.5 as compared to pH 7.0. Below pH 7.0, however, increased concentrations of metals were observed, thus confirming theoretical relationships between metals solubilities and pH. Accordingly, the final lime and settle treatment effectiveness data base includes data from plants where the pH ranged from 7.0 to 10.0. Consistent with this, the pH range used in the final regulations is 7.0 to 10.0.

The Agency analyzed the revised data base (EPA plus confirmed DMR) using the methodology described in the record for the February 15, 1985 notice, and detailed in the record at § 22.48, and as further described in the record at § 22.58. After careful review of all available raw waste and treated effluent data, the Agency has determined that raw waste treatability characteristics, as well as treated effluent concentrations and characteristics, do not vary significantly from subcategory to subcategory within the metal molding and casting category. Therefore, with the exceptions noted below, the Agency developed treated effluent concentrations for lime and settle treatment systems for all subcategories based on the combined set of all EPA and confirmed DMR data.

The long-term mean treated effluent concentration for copper, based on the combined EPA and confirmed DMR data base, is 0.065 mg/l. This concentration is consistently achieved by lime and settle treatment systems treating ferrous wastewaters. For this reason, EPA is establishing the long-term mean copper concentration for ferrous plants at 0.065 mg/l. In contrast, the one copper casting plant in the EPA and confirmed DMR data set had a long-term mean treated effluent copper concentration of 0.17 mg/l. Thus, the limited data available on the performance of well-designed and well-operated lime and settle treatment systems treating wastewaters generated by nonferrous plants indicate that nonferrous plants may not be able to achieve consistently long-term mean concentrations of 0.065mg/l. For this reason, the long-term mean copper concentration for nonferrous plants is being set at 0.17 mg/l.

The long-term mean treated effluent concentration for zinc based on the combined effluent concentration data set is 0.27 mg/l. This concentration is consistently achieved by lime and settle treatment systems at the nonferrous plants. For this reason, EPA is establishing the long-term mean zinc concentration for nonferrous plants at 0.27 mg/l. The long-term mean treated effluent zine concentration based on ferrous plant data only is 0.40 mg/l. Based on these data, the long-term mean of 0.27 mg/l may not be consistently achieved by ferrous subcategory plants. Thus, to ensure that ferrous plants employing lime and settle treatment would consistently achieve the treatment effectiveness concentrations for zinc, EPA established the long-term mean for zinc at 0.40 mg/l.

Appendix K of this preamble is a tabular summary of the long-term average, maximum monthly average, and maximum one-day treatment effectiveness concentrations for lime and settle treatment.

b. *TSS, Oil and Grease, Phenols:* The Agency determined treatment effectiveness concentrations for TSS, oil and grease, and total phenols using the same EPA and confirmed DMR data base described above. These parameters measure specific bulk properties of a wastewater matrix. However, based on available data, EPA has determined that the treatability of these parameters is not expected to vary significantly within the subcategories of the metal molding and casting category.

The long-term average treated effluent concentration of TSS for both ferrous and nonferrous plants is 9 mg/l. The long-term average concentration for ferrous plants is 10 mg/l. Based on the available data from two nonferrous plants with well-operated lime and settle treatment, the long-term average concentration for nonferrous plants is 5 mg/l. Three of the six ferrous plants in the data base have long-term average TSS concentrations of 10 mg/l, and two others have long-term averages of 13 mg/l and 20 mg/l. On the basis of these observations, EPA has determined that a long-term average concentration of 10 mg/l for TSS is more appropriate and consistently achievable by lime and settle technology for both the ferrous and nonferrous subcategories.

The long-term average treated effluent concentration of oil and grease at ferrous and nonferrous plants in the EPA and confirmed DMR data base is 5 mg/l. Five of the nine plants for which EPA and DMR oil and grease data are available and were used in developing limitations achieve the maximum one-day limitations. This includes an aluminum and zinc die casting plant which has high concentrations of emulsified oil and grease in its raw wastewaters.

The long-term average total phenols treated effluent concentration for ferrous and nonferrous plants is 0.20 mg/l based on incidental removal though lime and settle systems. Three of the five plants for which EPA and DMR phenols data were available and used in developing limitations achieve the long-term average and maximum day concentrations for total phenols. Available data indicate that many plants in this industry will be able to achieve the total phenols limitations and standards without applying chemical oxidation. In those cases where the total phenols limitations and standards cannot be met using recycle and lime and settle treatment alone, bench-scale studies conducted on metal molding and casting wastewaters show that compliance can be attained through the use of chemical oxidation.

c. *Total Toxic Organics:* The Agency is regulating TTO for 22 process

segments. Total toxic organics (TTO) in raw wastewaters is defined separately for each process segment and includes those toxic organic pollutants that were found in treatable concentrations in the process segment. The Agency analyzed data for toxic organic compounds in all process segments. As described in the March 10, 1984 notice of availability, at 49 FR 10295, and 10310–10312, Appendix G, the Agency found different groups of organic pollutants at different concentrations in raw wastewaters in each process segment, with the greatest number of pollutants and highest concentrations found in the die casting, melting furnace scrubber, and dust collection process segments.

The TTO treatment effectiveness data base consists of data from four plants; an aluminum and zinc die casting plant with a central treatment system including emulsion breaking, oil skimming, and lime and settle treatment operated on a batch basis; a ferrous plant with high rate recycle and a central lime and settle treatment system with oil skimming; an aluminum die casting plant with recycle and central treatment including oil skimming and alum and settle; and a ferrous plant with treatment including oil skimming and simple settle followed by recycle. Toxic pollutant sampling data for the two plants that did not have lime and settle were used in this analysis because they employed oil and grease removal and exhibited effective removal of toxic organic pollutants.

The treated effluent concentrations achieved by these four plants were averaged for the individual toxic organic pollutants which were found at these plants. Treatability concentrations for organic pollutants that were not detected in raw wastewaters were estimated by dividing all pollutants for which data were available into groups of pollutants with similar octanol/water partition coefficients. Organic pollutants for which sampling data were not available were assigned to one of the groups depending on their partition coefficient and were assumed to have a treatability concentration equal to the mean effluent concentration of all pollutants in the group. For some pollutants, neither sampling data nor literature values for partition coefficients were available. In such cases, estimates were calculated using a parallel method based on the compound's solubility in water. The resulting range of treated effluent concentrations for the individual toxic organic pollutants was from 0.010 mg/l to 0.078 mg/l. It is noteworthy that this range of average effluent concentrations was achieved by the die casting plants which had high raw waste concentrations of toxic organic pollutants. This demonstrates the achievability of the TTO limitations by metal molding and casting plants with high raw waste loads.

The TTO concentrations were derived by starting with the list of toxic organic pollutants in each process segment which were present above treatable concentrations. The treated effluent concentrations for each of the toxic organic pollutants were summed for each process segment to determine the long-term average total effluent (TTO) concentration for all of these organic pollutants. The variability factors determined statistically and used to calculate the maximum month and maximum one-day limitations for oil and grease also were applied to the long-term average TTO concentrations for each process segment to calculate the maximum month and maximum one-day TTO limitations. The specialized definitions sections of the regulation present a list of toxic organic pollutants which are controlled by means of the TTO parameter in each process segment where TTO is regulated. Appendix M includes a tabulation of the TTO concentrations for each of the 22 process segments.

2. Lime and Settle Plus Filtration (Option 3)

a. *Metals:* Concentrations of lead and zinc in the treated effluent from a lime and settle plus filtration treatment system are based on the long-term mean lime and settle treatment effectiveness concentrations developed from analysis of the data base (EPA plus confirmed DMR) in the metal molding and casting industry, reduced by one-third. EPA indicated, in the February 15, 1985 notice, at 40 FR 6576, and detailed in Section VII of the proposed technical Development Document, that consideration was being given to a 33 percent reduction in toxic metals based on the performance of filters in treating wastewaters from other metals industries (nonferrous metals smelting and refining and procelain enameling).

Filtration technology has been installed at 32 plants and, therefore, is demonstrated in the metal molding and casting industry. EPA has DMR data for three of these plants. However, the DMR data for these plants are not appropriate for use in developing lime and settle plus filtration treatment effectiveness concentrations. One filtration system is operated in conjunction with a biological treatment system; filtered effluent from the biological system is recycled back to the process operations. A second filtration system is employed to treat the blowdown from a recycle system employing simple settling only. The third treats the effluent from a lime and settle system treating wastewater discharged from a ferrous foundry on a once-through basis. None of these systems is identical to the model technology that describes technology Option 3—recycle, lime and settle, plus filtration. Therefore, the treatment effectiveness data were transferred from the other metals categories.

As discussed in the February 15, 1985 notice, results of an EPA pilot plant study at a ferrous plant (Tyler Pipe Industries, Inc., Tyler, TX) showed that filtration reduced the concentrations of lead and zinc by about 67 percent below that achieved by a lime and settle treatment system. These pilot data support the attainability of the metals removal characteristics of filtration as applied in other metals industries.

The metals and TSS concentrations from the lime and settle treatment system operated as part of the pilot unit were higher than those that generally characterize the effluent concentrations from lime and settle systems employed in the metal molding and casting industry. Therefore, it is quite likely that the pilot filters removed metals to a greater degree than if lower concentrations of metals and TSS, such as those expected to result from the use of well-operated lime and settle systems in the metal molding and casting category, had been treated in the pilot filtration unit. For this reason, rather than assuming that 67 percent removal of lead and zinc will occur after the application of filtration technology, the Agency has assumed that 33 percent removal of lead and zinc will occur, as has been documented in other, similar industries. The Agency has concluded that metal molding and casting wastewaters are equally amenable to filtration of lime and settle effluent because of the similarity of these wastewaters with lime and settle wastewater from porcelain enameling and nonferrous metals manufacturing. The Agency received no comments asserting that a one-third reduction was not achievable.

Further reduction of the long-term treated effluent copper concentrations below the lime and settle treatment effectiveness concentrations of 0.065 mg/l (ferrous subcategory) and 0.17 mg/l (nonferrous subcategories) using filters has not been demonstrated by data available from other industries. Therefore, the long-term treated effluent copper concentrations for ferrous and nonferrous wastewater treated by lime,

settle, and filtration is being maintained equal to the lime and settle treatment effectiveness concentrations.

b. *TSS, Oil and Grease, Phenols:* The long-term average treated effluent concentration for TSS is 2.6 mg/l. This concentration is based on data from several metals industry plants presented in Section VII of the proposed Development Document. Greater removal of TSS than metals is achieved because the concentration of TSS influent to the filters is substantially higher (10 mg/l) than the metals, and thus a greater proportion of solids remain to be removed. Also, only a small portion of the influent suspended solids are metals, the remainder being nondescript inert solids.

Some incidental removal of oil and grease and total phenols may be achieved in a filtration system. However, significant reductions in treated effluent concentrations below 5 mg/l oil and grease and 0.20 mg/l phenol are not expected. Therefore, no further reductions in oil and grease and total phenols beyond those achieved by lime and settle are being assumed for filtration.

c. *Total Toxic Organics:* As noted in the discussion of lime and settle, the mechanism for removal of toxic organic compounds is the removal of oil and grease. As noted above, the Agency does not expect further removal of oil and grease by filtration. Therefore, no further removal of toxic organic pollutants is expected through filtration.

Appendix L of this preamble is a tabular summary of the long-term average, maximum month, and maximum day treated effluent concentrations for each regulated parameter.

H. Compliance Costs

Comments on the proposed regulations asserted that compliance costs were significantly underestimated. In the March 20, 1984 notice, at 49 FR 10296, the Agency indicated that its model plant costing methodology had been reviewed and revised to reflect changes in equipment and installation costs, updated from 1978 to first quarter 1983, and changes in raw wastewater characteristics. After updates and revisions, the Agency found that costs had not changed substantially. In fact, the Agency also compared model plant costs with actual plant costs submitted to EPA. In the aggregate, EPA model plant costs were approximately 25 percent higher than the plant costs, although EPA estimates for individual plants were both higher and lower than industry data due to site specific factors. On this basis, the Agency concluded that its costs were not underestimated.

Similar comments on the March 20, 1984 notice prompted the Agency to review the costs again. We found that the costing methodology, which was derived from larger continuous flow applications such as the iron and steel industry, resulted in a substantial overestimation of costs for the very low flow rates typical of many of the model plants which represent the metal molding and casting industry. For example, a number of components which comprise the options for this industry required sizes (e.g., in gallons per minute) far below the minimum size which could be costed accurately by extrapolating costs from large continuous flow applications. The Agency also eliminated unnecessary redundancy in many individual components that were included in blowdown treatment systems. Also, the Agency revised both the designs, components, and sizes of component equipment utilized in these systems to adapt more realistically the general methodology to the low flow applications in this industry. These low flow systems have been designed to be operated on a batch basis. Similarly, the process wastewater recycle systems, also very low flow systems in many cases, were recosted to be more realistic, but remained as continuous flow systems in design to be consistent with production processes.

The Agency also evaluated the cost savings that may accrue to plants which have more than one process wastewater stream and treat these combined wastewater streams in a central facility. On the average, these cost savings (reductions) were found to be approximately 29 percent of the capital cost and 36 percent of the annual costs compared to the cost of constructing and operating separate treatment systems for each of the contributing process wastewater streams. These average cost reductions were applied to the costs of separate treatment systems in the economic impact analysis of model plants with typical process combinations.

The Agency's review of costing also included an indepth revision of the costs estimated for control technology already in place. Individual components of the various options, such as settling tanks, clarifiers, and pumping systems, reported to be in place by individual plants, were accounted for by way of specific component utilization factors. These utilization factors were determined for each of the components which comprise a given option separately for both direct and indirect dischargers, and for each employee group, process segment, and type of metal poured. In this manner, a more accurate accounting of in-place technology was completed by type, size, and discharge mode of plants in the data base.

The comments received on the February 15, 1985 notice focused more narrowly on certain aspects of the costs, such as the cost of monitoring for regulated pollutant parameters, operation and maintenance labor requirements, and segregation of noncontact waters from process wastewaters. One commenter, in reviewing the compliance costs for small plants, commented that the Agency's model plant investment costs were correct.

The Agency reviewed its costing methodology again to respond to these comments and has made a few minor changes. Operation and maintenance labor requirements and hourly wages for the small model plants were asserted to be underestimated. Upon review, the Agency determined that the commenter's assertion was partially correct. As a result, EPA increased the amount of time provided for operational labor for a few of the very small model plants. However hourly wages allowed for treatment system operators were not found to be underestimated as asserted and were not changed. In the course of this review, the Agency found that no cost allowance was provided for maintenance materials. An annual cost allowance of 2 percent of investment cost was added for maintenance materials.

A commenter asserted that unit analytical costs for a number of pollutants included in compliance monitoring costs were too low. Upon review, the Agency found that the unit cost estimate for analyzing wastewaters for certain parameters were more appropriate for charges experienced by large volume customers of analytical laboratories. Cost estimates were obtained for low volume analytical services actually charged to industrial clients by two other analytical laboratories operated by EPA contractors. These charges for the regulated pollutant parameters were added to those used previously, and new average analytical charges for each parameter were calculated and incorporated into the costs for compliance monitoring.

The Agency also has reviewed the comment that many plants would have to incur costs to segregate noncontact waters from process wastewaters in order to comply with mass-based

effluent limitations and standards. The Agency reviewed specific circumstances at twenty randomly selected plants to determine whether these plants commingle noncontact water with process wastewater and, if so, to estimate the cost of segregating these wastewaters. The Agency found that 30 percent of the plants reviewed would incur costs for retrofitting to segregate noncontact waters from process wastewaters. These costs were found to be necessary for plants in the magnesium subcategory because noncontact waters were not commingled with process wastewaters. Cost estimates were developed for repiping noncontact waters separate from process wastewaters and rerouting them around process wastewater treatment systems. The average costs for these plants were added as percentages to the total required investment cost for each technology option for all model plants. However, because only 30 percent of the plants were found to need to segregate noncontact cooling waters, only 30 percent of these costs were added to the total cost of compliance for each subcategory, except magnesium where no additional costs were added. Similarly, only a portion of any economic impacts were considered to be attributable to the incremental costs for stream segregation. Projected impacts have been adjusted to account for the fact that 30 percent of the plants may incur the costs of stream segregation. Additional details on these changes are presented in the technical and economic Development Documents and in the record for this rulemaking.

As discussed in the Economic Analysis section of this preamble, model plant production data based on data submitted by plants in the industry in Data Collection Portfolios (DCPs) have been adjusted to reflect the reduced demand for castings. The model plant revenue projections used in the economic analysis have been similarly reduced. Compliance costs for model plants also have been adjusted in order to be consistent with the adjusted model plant production data. These costs were reduced by the ratio of the two production values taken to a power factor determined for each option and plant size. The power factor of that ratio was determined by plotting the total cost of each option for representative model plants in all sizes and for each process segment and metal subcategory. The result of this analysis was a group of power factors specific to each option model plant size, process segment, and subcategory. These power factors reflect changes in the relationship of cost to model plant treatment system design and capacity.

I. Intermittent Discharge

Limitations and standards presented at proposal and in the two notices of availability assumed that discharges from metal molding and casting plants would always be on a continuous basis. Information submitted in comments and confirmed by EPA indicate that treatment is commonly done on a batch basis with discharge on an intermittent basis.

To allow this practice to continue where plants find batch treatment to be an effective control technique, the final regulations contain provisions that would allow metal molding and casting plants to discharge on an intermittent basis provided that they comply with annual average limitations or standards that are equivalent to the effluent limitations and standards applicable to continuous discharging plants. Plants are eligible for the annual average limitations and standards where wastewaters are stored for periods in excess of 24 hours to be treated on a batch basis. NPDES permits established for these "noncontinuous" discharging plants must contain concentration-based maximum day and maximum for monthly average limitations or standards that are equivalent to the mass-based limitations or standards established for continuous discharging plants.

Municipal authorities may also elect to allow noncontinuous discharge to POTWs. They may do so by establishing concentration-based pretreatment standards equivalent to the mass-based standards provided in §§ 464.15, 464.16, 464.25, 464.26, 464.35, 464.36, 464.45, and 464.46 of the regulations. Equivalent concentration standards may be established by multiplying the mass standards included in the regulations by an appropriate measurement of average production, raw material usage, or air flow (kkg of metal poured, kkg of sand reclaimed, or standard cubic meters of air scrubbed) and dividing by an appropriate measure of average discharge flow of the POTW, taking into account the proper conversion factors to ensure that the units (mg/l) are correct.

J. Economic Analysis

The economic analysis performed during the development of the final regulations for the metal molding and casting category differs in four respects from the analysis performed during the development of the proposed regulations. First, EPA is basing metal molding and casting sales estimates on production data reported in the DCPs instead of the Census sales data used at proposal. Both the sales and cost estimates used in the analysis, which reflect economic conditions reported by the industry in 1978, were adjusted to account for the downturn experienced by the industry in 1981–1982, from which the industry has only partially recovered. The Agency has adopted DCP-based sales estimates as the basis for the economic analysis for the following reasons: (1) The source and accuracy of the DCP production data is known to EPA, whereas the accuracy and reporting methods used for the Census production data are not as certain, and (2) EPA bases its estimates of the costs of the various technology options considered for the final regulations on DCP production data; therefore, the revenue and cost information now have a common source. In summary, the use of the DCP data as the basis for sales makes the impact analysis consistent with the costing methodology and all other technical analysis.

Second, EPA adjusted its sales estimates derived from the DCP production data by the percent declines in shipments experienced in each of the subcategories between 1978 and 1982 (1983 for ferrous subcategory plants casting primarily steel). EPA made this adjustment in order to assure that the economic analysis was representative of long-run industry production, sales, and financial performance. The adjusted revenue estimates used in the analysis are more consistent with the revenue estimates reported in other sources, notably Census. Although 1983 and 1984 data indicate that the industry in recovering from the 1982 levels, the recovery is uneven across subcategories; 1984 shipments ranged from 46 percent (malleable iron segment of the ferrous subcategory) to 87 percent (ductile iron segment of the ferrous subcategory) of 1978 shipments.

Third, at proposal, EPA assumed that economic conditions at promulgation would be similar to economic conditions in 1984, and based its analysis on the financial capabilities of the metal molding and casting industry on data for that year. For the final economic analysis, EPA has used financial data from the entire period between 1975 and 1984 to develop the financial basis for measuring compliance impacts. EPA believes that this information depicts a more accurate representation of the long-term economic viability of the metal molding and casting industry than is shown by data for a single year.

Fourth, EPA has developed the final economic impact analysis using the

FINSTAT data base as the source of financial data for the industry. FINSTAT data are derived from the same Dun & Bradstreet data used at proposal; however, the FINSTAT data are more reliable since the data base has undergone rigorous verification; we consider these data to be more accurate than the unedited Dun & Bradstreet data. For example, interim balance sheet statements have been removed from the FINSTAT data base because interim statements are thought to be less reliable than annual balance sheet statements. A complete discussion of the FINSTAT data base is included in the economic impact analysis supporting this regulation.

VI. Control and Treatment Options and Technology Basis for the Final Regulation

A. Technology Basis for the Final Regulation

A brief summary of the technology basis for the final regulation is presented below. A more detailed discussion is presented in the final technical Development Document.

1. BPT

EPA is promulgating BPT mass-based effluent limitations for all metal subcategories except magnesium. These limitations are based on recycle of process wastewater and treatment of recycle system blowdown by oil skimming and lime precipitation and settling ("lime and settle"). Treatment for some process segments also includes oil emulsion breaking to remove emulsified lubricant oils and chemical addition (potassium permanganate) to oxidize phenolic and other organic compounds.

Production normalized applied flow rates, recycle rates, and blowdown flow rates have been discussed previously in this preamble and a summary tabulation of these rates is presented in Appendix J. The applied flow rates used to calculate the blowdown flow rates and the mass-based limitations are generally the median production normalized flows for each process segment. For more detail, see the technical Development Document. Treatment effectiveness concentrations for lime and settle also were discussed previously in this preamble and a summary tabulation of these concentrations is presented in Appendix K.

The pollutants selected for limitation at BPT are pH, suspended solids (TSS), oil and grease, copper, lead, zinc, and total phenols (4AAP). Total phenols are limited for ten process segments. These are the same pollutants EPA selected for regulation in the proposal and the two notices of availability.

The Agency projects that there are about 300 direct dischargers in the metal molding and casting industry which will be affected by this regulation. The total required investment cost (beyond equipment in place) for these plants (in 1985 dollars) is $39.7 million and the total annualized costs would be $17.4 million. The economic impact analysis indicates that three small gray iron plants in the ferrous subcategory potentially may close, with a loss of 81 jobs.

One of two direct dischargers in the magnesium subcategory is projected to close. For this reason, the Agency is excluding magnesium plants from national BPT regulations. Permitting authorities will develop permit conditions for these plants on a case-by-case basis.

Total removal of toxic pollutants from raw wastewaters would be about 2,950,000 kg/yr (6,480,000 lbs/yr). In addition, compliance with BPT will result in the removal of about 113 million kg/yr (249 million lbs/yr) of total (conventional, nonconventional, and toxic) pollutants from raw wastewaters. The Agency has determined that the effluent reduction benefits associated with compliance with BPT limitations justify the costs for all regulated subcategories. A presentation of the basis for the BPT effluent limitations for each process segment follows below.

a. *Aluminum Subcategory:* (1) *Casting Cleaning Process Segment.* The BPT effluent limitations are derived from a production normalized applied flow of 480 gallons per ton of metal poured. The recycle rate established for this process segment is 95 percent. Therefore, the blowdown discharge flow of 24 gallons per ton of metal poured serves as the flow basis for the mass effluent limitations. The model control technology is process water settling in a drag tank followed by recycle, with chemical addition to maintain recycle. The blowdown from the recycle system is treated in a lime and settle system which includes oil skimming, lime and polymer addition, and settling. The treatment effectiveness concentrations for lime and settle are presented in Appendix K of this preamble. The resulting mass effluent limitations are presented in Section 464.12(a) of the regulations.

(2) *Casting Quench Process Segment.* The BPT effluent limitations are derived from a production normalized applied flow of 145 gallons per ton of metal poured. The recycle rate established for this process segment is 98 percent. Therefore, the blowdown discharge flow of 2.9 gallons per ton of metal poured serves as the flow basis for the mass effluent limitations. The model control technology is process water settling in a drag tank followed by recycle, with chemical addition to maintain recycle. The blowdown from the recycle system is treated in a lime and settle system which includes oil skimming, lime and polymer addition, and settling. The treatment effectiveness concentrations for lime and settle are presented in Appendix K of this preamble. The resulting mass effluent limitations are presented in Section 464.12(b) of the regulations.

(3) *Die Casting Process Segment.* The BPT effluent limitations are derived from a production normalized applied flow of 41.4 gallons per ton of metal poured. The recycle rate established for this process segment is 95 percent. Therefore, the blowdown discharge flow of 2.07 gallons per ton of metal poured serves as the flow basis for the mass effluent limitations. The model control technology is treatment of the entire process wastewater flow in a lime and settle system which includes chemical oxidation by potassium permanganate, emulsion breaking, oil skimming, lime and polymer addition, and settling followed by recycle. Chemical addition is also included to maintain recycle. The treatment effectiveness concentrations for lime and settle are presented in Appendix K of this preamble. The resulting mass effluent limitations are presented in § 464.12[c] of the regulations.

(4) *Dust Collection Scrubber Process Segment.* The BPT effluent limitations are derived from a production normalized applied flow of 1.78 gallons per 1000 standard cubic feet of scrubber air flow. The recycle rate established for this process segment is 98 percent. Therefore, the blowdown discharge flow of 0.036 gallons per 1000 standard cubic feet of scrubber air flow serves as the flow basis for the mass effluent limitations. The model control technology is process water settling in a drag tank followed by recycle, with chemical addition to maintain recycle. The blowdown from the recycle system is treated in a lime and settle system which includes chemical oxidation by potassium permanganate, oil skimming, lime and polymer addition, and settling. The treatment effectiveness concentrations for lime and settle are presented in Appendix K of this preamble. The resulting mass effluent limitations are presented in § 464.12(d) of the regulations.

(5) *Grinding Scrubber Process Segment.* The BPT effluent limitations

are based upon no discharge of process wastewater pollutants. The model control technology basis for this requirement is process wastewater settling in a drag tank followed by complete recycle, with chemical addition to maintain recycle. The BPT effluent limitation is presented in § 464.12(e) of the regulations.

(6) *Investment Casting Process Segment.* The BPT effluent limitations are derived from a production normalized applied flow of 17,600 gallons per ton of metal poured. The recycle rate established for this process segment is 85 percent. Therefore, the blowdown discharge flow of 2,640 gallons per ton of metal poured serves as the flow basis for the mass effluent limitations. The model control technology is process water settling in a drag tank followed by recycle. The blowdown from the recycle system is treated in a lime and settle system which includes oil skimming, lime and polymer addition, and settling. The treatment effectiveness concentrations for lime and settle are presented in Appendix K of this preamble. The resulting mass effluent limitations are presented in § 464.12(f) of the regulations.

(7) *Melting Furnace Scrubber Process Segment.* The BPT effluent limitations are derived from a production normalized applied flow of 11.7 gallons per 1000 standard cubic feet of scrubber air flow. The recycle rate established for this process segment is 96 percent. Therefore, the blowdown discharge flow of 0.468 gallons per 1000 standard cubic feet of scrubber air flow serves as the flow basis for the mass effluent limitations. The model control technology is process water settling in a drag tank followed by recycle, with chemical addition to maintain recycle. The blowdown from the recycle system is treated in a lime and settle system which includes chemical oxidation by potassium permanganate, oil skimming, lime and polymer addition, and setting. The treatment effectiveness concentrations for lime and settle are presented in Appendix K of this preamble. The resulting mass effluent limitations are presented in § 464.12(g) of the regulations.

(8) *Mold Cooling Process Segment.* The BPT effluent limitations are derived from a production normalized applied flow of 1,850 gallons per ton of metal poured. The recycle rate established for this process segment is 95 percent. Therefore, the blowdown discharge flow of 92.5 gallons per ton of metal poured serves as the flow basis for the mass effluent limitations. The model control technology is process water settling in a drag tank followed by recycle, with chemical addition to maintain recycle. The blowdown from the recycle system is treated in a lime and settle system which include oil skimming, lime and polymer addition, and settling. The treatment effectiveness concentrations for lime and settle are presented in Appendix K of this preamble. The resulting mass effluent limitations are presented in § 464.12(h) of the regulations.

b. *Copper Subcategory:* (1) *Casting Quench Process Segment.* The BPT effluent limitations are derived from a production normalized applied flow of 478 gallons per ton of metal poured. The recycle rate established for this process segment is 98 percent. Therefore, the blowdown discharge flow of 9.56 gallons per ton of metal poured serves as the flow basis for the mass effluent limitations. The model control technology is process water settling in a drag tank followed by recycle, with chemical addition to maintain recycle. The blowdown from the recycle system is treated in a lime and settle system which includes oil skimming, lime and polymer addition, and settling. The treatment effectiveness concentrations for lime and settle are presented in Appendix K of this preamble. The resulting mass effluent limitations are presented in § 464.22(a) of the regulations.

(2) *Direct Chill Casting Process Segment.* The BPT effluent limitations are derived from a production normalized applied flow of 5,780 gallons per ton of metal poured. The recycle rate established for this process segment is 95 percent. Therefore, the blowdown discharge flow of 289 gallons per ton of metal poured serves as the flow basis for the mass effluent limitations. The model control technology is settling (drag tank) followed by recycle, with chemical addition to maintain recycle, recycle over cooling towers, and blowdown treatment in a lime and settle system which includes oil skimming, lime and polymer addition, and settling. The treatment effectiveness concentrations for lime and settle are presented in Appendix K of this preamble. The resulting mass effluent limitations are presented in § 464.22(b) of the regulations.

(3) *Dust Collection Scrubber Process Segment.* The BPT effluent limitations are derived from a production normalized applied flow of 4.29 gallons per 1000 standard cubic feet of scrubber air flow. The recycle rate established for this process segment is 98 percent. Therefore, the blowdown discharge flow of 0.086 gallons/1000 standard cubic feet of scrubber air flow serves as the flow basis for the mass effluent limitations. The model control technology is process water settling in a drag tank followed by recycle, with chemical addition to maintain recycle. The blowdown from the recycle system is treated in a lime and settle system which includes chemical oxidation by potassium permanganate, oil skimming, lime and polymer addition, and settling. The treatment effectiveness concentrations for lime and settle are presented in Appendix K of this preamble. The resulting mass effluent limitations are presented in § 464.22(c) of the regulations.

(4) *Grinding Scrubber Process Segment.* The BPT effluent limitations are based upon no discharge of process wastewater pollutants. The model control technology basis for this requirement is process wastewater settling in a drag tank followed by complete recycle, with chemical addition to maintain recycle. The BPT effluent limitation is presented in §464.22(d) of the regulations.

(5) *Investment Casting Process Segment.* The BPT effluent limitations are derived from a production normalized applied flow of 17,600 gallons per ton of metal poured. The recycle rate established for this process segment is 85 percent. Therefore, the blowdown discharge flow of 2,640 gallons per ton of metal poured serves as the flow basis for the mass effluent limitations. The model control technology is process water settling in a drag tank followed by recycle, with chemical addition to maintain recycle. The blowdown from the recycle system is treated in a lime and settle system which includes oil skimming, lime and polymer addition, and settling. The treatment effectiveness concentrations for lime and settle are presented in Appendix K of this preamble. The resulting mass effluent limitations are presented in § 464.22(e) of the regulations.

(6) *Melting Furnace Scrubber Process Segment.* The BPT effluent limitations are derived from a production normalized applied flow of 7.04 gallons per 1000 standard cubic feet of scrubber air flow. The recycle rate established for this process segment is 96 percent. Therefore, the blowdown discharge flow of 0.282 gallons per 1000 standard cubic feet of scrubber air flow serves as the flow basis for the mass effluent limitations. The model control technology is process water settling in a drag tank followed by recycle, with chemical addition to maintain recycle.

The blowdown from the recycle system is treated in a lime and settle system which includes chemical oxidation by potassium permanganate, oil skimming, lime and polymer addition, and settling. The treatment effectiveness concentrations for lime and settle are presented in Applendix K of this preamble. The resulting mass effluent limitations are presented in § 464.22(f) of the regulations.

(7) *Mold Cooling Process Segment.* The BPT effluent limitations are derived from a production normalized applied flow of 2,450 gallons per ton of metal poured. The recycle rate established for this process segment is 95 percent. Therefore, the blowdown discharge flow of 122 gallons per ton of metal poured serves as the flow basis for the mass effluent limitations. The model control technology is process water settling in a drag tank followed by recycle, with chemical addition to maintain recycle. The blowdown from the recycle system is treated in a lime and settle system which includes oil skimming, lime and polymer addition, and settling. The treatment effectiveness concentrations for lime and settle are presented in Appendix K of this preamble. The resulting mass effluent limitations are presented in § 464.22(g) of the regulations.

c. *Ferrous Subcategory:* (1) *Casting Cleaning Process Segment.* The BPT effluent limitations are derived from a production normalized applied flow of 213 gallons per ton of metal poured. The recycle rate established for this process segment is 95 percent. Therefore, the blowdown discharge flow of 10.7 gallons per ton of metal poured serves as the flow basis for the mass effluent limitations. The model control technology is process water settling in a drag tank followed by recycle, with chemical addition to maintain recycle. The blowdown from the recycle system is treated in a lime and settle system which includes oil skimming, lime and and polymer addition, and settling. The treatment effectiveness concentrations for lime and settle are presented in Appendix K of this preamble. The resulting mass effluent limitations are presented in § 464.32(a) of the regulations.

(2) *Casting Quench Process Segment.* The BPT effluent limitations are derived from a production normalized applied flow of 571 gallons per ton of metal poured. The recycle rate established for this process segment is 98 percent. Therefore, the blowdown discharge flow of 11.4 gallons per ton of metal poured serves as the flow basis for the mass effluent limitations. The model control technology is process water settling in a drag tank followed by recycle, with chemical addition to maintain recycle. The blowdown from the recycle system is treated in a lime and settle system which includes oil skimming, lime and polymer addition, and settling. The treatment effectiveness concentrations for lime and settle are presented in Appendix K of this preamble. The resulting mass effluent limitations are presented in § 464.32(b) of the regulations.

(3) *Dust Collection Scrubber Process Segment.* The BPT effluent limitations are derived from a production normalized applied flow of 3.0 gallons per 1000 standard cubic feet of scrubber air flow. The recycle rate established for this process segment is 97 percent. Therefore, the blowdown discharge flow of 0.09 gallons per 1000 standard cubic feet of scrubber air flow serves as the flow basis for the mass effluent limitations. The model control technology is process water settling in a drag tank followed by recycle, with chemical addition to maintain recycle. The blowdown from the recycle system is treated in a lime and settle system which includes chemical oxidation by potassium permanganate, oil skimming, lime and polymer addition, and settling. The treatment effectiveness concentrations for lime and settle are presented in Appendix K of this preamble. The resulting mass effluent limitations are presented in § 464.32(c) of the regulations.

(4) *Grinding Scrubber Process Segment.* The BPT effluent limitations are based upon no discharge of process wastewater pollutants. The model control technology basis for this requirement is process wastewater settling in a drag tank followed by complete recycle, with chemical addition to maintain recycle. The BPT effluent limitation is presented in § 464.32(d) of the regulations.

(5) *Investment Casting Process Segment.* The BPT effluent limitations are derived from a production normalized applied flow of 17,600 gallons per ton of metal poured. The recycle rate established for this process segment is 85 percent. Therefore, the blowdown discharge flow of 2,640 gallons per ton of metal poured serves as the flow basis for the mass effluent limitations. The model control technology is process water settling in a drag tank followed by recycle, with chemical addition to maintain recycle. The blowdown from the recycle system is treated in a lime and settle system which includes oil skimming, lime and polymer addition, and settling. The treatment effectiveness concentrations for lime and settle are presented in Appendix K of this preamble. The resulting mass effluent limitations are presented in § 464.32(e) of the regulations.

(6) *Melting Furnace Scrubber Process Segment.* The BPT effluent limitations are derived from a production normalized applied flow of 10.5 gallons per 1000 standard cubic feet of scrubber air flow. The recycle rate established for this process segment is 96 percent. Therefore, the blowdown discharge flow of 0.42 gallons per 1000 standard cubic feet of scrubber air flow serves as the flow basis for the mass effluent limitations. The model control technology is process water settling in a drag tank followed by recycle, with chemical addition to maintain recycle. The blowdown from the recycle system is treated in a lime and settle system which includes chemical oxidation by potassium permanganate, oil skimming, lime and polymer addition, and settling. The treatment effectiveness concentrations for lime and settle are presented in Appendix K of this preamble. The resulting mass effluent limitations are presented in § 464.32(f) of the regulations.

(7) *Mold Cooling Process Segment.* The BPT effluent limitations are derived from a production normalized applied flow of 707 gallons per ton of metal poured. The recycle rate established for this process segment is 95 percent. Therefore, the blowdown discharge flow of 35.4 gallons per ton of metal poured serves as the flow basis for the mass effluent limitations. The model control technology is process water settling in a drag tank followed by recycle, with chemical addition to maintain recycle. The blowdown from the recycle system is treated in a lime and settle system which includes oil skimming, lime and polymer addition, and settling. The treatment effectiveness concentrations for lime and settle are presented in Appendix K of this preamble. The resulting mass effluent limitations are presented in § 464.32(g) of the regulations.

(8) *Slag Quench Process Segment.* The BPT effluent limitations are derived from a production normalized applied flow of 727 gallons per ton of metal poured. The recycle rate established for this process segment is 94 percent. Therefore, the blowdown discharge flow of 43.6 gallons per ton of metal poured serves as the flow basis for the mass effluent limitations. The model control technology is process water settling in a drag tank followed by recycle, with chemical addition to maintain recycle.

The blowdown from the recycle system is treated in a lime and settle system which includes oil skimming, lime and polymer addition, and settling. The treatment effectiveness concentrations for lime and settle are presented in Appendix K of this preamble. The resulting mass effluent limitations are presented in § 464.32(h) of the regulations.

(9) *Wet Sand Reclamation Process Segment.* The BPT effluent limitations are derived from a production normalized applied flow of 895 gallons per ton of sand reclaimed. The recycle rate established for this process segment is 80 percent. Therefore, the blowdown discharge flow of 179 gallons per ton of sand reclaimed serves as the flow basis for the mass effluent limitations. The model control technology is process water settling in a clarifier followed by recycle, with chemical addition to maintain recycle. The blowdown from the recycle system is treated in a lime and settle system which includes chemical oxidation by potassium permanganate, oil skimming, lime and polymer addition, and settling. The treatment effectiveness concentrations for lime and settle are presented in Appendix K of this preamble. The resulting mass effluent limitations are presented in § 464.32(i) of the regulations.

d. *Zinc Subcategory:* (1) *Casting Quench Process Segment.* The BPT effluent limitations are derived from a production normalized applied flow of 533 gallons per ton of metal poured. The recycle rate established for this process segment is 98 percent. Therefore, the blowdown discharge flow of 10.7 gallons per ton of metal poured serves as the flow basis for the mass effluent limitations. The model control technology is process water settling in a drag tank followed by recycle, with chemical addition to maintain recycle. The blowdown from the recycle system is treated in a lime and settle system which includes oil skimming, lime and polymer addition, and settling. The treatment effectiveness concentrations for lime and settle are presented in Appendix K of this preamble. The resulting mass effluent limitations are presented in § 464.42(a) of the regulations.

(2) *Die Casting Process Segment.* The BPT effluent limitations are derived from a production normalized applied flow of 41.4 gallons per ton of metal poured. The recycle rate established for this process segment is 95 percent. Therefore, the blowdown discharge flow of 2.07 gallons per ton of metal poured serves as the flow basis for the mass effluent limitations. The model control technology is treatment of the entire process wastewater flow in a lime and settle system which includes chemical oxidation by potassium permanganate, emulsion breaking, oil skimming, lime and polymer addition, and settling followed by recycle, with chemical addition to maintain recycle. The treatment effectiveness concentrations for lime and settle are presented in Appendix K of this preamble. The resulting mass effluent limitations are presented in § 464.42(b) of the regulations.

(3) *Melting Furnace Scrubber Process Segment.* The BPT effluent limitations are derived from a production normalized applied flow of 6.07 gallons per 1000 standard cubic feet of scrubber air flow. The recycle rate established for this process segment is 96 percent. Therefore, the blowdown discharge flow of 0.243 gallons per 1000 standard cubic feet of blowdown scrubber air flow serves as the flow basis for the mass effluent limitations. The model control technology is process water settling in a drag tank followed by recycle, with chemical addition to maintain recycle. The blowdown from the recycle system is treated in a lime and settle system which includes chemical oxidation by potassium permanganate, oil skimming, lime and polymer addition, and settling. The treatment effectiveness concentrations for lime and settle are presented in Appendix K of this preamble. The resulting mass effluent limitations are presented in § 464.42(c) of the regulations.

(4) *Mold Cooling Process Segment.* The BPT effluent limitations are derived from a production normalized applied flow of 1,890 gallons per ton of metal poured. The recycle rate established for this process segment is 95 percent. Therefore, the blowdown discharge flow of 94.5 gallons per ton of metal poured serves as the flow basis for the mass effluent limitations. The model control technology is process water settling in a drag tank followed by recycle, with chemical addition to maintain recycle. The blowdown from the recycle system is treated in a lime and settle system which includes oil skimming, lime and polymer addition, and settling. The treatment effectiveness concentrations for lime and settle are presented in Appendix K of this preamble. The resulting mass effluent limitations are presented in § 464.42(d) of the regulations.

2. BAT

EPA is promulgating BAT mass-based effluent limitations for all metal subcategories except magnesium. For the magnesium subcategory, the Agency has determined that compliance with BAT effluent limitations based on the treatment technologies identified in this rulemaking would not be economically achievable (see also the section entitled *Costs, Effluent Reduction Benefits, and Economic Impacts*).

The Agency considered the technologies included in Options 2, 3, and 4 (see Section V of this preamble) as possible BAT model technologies. The flow rates for BAT are the same as those selected for BPT for all process segments and are presented in Appendix J. As discussed previously, EPA established the flow basis of BPT effluent limitations guidelines on the lowest flow rate it could justify with existing data in order to ensure that treatment systems would be optimized and that the BPT and BAT technology options would be totally compatible. Thus, the flow basis of BPT also represents the best available flow rates for the metal molding and casting point source category.

BAT effluent limitations for the copper and zinc subcategories and for the major portions of the ferrous subcategory (all plants except those that cast steel and small plants that cast malleable iron), are based on recycle, lime and settle, plus filtration. As discussed previous, filtration technology is demonstrated in the metal molding and casting industry. The treatment effectiveness concentrations for recycle, lime and settle, plus filtration are presented in Appendix L. Compliance with the effluent limitations based on filtration is economically achievable and results in significant reductions in the discharge of toxic metal pollutants.

BAT effluent limitations for the smallest plants in the ferrous subcategory which cast primarily malleable iron and pour less than 3,557 tons of metal per year are based on recycle, lime and settle. The Agency's economic impact analysis determined that the cost of complying with effluent limitations based on filtration potentially may cause closure of one of three malleable iron plants in this size group. Therefore, EPA determined that the addition of filtration would not be economically achievable for this subcategory segment. Accordingly, the Agency is not basing BAT effluent limitations on recycle, lime and settle, and filtration for the smallest malleable iron plants.

The BAT effluent limitations are based on the same control and treatment technologies (recycle, lime and settle) as BPT for all plants in the aluminum subcategory and for those

plants in the ferrous subcategory that cast primarily steel. The treatment effectiveness concentrations for recycle, lime and settle are presented in Appendix K.

For the aluminum subcategory, EPA estimates that filtration would remove an additional 0.003 kg per plant per day (0.007) lb per plant per day) of toxic metals. Aluminum subcategory wastewater discharges are comprised primarily of zinc, nickel, and copper. This contrasts with the zinc subcategory where a substantial portion of the total toxic metals discharged is lead, which is highly toxic, and the copper subcategory where treatable levels of cadmium, an extremely toxic metal, remain after the application of lime and settle treatment. The incremental costs of the effluent reductions that filtration would achieve are $0.31 million in investment costs and $0.26 million in total annualized costs. The Agency has concluded that, in light of all these factors, filtration should not be the technology basis for BAT effluent limitations for the aluminum subcategory.

For the steel segment of the ferrous subcategory, EPA estimates that filtration would remove an additional 0.036 kg per plant per day (0.08 lb per plant per day) of toxic metals. These removals would consist mainly of zinc and nickel. The incremental costs of these incremental effluent reductions would be $0.48 million in investment costs and $0.29 million in total annualized costs. The Agency has concluded that, in light of all these factors, filtration should not be the technology basis for BAT effluent limitations for plants in the ferrous subcategory that cast primarily steel.

The pollutants selected for regulation at BAT are copper, lead, zinc, and total phenols. Total phenols (4AAP) are regulated at the BPT level in those 10 process segments where treatable levels of phenolic compounds are found in the raw waste discharge. These pollutants are among the same pollutants selected for regulation at BAT in the proposal and the two notices of availability. Total Toxic Organics (TTO) are not regulated at BAT because compliance with the BPT effluent limitations for total phenols and oil and grease provides effective removal of toxic organic compounds. No appreciable incremental removals of TTO or total phenols are expected due to the application of filtration.

Implementation of the BAT effluent limitations will represent reasonable further progress in reducing the discharge of pollutants and will remove an additional 3,230 kg/yr (7,100 lb/yr) of toxic metals beyond BPT, at a total incremental investment cost (beyond equipment in-place) of $3.9 million and an incremental total annual cost of $2.3 million (1985 dollars).

3. NSPS

EPA is promulgating NSPS for all regulated subcategories based on the same technology as for BAT for the reasons explained in the BAT section. The blowdown discharge flow allowances for NSPS are the same as for BAT and are summarized in Appendix J of this preamble. Treatment effectiveness concentrations are present in Appendix K and Appendix L.

New sources in the magnesium subcategory are not regulated by NSPS because the costs of compliance with standards based on the treatment technologies identified in this rulemaking, which would have resulted in closure for one of two existing sources, are likely to serve as barriers to entry into magnesium casting. The regulations do not present entry barriers for the remaining subcategories.

The pollutants regulated by NSPS are the pollutants regulated by BPT and BAT effluent limitations: pH, TSS, oil and grease, total phenol (4AAP) for ten process segments, copper, lead, and zinc. Toxic organic pollutants are not regulated because compliance with the oil and grease limitation will provide effective removal.

4. PSES

Pursuant to section 307 of the Clean Water Act, EPA must establish pretreatment standards for pollutants which pass through or interfere with POTWs. The Agency has compared the removals of toxic metal and toxic organic pollutants which occur in POTWs with the removals of these toxic pollutants by direct dischargers in the metal molding and casting industry applying the best available technology economically achievable. A well-operated POTW with secondary treatment will remove about 58 percent of the copper, 48 percent of the lead, 65 percent of the zinc, 89 percent of the total phenols (4AAP), and 80 percent of the Total Toxic Organics (TTO). The average removal of these pollutants at BAT for each of the regulated subcategories was greater than the POTW removals. Accordingly, the Agency has concluded that these pollutants pass through POTWs and thus must be regulated by PSES.

EPA is promulgating PSES based on the application of technology equivalent to BAT. With the following exceptions, PSES are based on the application of high rate recycle with lime and settle treatment plus filtration. As for BAT, EPA has based PSES on recycle, lime and settle for all plants with indirect discharge in the aluminum subcategory, the ferrous subcategory where steel is the primary metal cast, and for the relatively small plants in the ferrous subcategory which cast primarily malleable iron. As for BAT, EPA is not establishing PSES for plants in the magnesium subcategory because the economic impact analysis indicates that the regulation is not economically achievable for the magnesium subcategory. Plants in the magnesium subcategory are subject to the General Pretreatment Regulations (40 CFR Part 403). Finally, the Agency's economic impact analysis indicates that for small plants in the ferrous subcategory which cast primarily gray iron and pour less than 1,784 tons of metal per year, the cost of complying with pretreatment standards based on recycle, lime and settle, and filtration is not economically achievable. Therefore, PSES for these small gray iron plants is based on recycle, lime and settle.

PSES are mass-based with the same production normalized discharge flow (blowdown) allowances as established for BAT and BPT. Flow reduction by process wastewater recycle technology is applicable to and demonstrated by both direct and indirect dischargers. To assure that indirect dischargers achieve the effluent reduction benefits of the regulation, EPA has elected to establish mass-based PSES. See the discussion of applied flow rates, recycle rates, and blowdown flow rates in a previous section of this preamble. Appendix J of this preamble presents a tabular summary of all applied flow rates, recycle rates, and blowdown flow rates for each process segment. Treatment effectiveness also is discussed in a preceding section of this preamble, and summarized in Appendix K (recycle, lime and settle) and Appendix L (recycle, lime and settle, and filtration).

As discussed in the March 20, 1984 notice of availability, at 49 FR 10295, the final regulations include standards for Total Toxic Organics (TTO). TTO include all toxic organic compounds found at treatable concentrations in raw wastewaters from these process segments. At that time, the Agency indicated that TTO would be controlled for 14 process segments including the melting furnace scrubber processes in the aluminum, copper, ferrous, and zinc subcategories; the casting quench processes in the aluminum, ferrous, and zinc subcategories; the die casting processes in the aluminum and zinc subcategories; the dust collection scrubber processes in the aluminum, copper, and ferrous subcategories; and

the slag quench and wet sand reclamation processes in the ferrous subcategory. After reviewing all available data and recalculating the raw waste loads characteristic of each production process, the Agency has determined that treatable levels of TTO occur in an additional eight process segments. Accordingly, EPA is establishing PSES controlling TTO discharges from the 22 process segments where TTO are found above treatable levels in the raw waste discharges. Sections 464.11, 464.21, 464.31, and 464.41 of the regulation present lists of those toxic organics included in the TTO pretreatment standards for each process segment. The basis for the TTO treated effluent concentrations for these 22 process segments was presented in a preceding section of this preamble. The treatment effectiveness concentrations used in developing the mass-based pretreatment standards are presented in Appendix M.

The analysis of wastewaters for toxic organics is costly and requires sophisticated equipment. Therefore, the Agency has included in the final regulations an alternate monitoring parameter for TTO. Data indicate that the toxic organics are more soluble in oil and grease than in water, and that removal of oil and grease will remove substantially the toxic organics. The TTO standard is based on the application of oil and grease removal technology. If oil and grease is controlled at the regulated level, compliance with the TTO pretreatment standard is ensured.

The pollutants selected for regulation are copper, lead, and zinc for all process segments, total phenol (4AAP) for ten process segments, and TTO for 22 process segments. Removal allowances pursuant to 40 CFR 403.7(a) may be granted for TTO, but not for oil and grease.

In 1986, EPA projects that there will be about 500 plants with indirect discharge. Implementation of PSES will remove a total of 2,860,000 kg/yr (6,299,000 lbs/yr) of toxic metal and toxic organic pollutants, at a total required investment cost (beyond equipment in place) of $46.7 million, and a total annualized cost of $21.5 million (1985 dollars). The PSES requirements are projected to result in three plant closures—two in the gray iron segment of the ferrous subcategory and one in the ductile iron segment of the ferrous subcategory. The Agency has concluded that the PSES are economically achievable for the metal molding and casting point source category.

The Agency has considered the time for compliance with PSES. Few of the plants in this industry with indirect discharge have installed and are operating properly the technology necessary for complying with PSES. Many plants in this and other industries will be procuring engineering services and installing treatment equipment utilized as model technologies for these regulations. This may result in delays in engineering design, equipment ordering and delivery, installation, start-up, and operating these systems. For these reasons, the Agency has decided to establish the PSES compliance date for all facilities at three years from the date of promulgation.

5. PSNS

As discussed for PSES, EPA has determined that toxic metal and organic pollutants will pass through POTWs without adequate pretreatment and, therefore, pretreatment standards for new source indirect dischargers (PSNS) are required. PSNS for all subcategories are the same as PSES.

New sources in the magnesium subcategory are not regulated by PSNS because the costs of compliance with standards based on the technologies considered in this rulemaking, which would have resulted in closure for one of two existing sources, are likely to serve as barriers to entry into magnesium casting. New source indirect discharging plants in the magnesium subcategory are subject to the General Pretreatment Regulations (40 CFR Part 403). The Agency has concluded that PSNS will not serve as barriers to entry of new plants into the remaining subcategories of the metal molding and casting industry.

The pollutants regulated by PSNS are total phenol (4AAP) for ten process segments, TTO for 22 process segments, copper, lead, and zinc. Oil and grease is an alternate monitoring parameter for TTO. Removal allowances pursuant to 40 CFR 403.7(a) may be granted for TTO, but not for oil and grease.

VII. Pollutants Excluded From Regulation

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 that was approved by the District Court for the District of Columbia on March 9, 1979. See *NRDC* v. *Costle*, 12 ERC 1833 (D.D.C. 1979).

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)(i) of the Settlement Agreement allows the Administrator to exclude from regulation pollutants where equal or more stringent protection is already provided by effluent limitations guidelines, new source performance standards, or pretreatment standards promulgated pursuant to sections 301, 304, 306, 307(a), 307(b), or 307(c) of the Act. 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. 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. Paragraph 8 (a)(iii) allows the Administrator to exclude from regulation toxic pollutants present in amounts too small to be effectively reduced by technologies known to the Administrator.

Forty of the priority pollutants are being excluded from regulation across all subcategories because they were not detected at or above the nominal limits of quantification by state-of-the-art analytical methods at any of the plants sampled by the Agency. Appendix C contains a list of these toxic pollutants.

The presence and absence of the remaining priority pollutants in metal molding and casting wastewaters varies by subcategory. Therefore, further pollutant exclusions are presented for each subcategory in Appendices D through G. Each appendix includes a subtitle which presents the reason for exclusion of the list of priority pollutants that follows.

VIII. Economic Considerations

A. Introduction

The Agency's economic impact assessment of this regulation is presented in the report entitled *Economic Impact Analysis of Effluent Limitations Guidelines and Standards for the Metal Molding and Casting Industry* (U.S. EPA, Washington, DC, September 1985). This report details the investment and annualized costs of compliance with this regulation for the metal molding and casting industry. The compliance costs are based on engineering estimates of capital and operating and maintenance costs for the effluent control systems described earlier in this preamble and in detail in

Section VIII of the technical Development Document. The economic impact analysis assesses the impact of these effluent control costs on the metal molding and casting industry in terms of price changes, production cost changes, plant closures, employment effects, and balance of trade effects. The economic impact analysis reflects revisions in estimates of treatment costs that have occurred since proposal as discussed in Section VIII of the technical Development Document.

In addition, EPA has conducted an analysis of the incremental removal cost per pound equivalent for each of the technology options. A pound equivalent is calculated by multiplying the number of pounds of a toxic 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.

B. Costs and Economic Impacts

The Agency projects that 3,853 foundries will be in operation in 1986. An estimated 2,794 of these will be dry foundries using no process waters in their manufacturing operations and 259 foundries will discharge no effluent to surface waters. The Agency estimates that 796 foundries will incur costs due to this regulation. We project that 299 of these facilities will discharge their wastewater directly into navigable waters, and 497 will discharge into publicly owned treatment works (POTWs).

Total capital costs for the discharging plants as a result of this regulation are estimated to be $90.4 million, while total annualized costs, including depreciation and interest, are estimated to be $41.2 million. These costs are expressed in 1985 dollars.

Three gray iron facilities are expected to close as a result of the BPT level of control with an accompanying employment loss of 81 jobs. Two additional gray iron facilities are expected to close due to the PSES level of control resulting in an employment loss of 54 jobs. The only other closure projected is in the ductile iron segment of the ferrous casting subcategory and will result from implementation of the PSES limitations. The job loss associated with this one closure is projected to be 27 employees.

Magnesium foundries are exempted from this regulation because the Agency determined that the effluent limitations and standards that would result from the application of the technology options considered as the basis for this regulation are not economically achievable for existing plants in the subcategory and the options of compliance with such costs would present a barrier to entry to new plants. Two of the four affected magnesium foundries were projected to close under the BPT/BAT limitations and PSES. All of the magnesium foundries that would have been covered by the regulation are small businesses employing 50 or fewer persons.

No further significant impacts are projected as a result of the regulation. Increases in the cost of production generally average less than one percent, although small gray iron and ductile iron foundries may experience cost increases as high as 4.0 and 2.5 percent, respectively. Foundries are not assumed to be able to pass on these cost increases in the form of higher prices due to competition from the 3053 foundries not incurring costs due to the regulation (the dry foundries and zero discharges). No incremental trade impacts are expected to occur from this regulation.

For purposes of the economic analysis, the Agency created eight separate economic subcategories based on metal types: four ferrous subcategories—gray iron, ductile iron, malleable iron, steel, and four nonferrous subcategories—aluminum, zinc, copper, and magnesium. Use of these subcategories (which correspond to SIC codes) recognizes that most foundries derive their sales from castings of one or primarily from one metal type and that the products derived from these metals have different properties, applications, and values. Therefore, this subcategorization enabled the Agency to develop an economic analysis sensitive to different financial profiles based on product type.

Each metal subcategory was further divided into employment size groups. The employment size groups were fewer than 10, 10 to 49, 50 to 99, 100 to 249, and 250 or more. Employment size groupings were used as a proxy for production levels because data necessary for the analysis were reported in this manner by industry in the major trade journal. Model plant financial profiles representing affected foundries in each economic employment subcategory were then developed to estimate the income that could be generated by foundries and used (in part) to pay for pollution control equipment. These income estimates were used to determine whether the costs of compliance with the regulation would cause significant economic impacts.

The financial profiles developed represented the balance sheets and income statements for a "typical" foundry in each employment size segment and metal type. These profiles were developed exclusively from job shop financial data, which represent the most complete picture of job shop or "stand-alone" operations available. For the purpose of the analysis, captive operations (i.e., those selling 50 percent or more of their output to a parent company) were assumed to have the same financial characteristics as job shop operations. This approach may overstate impacts because it assumes that captives are treated the same as jobbers by their parent companies, thereby ignoring potential benefits of ownership by a larger corporation such as an assured product market, access to professional management techniques, and easier access to credit markets. Compliance cost estimates were based on the costs of additional treatment required to meet the effluent limitations and standards. If compliance costs exceeded the plant's ability to generate capital and income at a specific level, a closure was predicted. Determination of a plant's ability to pay for the treatment costs was based on three closures tests: Debt to total assets, return on total assets and cash flow to total debt. Failure of two of these three tests signaled a closure. Total plant closures were then extrapolated from the model plant results to the estimated population of foundries in 1986.

The Agency revised some of its earlier economic methodology as detailed in this preamble under the "Changes Since Proposal" section. Briefly, these changes entailed using multi-year data for the analysis, using the FINSTAT data base for development of the financial profiles, using sales revenues which were derived from data collection portfolio (DCP) information, and adjusting the DCP-based production to account for economic trends in the industry. Other changes since proposal are discussed in the March 1984 Notice of Availability.

Following are summaries of the costs and impacts under the promulgated limitations and standards.

BPT: BPT regulations are being promulgated for direct dischargers in all economic subcategories except for magnesium. By 1986, the Agency projects that 297 direct dischargers will have to install and operate additional

equipment to comply with the BPT limitations. Investment costs for BPT are $39.7 million; total annual costs are $17.4 million, including interest and depreciation (1985 dollars). As a result of compliance with this regulation, three gray iron facilities out of 91 direct discharging gray iron plants are expected to close, resulting in an employment loss of 81 jobs. Increases in the cost of production at the affected plants will generally be less than one percent. No balance of trade effects are expected.

BAT: BAT regulations are also being promulgated for all the economic subcategories except for magnesium. However, incremental costs to comply with BAT will arise in the gray iron, ductile iron, malleable iron, zinc, and copper subcategories. BAT limitations for steel, zinc and aluminum foundries are based on the BPT technology; therefore, no incremental compliance costs will result. The incremental investment costs due to BAT total $3.9 million while annualized costs total $2.3 million (1985 dollars). The incremental increase in the cost of production associated with the BAT technology is less than one percent in all affected economic subcategories. BAT for malleable iron in foundries with production levels associated with the less than 99 employment size (i.e., 3,557 tons/year of metal poured) is also equal to BPT. One of the three foundries in this employment size grouping was projected to close; thus, regulations based on lime, settle, and filtration were considered to be not economically achievable for this subgroup. Therefore, a less stringent control level is being promulgated for lower production levels in the malleable iron subcategory segment. Malleable iron foundries with greater production levels must comply with the more stringent limitations based on the BAT technology of recycle, lime, settle, and filtration.

PSES: Categorical pretreatment standards are being promulgated for indirect dischargers in all economic subcategories except magnesium. By 1986, the Agency projects that there will be 497 indirect dischargers that will have to install and operate additional equipment to comply with the PSES limitations. The Agency estimates that capital costs to comply with PSES are $46.7 million and annualized costs are $21.5 million (1985 dollars). Two plant closures in the gray iron subcategory segment are projected. The accompanying employment loss is expected to be 54 jobs. The model technology for PSES is the same as those for BAT except for small gray iron foundries. Six foundries representing approximately fifteen percent of gray iron indirect discharging foundries in the less than 50 employment size grouping would be expected to close if the model technologies for PSES were recycle, lime, settle, and filtration. Thus, EPA determined that standards based on lime, settle, and filter were not economically achievable for this group of plants. Therefore, the technology and costs for plants which pour less than 1,784 tons of metal per year reflect the less stringent level of recycle, lime, and settle. Closure estimates were reduced from six to two gray iron foundries at this less stringent level of control. One additional plant closure is projected in the ductile iron segment of the ferrous subcategory, resulting in an employment loss of 27 jobs. Production cost increases average less than one percent overall under PSES.

NSPS/PSNS: The new source standards (NSPS and PSNS) are based on the same level of technology as BAT and PSES, respectively. Therefore, there are no incremental costs and there are no barriers to entry attributable to the new source standards.

C. Regulatory Flexibility Analysis

Public Law 96–354 requires that EPA prepare a Regulatory Flexibility Anaylsis for regulations that have a significant impact on a substantial number of small entities. A small business analysis is included in the economic impact analysis for this regulation.

If all foundries had to comply with limitations and standards based on recycle, lime, settle, and filtration, closures would total 13 and the employment loss would total 387 jobs. These closure estimates represent less than two percent of discharging foundries and less than 0.5 percent of all foundries. These impacts occur in the smaller employment size groupings of less than 100 employees. Partly in recognition of this disproportionate effect on smaller foundries, the Agency is promulgating less stringent effluent limitations guidelines and standards to mitigate these effects. (In the instance of the magnesium subcategory, the entire subcategory is being exempted from these nationally-applicable regulations.) The effluent limitations guidelines and standards being promulgated today are projected to result in only six closures and an employment loss of 162 jobs. The Agency believes that these few remaining plant closures do not result in a significant effect on a substantial number of small businesses, and I hereby certify to this effect for the purpose of 50 U.S.C. 605(b). While this conclusion obviates the need for a formal Regulatory Flexibility Anaylsis, a small business analysis has been included in the economic impact analysis report and supports the conclusion that the regulation is economically achievable for small plants.

D. SBA Loans

The Agency is continuing to encourage small plants to use Small Business Administration (SBA) financing as needed for the purchase of pollution control equipment. The three basic programs are: (1) The Pollution Control Bond Program (tax exempt), (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 ranges 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, Suite 500, Arlington, Virginia 22203, (703) 235–2920.

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-backed 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 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 A. Desselle who may be reached at (202) 382–5373.

E. Executive Order 12291

Executive Order 12291 requires EPA and other agencies to perform regulatory impact analyses of major regulations. Major rules are those that 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 $41.2 million is less than $100 million and it

meets none of the other criteria specified in Section 1 paragraph (b) of the Executive Order. The economic impact analysis prepared for this rulemaking meets the requirements for non-major rules.

IX. Non-Water Quality Aspects of Pollution Control

The elimination or reduction of one form of pollution may cause other environmental problems. Therefore, sections 304(b) and 306 of the Act require EPA to consider the non-water quality environmental impact (including energy requirements) of certain regulations. In compliance with these provisions, EPA has considered the effect of this regulation on air pollution, solid waste generation, water scarcity, and energy consumption. This rule was circulated to and reviewed by EPA personnel responsible for non-water quality environmental programs. While it is difficult to balance pollution problems against each other and against energy utilization, EPA is promulgating a regulation that it believes best serves often competing national goals.

The following are the non-water quality environmental impacts (including energy requirements) associated with this final regulation:

A. Air Pollution

Imposition of the BPT, BAT, NSPS, PSES, and PSNS will not create any substantial air pollution problems. Minor very localized air pollution emissions currently exist in the ferrous casting subcategory where wastewaters are used to quench the hot slag generated in the melting process. Also water vapor containing some particulate matter is released from the cooling tower systems used in the casting quench and mold cooling process segments. However, none of these conditions currently are considered significant and no significant future impacts are expected as the result of these regulations.

B. Solid Waste

EPA estimates that the BPT requirements will generate an additional 522,000 kkg (575,000 tons) per year of solid wastes (at 25 percent solids) over that which is currently being generated by the metal molding and casting category. This includes 1,730 kkg (1,900 tons) of oily wastes. EPA estimates that BAT requirements will increase these wastes by about 240 kkg (265 tons) per year beyond BPT levels. In addition, PSES will increase these wastes by approximately 442,000 kkg (486,000 tons) per year beyond current levels. New metal molding and casting plants subject to PSNS or NSPS also will generate treatment system sludges.

The Agency examined the solid wastes that would be generated by metal molding and casting processes using the model treatment technologies and has concluded that they are not hazardous under section 3001 of the Resource Conservation and Recovery Act (RCRA). This judgment is based on a review of the results of the Extraction Procedure (EP) toxicity tests that were conducted on metal molding and casting solid wastes. None of the pollutants for which the extracts in the EP test are analyzed were found in metal molding and casting sludges above the allowable concentration (i.e., the concentration that makes the waste hazardous). Metal molding and casting wastes also are not listed currently as hazardous under 40 CFR 261.11 (45 FR 33121, May 19, 1980; as amended by 45 FR 76624, November 19, 1980). Moreover, the 1984 amendments to RCRA provided specific exemptions to the double liner requirement for this industry for hazardous wastes as long as these do not contain certain constituents which would render the wastes hazardous for reasons other than the EP toxicity characteristic. Included in the exemption are waste molding sands (production waste) and wastes from melting furnace emission controls. These are among the highest volume wastes generated at metal molding and casting plants. For the above reasons, EPA has not developed estimates of the costs to dispose of hazardous solid wastes. EPA has included costs for nonhazardous waste disposal of $21.00/ton for sludges and $28.60/ton for oily wastes generated in treating metal molding and casting wastewaters.

Although it is the Agency's view that solid wastes generated as a result of these regulations are not expected to be classified as hazardous under the regulations implementing Subtitle C of RCRA, individual generators of these wastes must test the waste to determine if they meet any of the characteristics of hazardous wastes. See 40 CFR 262.11 (45 FR 12732–12733, February 26, 1980). As more information becomes available, it is possible that certain sludges could be listed as hazardous pursuant to 40 CFR 261.11.

Should any metal molding and casting wastes be identified as hazardous, they will come within the scope of RCRA's "cradle to grave" hazardous waste management program, requiring regulation from the point of generation to the point of final disposition. EPA's generator standards require generators of hazardous wastes to meet containerization, labeling, recordkeeping, and reporting requirements. If metal molders or casters dispose of hazardous wastes offsite, they would have to prepare a manifest that tracks the movement of the wastes from the generator's premises to an appropriate off-site treatment, storage, or disposal facility. See 40 CFR 262.20 (45 FR 33142, May 19, 1980; as amended at 45 FR 86973, December 31, 1980). The transporter regulations require transporters of hazardous wastes to comply with the manifest system to ensure that the wastes are delivered to a permitted facility. See 40 CFR 263.20 (45 FR 33142, May 19, 1980; as amended at 45 FR 86973, December 31, 1980). Finally, RCRA regulations establish standards for hazardous waste treatment, storage, and disposal facilities allowed to receive such wastes. See 40 CFR Parts 264 and 265 (46 FR 2802, January 12, 1981; 47 FR 32274, July 26, 1982).

Even though metal molding and casting wastes are not identified as hazardous, they still 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 for model plants of hauling and disposing of these wastes (using the unit costs noted above) in accordance with this requirement. For more details, see Section IX of the technical Development Document.

C. Consumptive Water Loss

EPA estimates that the evaporative water losses from the recycle systems that we project will be used to comply with the final regulations will be less than about 0.1 percent of the water losses that now occur from the air pollution control scrubbers used extensively throughout this industry. Therefore, compliance with this final regulation is not expected to result in a significant consumptive water loss. The Agency concludes that the benefits derived from compliance with the final regulations justify the minimal water loss associated with the application of recycle technology.

D. Energy Requirements

EPA estimates that compliance with the BPT requirements of these regulations by direct dischargers will result in a total electrical energy consumption of 18.8×10^6 kilowatt-hours per year over current energy usage for wastewater treatment. EPA estimates that compliance with the BAT requirements of these regulations by direct dischargers will result in a total

electrical energy consumption of 4.2 x 10^6 kilowatt-hours per year in addition to the energy usage to comply with BPT. Compliance with the PSES requirements of these regulations by indirect dischargers will result in a total electrical energy consumption of 17.3 x 10^6 kilowatt-hours per year over current energy usage for wastewater treatment. Industry compliance with the BPT, BAT, and PSES limitations will result in an energy increase of 0.13 percent over the 31.3 x 10^6 kilowatt-hours used in 1978 for production purposes.

The energy requirements for NSPS and PSNS are estimated to be similar to energy requirements for BAT. More accurate estimates are difficult to make because projections for new plant construction are variable. It is estimated that new plants will design, wherever possible, production techniques and air pollution control devices that either require less water than current practices or require no water such as dry air pollution control devices.

X. Best Management Practices (BMPs)

Section 304(e) of the Clean Water Act authorizes the Administrator to prescribe "best management practices" (BMP). EPA is not promulgating BMPs specific to the metal molding and casting category.

XI. Upset and Bypass Provisions

A recurring issue of concern has been whether industry guidelines should include provisions authorizing noncompliance with effluent limitations guidelines 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. Industry argues that an upset provision in EPA's effluent limitations guidelines is necessary because such upsets inevitably occur even in properly operated control equipment. Because technology-based effluent limitations guidelines require only what technology can achieve, they claim that liability for such situations is improper. When confronted with this issue, courts have been divided on the question of whether an explicit upset or excursion exemption is necessary or whether upset or excursion incidents may be handled through EPA's exercise of enforcement discretion. Compare, *Marathon Oil Co.* v. *EPA*, 564 F.2d 1253 (9th Cir. 1977) with *Weyerhaeuser Co.* v. *Costle*, 590 F.2d 1011 (D.C. Cir. 1978) and *Corn Refiners Association, Inc.* v. *Costle*, 594 F.2d 1223 (8th Cir. 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).*

While an upset is an unintentional episode during which effluent limitations guidelines are exceeded, a bypass is an act of intentional noncompliance during which waste treatment facilities are circumvented in emergency situations. Bypass provisions have, in the past, been included in NPDES permits.

EPA has determined that both upset and by-pass provisions should be included in NPDES permits and has promulgated NPDES regulations that include such permit provisions (40 CFR 122.41; 45 FR 14146, April 1, 1983). The upset provision establishes an upset as an affirmative defense to prosecution for violation of technology-based effluent limitations guidelines. The bypass provision authorizes bypassing to prevent loss of life, personal injury or severe property damage. Because permittees in the metal molding and casting category are 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 the final regulation, the numerical effluent limitations guidelines for the appropriate subcategory must be applied in all federal and state NPDES permits thereafter issued to metal molding and casting direct dischargers. In addition, upon promulgation, the pretreatment standards are directly applicable to indirect dischargers.

For the BPT effluent limitations guidelines, the only exception to the binding limitations is EPA's "fundamentally different factors" variance. *See, E. I. duPont de Nemours and 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 effluent limitations guidelines is not a consideration for granting a variance. *See, National Crushed Stone Association* v. *EPA*, 449 U.S. 64 (1980). This variance clause was originally set forth in EPA's 1973–1976 industry regulations but is now cross-referenced in the metal molding and casting and other specific industry regulations. See the NPDES regulations at 40 CFR Part 125 Subparts A & D for the text and explanation of the "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 modification 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 promulgation of final effluent limitations guidelines. See 40 CFR 122.21(1)(2).

The economic modification section of the Act (Section 301(c)) gives the Administrator authority to modify BAT requirements for nonconventional pollutants for dischargers who file a permit application after July 1, 1978, upon 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, persistence in the environment, acute toxicity, chronic toxicity (including carcinogenicity, mutagenicity, or teratogenicity), or synergistic propensities.

Section 301(j)(1)(B) of the Act requires that applications for modifications under section 301(c) or (g) be filed within 270 days after the promulgation of an applicable effluent limitations guideline regulation. Initial applications must be filed with the Regional Administrator and, in States with

approved NPDES programs, a copy must be sent to the Director of the State program. Initial applications to comply with section 301(j) must include the name of the permittee, the permit and outfall number, the applicable effluent limitations guideline regulation, 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 pollutants removed by a POTW. See 40 CFR 403.7.

New sources subject to NSPS and PSNS 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 are eligible for the "fundamentally different factors" variance. See 40 CFR 403.13. 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*, 719 F.2d 624 (3rd Cir. 1983). In response to this decision, EPA amended § 403.13(b)(2) to suspend the availability of FDF variances for toxic pollutants covered by categorical pretreatment standards. See 49 FR 5131 (February 10, 1984). In addition, EPA sought review of this portion of the Third Circuit's decision. On February 27, 1985, the Supreme Court reversed the Third Circuit Court of Appeals and held that FDF variances for toxic pollutants are not prohibited by the Clean Water Act. *Chemical Manufacturers Assoc.* v. *Natural Resources Defense Council, 105.* S. Ct. 1102 (1985). Accordingly, indirect dischargers covered by categorical pretreatment standards for existing sources may be eligible for an FDF variance. Any interested person should refer to 40 CFR 403.13 for the procedures and deadline for applying for this variance.

XIII. Relationship to NPDES Permits

The BPT and BAT effluent limitations guildelines and NSPS in this regulation will be applied to individual metal molding and casting processes through NPDES permits issued by EPA or approved state agencies under section 402 of the Act. The preceding sections of this preamble discussed the binding effect of this regulation on NPDES permits, except to the extent that variances and modifications are expressly authorized. This section describes several other aspects of the interaction of this regulation and NPDES permits.

One matter that has been subject to different judicial views is the scope of NPDES permit proceedings in the absence of effluent limitations guidelines and standards. Under currently applicable EPA regulations, states and EPA Regions issuing NPDES permits before promulgation of this regulation did so on a case-by-case basis. This regulation provides a technical and legal base for any new permit proceedings.

Another noteworthy topic is the effect of this regulation on the powers of NPDES permit issuing authorities. The regulation does not restrict the power of any permit-issuing authority to act in a manner that is consistent with the law or these or any other EPA regulations, guidelines, or policy. For example, the fact that this regulation does not control a particular pollutant does not preclude the permit issuer from limiting such pollutant on a case-by-case basis when 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 effluent limitations on covered pollutants), the permit-issuing authority must apply such effluent limitations.

One additional topic that warrants discussion is the operation of EPA's NPDES enforcement program, many aspects of which have been considered in developing this regulation. The Agency wishes to emphasize that, although the Clean Water Act is a strict liability statute, the initiation of enforcement proceedings by EPA is discretionary (*Sierra Club* v. *Train*, 557 F.2d 485 (5th Cir. 1977)). EPA has exercised and intends to exercise that discretion in a manner that recognizes and promotes good faith compliance efforts.

XIV. Public Participation and Response to Major Comments

Individual metal molding and casting companies, trade associations,and government agencies have participated in the development of these regulations. Following the publication of the proposed rule on November 15, 1982, in the **Federal Register**, the technical Development Document, the economic impact analysis, and supporting record materials were made available for review by industry, governmental agencies, and the public sector. The comment period, originally scheduled to close on January 14, 1983, was extented to February 14, 1983. On January 10, 1983, a public hearing was held in Washington, DC on the proposed pretreatment standards. On January 12, 1983, a permit writers workshop was held in Chicago, IL. On November 12–13, 1983, a permit writers workshop was held in Buffalo, NY. EPA announced in the **Federal Register** on March 20, 1984 (49 FR 10280), the availability for public review of additional information and analysis, with the comment period closing on May 4, 1984. On November 13–14, 1984, a permit writers workshop was held in Buffalo, NY. EPA announced in the **Federal Register** on February 15, 1985 (50 FR 6572) the availability of further information and analyses. The comment period, originally scheduled to close on March 18, 1985, was extended to April 8, 1985. The Agency held permit writer workshops in Springfield, IL on February 19–20, 1985, and in Indianapolis, IN on April 16–17, 1985.

Since proposal, the Agency has received over 1500 individual comments from 94 different commenters on the proposal and the two notices of availability. The Agency also received more than 100 inquiries from the Members of Congress.

All comments received have been considered carefully and appropriate changes in the regulations have been made where data and information supported those changes. Those major issues raised by the comments that were not discussed previously in the preamble (see Summary of Changes to Proposed Regulations) are addressed in this section of the preamble. All comments received and detailed responses to these comments are included in three documents entitled *Responses to Public Comments, Proposed Metal Molding and Casting Effluent Limitations and Standards; Responses to Public Comments, March 20, 1984 Notice of Availability, Metal Molding and Casting Industry;* and *Responses to Public Comments, February 15, 1985 Notice of Availability, Metal Molding and Casting Industry.* These documents will be placed in the public record for this regulation.

The following is a discussion of the Agency's responses to the major comments.

A. Feasibility of and Data Base Supporting Complete Recycle

Comment: The most prevalent comment received by the Agency on the proposed regulation was that the proposed requirement for complete recycle with no allowance for wastewater discharge was not feasible technically. It was asserted that recycle systems must have discharge ("blowdown") to remove dissolved pollutants which would build up and otherwise cause scaling and corrosion. Commenters asserted that sophisticated,

costly, and undemonstrated technologies (e.g., reverse osmosis) were necessary to achieve complete recycle.

It also was asserted that numerous individual plants indicated by EPA to demonstrate complete recycle with no discharge were misrepresented in the data base. These commenters asserted that most of the plants in EPA's data base have recycle systems which do not demonstrate complete recycle because they discharge periodically to allow equipment repair and maintenance, regular removal of "wet" sludges, "discharges" to groundwater, discharges that are removed for off-site disposal by contract haulers, and discharges to adjacent industrial treatment facilities.

Response: EPA requested all plants with processes identified as having complete recycle with no discharge to verify the status of recycle and discharge. Responses to the Agency's requests revealed that a large portion of those plants previously considered to have complete recycle of wastewater actually had discharges on an intermittent basis, such as for repair and periodic maintenance. These discharges ranged from once per week to once in five years. Another group of plants also had discharges from recycle systems, but these discharges were not to surface waters or POTWs. Some plants had their discharges contract hauled off-site, and other plants reported or were suspected to have lossers of wastewater by seepage from storage ponds to groundwater. The Agency removed from the complete recycle/no discharge data base all such plants which reported discharges and thus were not valid demonstrations of complete recycle. The number of plants which were confirmed to be complete recycle/no discharge is substantially smaller than at proposal; they are concentrated in the following process segments: melting furnace scrubbers, dust collection scrubbers, grinding scrubbers, and slag quench.

As explained previously in Section V of this preamble, the Agency also performed a model analysis of recycle system water chemistry. The model analysis of 19 process segments for which sufficient data were available showed that achievable recycle rates did not vary appreciably with differing make-up (intake) water, and that high rate recycle or complete recycle was achievable even with the poorest quality make-up water. However, three processes in the ferrous subcategory (dust collection, melting furnace scrubber, and slag quench) were shown to be somewhat sensitive to poor quality make-up water. Recycle rates for these three process segments were decreased by the marginal differences (1–2 percent) in recycle rates between predicted recycle rates based on average and worst make-up water quality.

Some commenters asserted that total dissolved solids (TDS) build-up in recycle loops and cause scaling and corrosion. However, the Agency found that many plants successfully operate high rate recycle systems with very high TDS concentrations (greater than 40,000 mg/l).

Several commenters asserted that complete recycle of scrubber water would impact adversely the ability of plants to comply with air emissions standards. Responses by plants to Agency inquiries did not reveal (with the exception of one plant's assertions) that scrubber water recycle was a factor where violations of air standards occurred.

Recycle model sensitivity analysis showed that by increasing moisture and pollutant "blowdown" by way of sludges, recycle rates can be increased to a limited extent. Thus, some plants in the EPA data base may have achieved complete recycle by a water chemistry balance achieved in part by removing a portion of the problem constituents with the moisture in the sludge.

Recycle model analysis showed that recycle sidestream treatment would be necessary to retain the higher recycle rates (for the three ferrous process segments) not adjusted for make-up water quality. The investment and operating cost of sidestream treatment technology identified, chemical coagulation and sedimentation for silica and sulfate removal, was found to be very high for a small increase (96 to 98 percent) in recycle rates. Therefore, the final regulations do not utilize the higher recycle rates for these processes and are not based on sidestream treatment.

The Agency has updated and verified its data base and has selected recycle rates primarily based on the highest practicable recycle rates demonstrated in the industry. These recycle rates, presented in Appendix J of this preamble, have been selected with consideration of the influence of make-up water quality and related water chemistry (i.e., scaling, corrosion), recycle from central treatment, sludge moisture content, and other factors. Complete recycle with no discharge has been demonstrated in the industry and selected by the Agency for the three regulated grinding scrubber process segments. High rate recycle with allowance for blowdown discharge has been selected by the Agency for the 25 other process segments included in the final regulations. These recycle rates are the same as published in Appendix A of the February 15, 1985 notice, at 50 FR 6579. See the technical Development Document for a discussion of how these recycle rates were derived.

B. Central Treatment

Comment: A number of commenters asserted that the Agency had not considered central treatment of combined process wastewater streams and whether central treatment would affect a plant's ability to achieve high rate or complete recycle. Specifically, comments on the March 20, 1984 notice of availability stated that the Agency's recycle model did not include a sensitivity analysis of differences in achievable recycle rates, asserted to be significant, between plants with single processes and plants with central treatment of multiple processes.

Response: The Agency utilized the recycle model to analyze the influence on achievable recycle rates of combined treatment of two or more process wastewaters in a central treatment facility. In all cases analyzed, the combined recycle rate was found to *increase* with central treatment, *not decrease* as asserted in comments. The three individual ferrous process segments which did indicate marginal sensitivity to make-up water also showed decreases in recycle rates in central treatment application. However, the increases in discharge (blowdown) rates to account for make-up water quality were found to be adequate to allow facilities with central treatment to achieve the separate stream recycle rates. The recycle model also showed that plants, especially larger plants, which recycle back to the processess after their central treatment facilities, experience increased pollutant removals, thereby allowing achievement of sufficiently *higher* recycle rates, *not lower* as asserted in comments, such that the individual process recycle rates would be achieved or surpassed. Thus, recycle after central treatment of the entire wastewater volume was shown to be beneficial but not necessary in achieving recycle rates, even though such an approach can be more costly to implement. Further, older large plants could elect to upgrade these existing central treatment facilities rather than completely replace them with smaller blowdown central treatment systems.

EPA has carefully considered central treatment of combined process wastewater streams. A substantial portion of the data base used to establish the treatment effectiveness concentrations that form the basis of the final regulations are from metal molding

and casting plants employing central treatment systems treating multiple process streams. Additionally, EPA has established effluent limitations and standards for copper, lead, and zinc for each of the regulated process setments for which a discharge is allowed. This ensures that plants employing central treatment systems are given an allowance for metals present in all of the wastestreams discharged to the central treatment facilities.

C. Lime and Settle Treatment Effectiveness Data Base

Comment: A number of comments on the proposed regulations stated that the Agency had not used an appropriate data base for establishing effluent limitations for those process segments where discharges were allowed. It was asserted that the Agency's use of the Combined Metals Data Base (CMDB—the data base from well operated lime and settle treatment systems, used in other industries, that was used to establish lime and settle treatment effectiveness for the metal molding and casting industry) was not appropriate because these data represent treatment of wastewaters from industries whose wastewaters are not comparable to the metal molding and casting industry.

Comments on the Agency's analysis of ferrous foundry treatment effectiveness data, included in the February 15, 1985 notice (50 FR 6580, Appendix F), asserted that lime and settle treated effluent concentrations for lead and zinc, developed from EPA sampling data and all available industry discharge monitoring report (DMR) data, were not excessively high and did not warrant application of further treatment technologies being considered by EPA. Commenters asserted that the Agency has promulgated effluent limitations and standards for lead and zinc in other categories (i.e., inorganic chemicals, metal finishing) based on treated effluent concentrations that are higher than those being considered (Appendix F) for this category. These commenters urged that all DMR data available to the Agency be used in the treatment effectiveness analysis, and questioned the Agency's judgment that some of the DMR data required further confirmation.

Commenters questioned the Agency's statistical methodology that gave equal weight to plant level estimates regardless of the amount of data available from the plant. These commenters asserted that the short-term EPA data could not be used for analysis of variability, and that the industry DMR data should be weighted statistically based on the number of data points. It also was asserted that there were discrepancies in application of the data editing rules to the DMR data.

Response: Subsequent to proposal, the Agency acquired a substantial amount of DMR data from the metal molding and casting industry. Some of the long-term DMR data as well as the short-term sampling data acquired under EPA supervision were analyzed preliminarily and the results published in the March 20, 1984 notice, at 49 FR 10292–10294, and 10308–10310, Appendix F. The balance of the available DMR data were analyzed and the resulting limitations were presented for review and comment in the February 15, 1985 notice of availability, at 50 FR 6575, and 6580, Appendices D, E, and F. The results of these analyses indicated that limitations for lead and zinc, based on short-term EPA data and long-term confirmed DMR data, were higher than lead and zinc limitations based on the CMDB. The Agency indicated it still was considering using the CMDB, but efforts would be made to confirm all DMR data, and additional control technologies would be considered to reduce the concentrations of lead and zinc.

The Agency obtained additional supporting data and documentation from four plants for which DMR data were available but not confirmed. Three of these four plants sampled and analyzed the influent to and the effluent from their wastewater treatment systems. The fourth plant already had sampling data for both influent and effluent that were usable in the Agency's analysis. Based on these submissions, the Agency determined that the DMR data for three of the four plants could be considered confirmed and have been incorporated in the EPA plus confirmed DMR data base used to develop the final effluent limitations and standards. Data for one of the plants could not be used due to the presence of excessive quantities of noncontact cooling water commingled with process wastewaters in the plant's treatment system.

The Agency analyzed the edited EPA plus confirmed DMR data base, and developed final treatment effectiveness concentrations for lime and settle treatment. These concentrations are presented in Appendix K of this preamble. Comparison of these concentrations with the concentrations based on the CMDB reveals that some differences exist; lead limitations are higher, zinc limitations are approximately the same, and copper limitations are lower. Effluent limitations for TSS and oil and grease are approximately the same. Further comparisons of short-term EPA data with long-term DMR data reveals that in many cases DMR data were lower in concentration than short-term EPA data for the same plants. Recent short-term self-sampling by three plants in response to specific Agency requests further confirms the ranges of concentrations represented by the DMR data. Where differences do occur in effluent limitations based on CMDB and metal molding and casting data, the Agency has concluded that these differences may be attributable to variations in the chemistry of the wastewater matrices and concomitant differences in the solubility of these pollutants, especially metals, in treated effluents. Also, the suspended solids which contain the metals may include very fine particulates which do not coagulate or settle readily. The Agency has concluded that the treatment effectiveness concentrations for lime and settle treatment based on metal molding and casting industry data are the best data for developing the mass-based effluent limitations and standards contained in the final regulations.

The Agency has retained the use of short-term EPA sampling data together with long-term confirmed DMR data in developing the effluent limitations and standards. In cases where both short-term EPA data and DMR data were available from a plant, they were combined to determine statistically the long-term mean and variabilities in treatment effectiveness for the plant. These plant specific summary statistics are further combined, as described briefly in a preceding section of this preamble, in detail in the technical Development Document, and elsewhere in the rulemaking record, to determine the maximum monthly and maximum one-day effluent limitations and standards for the metal molding and casting category. This methodology does not rely solely on short-term EPA data to describe variability. In only a few cases are the final plant level estimates for a pollutant based only on short-term EPA data and these are combined with data from other plants that include extensive DMR data sets for use in the calculation of treatment effectiveness levels. The data have been combined in a statistically-appropriate manner. The Agency's objective was to represent properly the information from plants with appropriate treatment in the final limitations. This objective has been achieved. Further statistical weighting of the DMR data is neither necessary nor appropriate in this case.

Some minor errors in the description of the application of the data editing rules were found in the record

supporting the February 15, 1985 notice. The editing criteria were properly applied. Only the description of which criteria were applied to certain data points was incorrect in a few cases. These errors have been corrected. The Agency has included in the record a separate and complete listing of all data which have been used in developing the final treatment effectiveness concentrations for lime and settle technology.

D. Control of Toxic Organic Pollutants

Comment: Several commenters stated that toxic organic pollutants should be regulated as an aggregate, rather than by setting limitations for individual trace pollutants which would require unnecessarily expensive monitoring. Additionally, commenters suggested that requiring the application of activated carbon technology was unnecessary because existing systems employed in the industry, oil skimming and lime and settle treatment, are capable of removing significant levels of toxic organic pollutants.

Response: As explained previously, EPA found that plants in the metal molding and casting industry that employed effective oil and grease removal technologies effectively removed toxic organic pollutants. For this reason, the final regulations are not based on the application of activated carbon technology. Additionally, because the model BPT treatment option (recycle and lime and settle treatment with associated oil and grease removal equipment) is capable of effectively removing toxic organic pollutants from metal molding and casting wastewaters, EPA is not establishing BAT effluent limitations guidelines or standards of performance for new sources for toxic organic pollutants. EPA believes that compliance with the limitations and standards controlling oil and grease will effectively control toxic organics.

EPA has determined that toxic organic pollutants are likely to pass through POTWs. For that reason, EPA is establishing pretreatment standards controlling toxic organic pollutants. To reduce monitoring costs, EPA (a) is controlling Toxic Organics (TTO) rather than each individual toxic organic pollutant detected in metal molding and casting wastewaters, (b) has defined TTO differently for each process segment where TTO is regulated on the basis that different organic pollutants were found above treatable levels in the discharges from the various process segments, and (c) has established oil and grease as an alternative monitoring parameter for TTO to minimize monitoring costs. If oil and grease is controlled at the identified level, compliance with the TTO pretreatment standard will be assumed.

E. Applied Flow Data

Comment: One commenter requested an additional flow allowance for wet sluicing of dry baghouse scrubber dust. Another commenter noted that numerous miscellaneous process water sources present at plants in the metal molding and casting industry had not been identified by EPA in the proposal or subsequent notices.

Response: The Agency reviewed available data for process water sources not previously identified in the proposal or the March 1984 and February 1985 notices. The miscellaneous processes are not widely employed in the metal molding and casting industry. Therefore, insufficient information is available to characterize these miscellaneous wastestreams. Thus, in the final regulations, EPA is not establishing effluent limitations guidelines and standards for processes other than those discussed in the February 1985 notice. The need for flow allowances for these miscellaneous processes must be established and justified on a case-by-case basis during the permitting process. Permit writers will use their best professional judgment in establishing technology-based effluent limitations and standards for those miscellaneous streams, such as sluice water used to convey dry baghouse scrubber dust, which are not covered by this regulation.

F. Environmental Assessment/Small Plant Exclusion

Comment: In comments on the February 15, 1985 notice, the Small Business Administration (SBA) asserted that there were numerous errors in the environmental assessment made available in the record supporting the February 15, 1985 notice. Most of the SBS's detailed comments focused on the data used to represent current discharge levels. SBA stated that, after these errors were corrected, a revised environmental assesssment would confirm their assertion that regulation of small plants (less than 100 employees) would yield no environmental improvement. SBA and other commenters requested that EPA exempt, or adopt less stringent regulatory standards for, ferrous foundries employing less than 100 employees and that EPA exempt from national regulation all nonferrous foundries. The commenters asserted that EPA was authorized to implement these recommendations by the Settlement Agreement in *NRDC* v. *Costle*, and that the recommended approach is consistent with other Agency decisions to exclude from national regulations discharges of toxic pollutants in amounts below one kilogram per plant per day.

Response: In response to comments, the Agency reevaluated all of the data used in the environmental assessment, including data used to characterize raw wastewaters, current discharges, and discharges for each of the technology options. The Agency did not find data input or computer errors as asserted in comments. However, upon detailed review, the Agency did find that certain of the short-term EPA sampling data used to characterize raw wastewaters had not been used properly. The Agency found that raw waste mass loads for plants which were sampled were utilized incorrectly in calculating the raw waste loads for the various process segments. Even in cases where a plant which was sampled had an applied flow different from the applied flow determined by the Agency to be representative of the process segment, the plant's actual measured raw waste concentration was still used with the process segment applied flow rate to calculate the mass loading for the process segment. This resulted in the use of erroneous mass loading to characterize raw wastewaters for the process segment. The Agency recalculated all raw waste data based on the masses of pollutants found at sampled plants, rather than the concentrations, so that the raw wasteloads for each process segment would be characterized properly. The final regulations and EPA's assessment of current pollutant discharge levels are based on the corrected information.

The NRDC consent decree requires that the Agency promulgate nationally-applicable effluent limitations guidelines and standards for 21 major industries, including the metal molding and casting category. Under Paragraph 8 of the consent decree, the Agency may exempt certain pollutants or industrial subcategories from national regulations provided that EPA makes certain findings. In the past, EPA has not exempted portions of a subcategory from nationally-applicable BAT regulations under the conditions specified in Paragraph 8 of the consent decree. Decisions have been made on a subcategory-wide basis. In certain of these cases, the average raw waste discharges of toxic pollutants from all plants in the subcategory approached one kilogram (2.2 pounds) per plant per day. Over the next two years, EPA will be reviewing several of these decisions

to re-evaluate their appropriateness. Included will be reviews of the Paragraph 8 decisions for the caustic and/or water wash subcategories of the paint and ink categories and the industrial laundries subcategory of the auto and other laundries category.

In the case of the metal molding and casting industry, substantial quantities of toxic pollutants are expected to be discharged from plants in every regulated subcategory—raw waste discharge levels range from 6.5 to over 220 pounds per plant per day depending on the subcategory considered. Toxic pollutant discharges from small metal molding and casting plants (less than 50 employees) are also expected to be substantial—raw waste discharge levels range from 166 pounds per year per plant (aluminum casting subcategory) to over 27,000 pounds per year per plant (ferrous subcategory). For all the reasons discussed elsewhere in this preamble, we have decided to establish nationally-applicable effluent limitations guidelines and standards to regulate these discharges.

The commenter also appears to misunderstand the significance of a decision not to establish national regulations for a subcategory. Such a decision would not exempt direct dischargers in that subcategory from being required to obtain an NPDES permit in order to discharge wastewaters. The Clean Water Act requires that EPA issue NPDES permits to direct dischargers that contain, at a minimum, technology-based effluent limitations that reflect the best practicable control technology currently available, the best available technology economically achievable, and the best conventional pollutant control technology, regardless of the size of the discharging plant. If these technology-based levels of control have not been established by national regulations, they must be determined on a case-by-case basis. In the event that these requirements do not adequately protect receiving waters, the permit authority would issue more stringent limitations based on state water quality considerations.

The Agency has found that treatable levels of toxic pollutants (both metals and organics) and other pollutants (suspended solids, oil and grease, and total phenols) are present in wastewater discharges from all subcategories of the metal molding and casting industry. Thus, limitation based on the application of some level of treatment technology must be specified, whether case-by-case permits are issued or if nationally-applicable limitations and standards were applied uniformly throughout the country. Taking this into account and also noting that the industry is comprised of about 796 direct and indirect discharging plants, 247 of which are projected to be small plants (plants that employ less than 50 employees), the Agency has determined that it is the best use of EPA, State, and local resources to establish nationally-applicable standards for the metal molding and casting industry rather than to make separate, case-by-case determinations of appropriate limitations and standards. Thus, with the exception of the magnesium subcategory, where we have determined that nationally-applicable effluent limitations and standards are not economically achievable, EPA is establishing regulations applicable to all discharging metal modeling and casting plants, including small plants.

G. Economic Analysis

Comment: Commenters asserted that the economic impact of effluent limitations and standards being considered has been understated because (a) sales revenues were overestimated, especially for small plants, (b) financial ratios projected for 1986 overestimate the financial strength of the industry in light of the major downturn in the industry since 1978, (c) economic impact criteria now rely solely on plant closure as the basis for considering less costly regulatory options, (d) the influence of foreign competition on the demand for domestic castings was not considered, are (e) compliance costs have been underestimated, particularly for small plants.

The Small Business Administration recommended that EPA use the FINSTAT data base in place of the Dun and Bradstreet data base as the source of financial profiles for this industry. SBA also commented that its analysis of EPA's cost data showed a larger number of plant closures than that estimated by the Agency. SBA also commented that EPA had not conducted sufficient sensitivity analyses of the impacts on foundries.

EPA also received comments that, in view of the likelihood of severe economic impact on small plants, EPA must prepare a Regulatory Flexibility Analysis. The Small Business Administration stated that EPA should consider less stringent regulatory options for small plants or exemptions for small plants from all categorical regulations.

Response: In response to comments, the Agency has made the following changes in the methodology and data base used for the economic impact analysis.

With regard to plant sales estimates, including those of small plants, the Agency is basing sales on production data reported in the DCPs and then extrapolated to the industry according to metal type and foundry size. The production data were adjusted downward to account for the economic conditions experienced by the industry in more recent years. The magnitude of the production reductions ranged from 30 percent to 65 percent depending upon the particular metal type. The respective percentage declines were applied to all foundries in a subcategory regardless of size. Costs were adjusted downward using cost curves that account for the fixed nature of certain operating and maintenance costs; the cost adjustments are therefore proportionally less than the reductions in production and sales revenue. These adjustments make EPA's production estimates more consistent with values reported by other sources, notably Bureau of the Census.

The Agency is confident that these production and cost data are the best available since they represent data reported directly by the industry (including many small foundries). These data have been adjusted to account for more recent economic conditions, therefore more accurately reflecting the ability of the industry to comply with this regulation.

With regard to the financial ratio values used to estimate the industry's health (and in response to SBA's recommendation concerning financial data), the Agency is using the FINSTAT data base presented by SBA to project the financial strength of the industry. The FINSTAT data base includes financial records from the period 1975 to 1984. These data are now used in the economic impact analysis as the basis for financial profiles. In estimating the quartile ratios needed for the economic analysis, EPA rejected observations that either (1) did not satisfy SBA's consistency criteria or (2) failed the threshold tests used in the economic impact analysis. EPA believes that inclusion of firms whose ratios do not meet the threshold tests would be inconsistent with the use of the tests. The Agency is confident that this multi-year data base represents the best available information on foundry financial performance and that incorporation of the FINSTAT data in the economic impact analysis has provided more reliable results for this particular industry.

The financial test cut-off values used in the economic analysis are based on a

thorough review of financial literature verified by data for recent closures in the industry. Review of the FINSTAT and Dun & Bradstreet date bases show that many metal molding and casting plants with weaker values remain in business for extended periods. Therefore, use of more stringent values (as suggested by SBA) is inconsistent with available data.

With regard to the financial impacts used to consider alternative regulatory options, plant closure is the primary indicator that triggers consideration of less stringent options. However, the Agency considered several other financial impact measures in determining the appropriate options. The impacts of compliance costs as they relate to sales and production costs were two major impact measures considered by the Agency. The many other financial impact measures examined and considered by the Agency are reported in the economic impact analysis. EPA especially examined the closures and financial measures results for small foundries.

With regard to the effect of impacts of foreign castings on the competitive ability of domestic manufacturers, the Agency has included such considerations in the economic analysis. Although imports are increasing, the value of foreign castings is less than three percent of the total U.S. market. The major sources of competition for the foundries affected by this regulation are the domestic foundries which do not discharge wastewaters and thus incur no compliance costs as a result of the regulation.

With regard to comments made by the Small Business Administration, EPA has made the following changes in its analysis. First, the Agency has adopted SBA's FINSTAT data base as the basis for determining the financial status of the industry. Second, EPA has considered SBA's comments on the values used in the economic analysis for closure criteria. Based on all information and data available (including that provided by SBA), EPA has retained the cut-off values for the three financial tests used to determine closures. Third, EPA has increased compliance costs where appropriate. These revisions, which deal with operating labor requirements and other changes, leave EPA's analysis largely in agreement with SBA insofar as costs are concerned. Given the changes made with regard to its sales and cost estimates, an additional sensitivity analysis is not warranted.

The Agency has selected regulatory options that are appropriate in view of the statutory requirements and in view of the costs and effluent reductions achieved. In view of these costs and pollutants removals, EPA has selected the same option selected for BPT to be the basis for BAT effluent limitations for plants in the aluminum subcategory and the steel segment of the ferrous subcategory. In addition, the smallest plants in the ferrous subcategory that cast primarily malleable iron (less than 3,557 tons of metal poured per year) have BAT equal to BPT, and small gray iron plants (less than 1,784 tons of metal poured per year) have PSES equal to BPT (Option 2). Also, the Agency has exempted magnesium plants from these regulations because of the projected severe economic impacts projected for this subcategory. All of the exempt magnesium foundries are small plants.

In view of the few remaining closures projected from small foundries, the Agency has determined the preparation of a Regulatory Flexibility Analysis is not appropriate or necessary. The Agency has, however, included a small business analysis within the overall economic impact analysis.

H. Control Technologies

Comment: A few commenters asserted that the entire train of model control technologies being considered by the Agency has not been demonstrated at any plants within the industry, particularly as they would be applied at plants with multiple processes and central treatment facilities. Chemical oxidation by potassium permanganate, and carbonate and sulfide precipitation of metals also were cited specifically as technologies that commenters asserted have not been demonstrated in the industry. The transfers of these technologies were asserted to be unsupported, and their use was considered expensive, and technically problematic. Moreover, the commenters indicated that the Agency's treated effluent concentrations for total phenols (4AAP) published in the February 15, 1985 notice (50 FR 6580, Appendices D–F) were the result of dilution and incidental removal, not chemical oxidation.

Response: The model BPT control technology train generally consists of high rate recycle followed by blowdown treatment with lime and settle. High rate recycle is widely demonstrated by plants in this industry, and has been discussed at length in the March 20, 1984 notice, at 49 FR 6573–6574, summarized in a preceding section of this preamble, and discussed in detail in the technical Development Document. A significant number of these plants incorporate central treatment. The treatment effectiveness data base for lime and settle treatment is from metal molding and casting plants, almost all of which have high rate recycle and central treatment of combined process wastewaters. Therefore, the key control and treatment technologies (recycle, and lime and settle treatment) which serve as the basis for BPT effluent limitations have been widely demonstrated.

Chemical oxidation by potassium permanganate has received very limited application in this industry. The commenters are correct that the effluent limitations for total phenol are not based on treatment systems with potassium permanganate oxidation. The Agency attempted to obtain data on this technology but no usable data were available. The total phenol limitations are based on incidental removal through lime and settle treatment systems. It should be noted that information and data in the literature on a pilot chemical oxidation treatment system and a recent EPA pilot treatability study reveal that the potasium permanganate technology is available and applicable to metal molding and casting wastewaters, and the effluent limitations for total phenol (4AAP) are achievable readily. The cost of potassium permanganate oxidation has been included in the lime and settle treatment system for those ten process segments where treatable quantities of phenols are present. This technology is not any more difficult to implement than the other technologies incorporated in the basis for the regulations. Moreover, the cost of potassium permanganate is not excessive and effluent limitations based on the entire recycle, lime and settle model treatment system were found to be economically achievable.

Filtration technology is widely used in industrial wastewater treatment, and it has been applied in the metal molding and casting industry. Those few applications in the metal molding and casting industry for which a limited amount of filtration performance data are available have not been used in developing BAT limitations because they are for plants which either have other than lime and settle treatment preceding filtration (e.g., biological treatment, simple settle) or treat very low strength wastewaters. As described in a preceding section of this preamble, data from a pilot filtration study on metal molding and casting wastewaters was not used to establish limitations based on filtration because of significantly higher lime and settle effluent concentrations influent to that pilot filter. Therefore, as indicated in the February 15, 1985 notice at 50 FR 6578, the Agency is adopting treatment effectiveness data for filtration applied

in other industries (porcelain enameling and nonferrous smelting and refining), as described in the proposal.

Residual toxic metals removal by carbonate and sulfide precipitation technologies are applicable alternatives to metal molding and casting industry wastewaters. However, the data available are limited, with no application of sulfide precipitation in this industry. Therefore, the Agency is relying on filtration for removal of residual toxic metals.

The commenters are correct that there are no plants known to the Agency which have all of the model treatment system components in place in the sequence selected, and long-term data available to describe their performance. However, the data which are available indicate that plants in both the ferrous and nonferrous industry segments are achieving the BPT effluent treatment effectiveness concentrations based on lime and settle. Therefore, the Agency has concluded that all of the technologies are applicable and have been implemented on at least a limited basis in this industry, and that the effluent limitations and standards are achievable and available to the metal molding and casting industry.

I. Dry Scrubbers

Comment: In response to the Agency's request for information on the viability of substituting dry scrubbers for wet scrubbers, one commenter presented the results of a study which indicated that a totally dry metal molding and casting plant is not necessarily optimal and may not be feasible in all cases. The reason cited in support of this conclusion was that the choice between wet and dry scrubbing equipment was affected by site specific factors, such as moisture content of the air stream, dust loading and particle size distribution, and scrubber total life cycle and cost. Another commenter stated that the presence of combustible materials may prevent the use of dry scrubbers. Finally, it was asserted in comments that the Agency had not considered the cost of replacing a wet scrubber with a dry scrubber, and the potential for changes in air emissions that may effect compliance with air pollution permits.

Response: The Agency has concluded that while replacing wet scrubbers with dry scrubbers may be a feasible alternative to wastewater treatment in many cases, site specific factors cited by commenters will prevent some plants, including new sources, from converting to dry scrubbers. Therefore, conversion to dry scrubbers has not been included as the basis for effluent limitations and standards applicable to this industry.

J. Guidance to Permit Authorities

Comment: A few commenters stated that the Agency must provide guidance to permitting and pretreatment authorities to ensure proper use of the effluent limitations and standards for plants with single processes, and for integrated plants with more than one process where central treatment is employed. These commenters also asserted that without additional clarification and guidance, plants may be subjected to permit conditions which specify flow rates, recycle and blowdown rates, technologies, or other conditions. Such specific permit conditions would eliminate the flexibility plants should have in complying with these effluent limitations and standards.

Response: The Agency has included a detailed presentation in the technical Development Document which provides guidance to permitting and pretreatment authorities in the use of these regulations. This guidance clearly states that the Agency is not regulating flow rates, recycle rates, and blowdown rates, nor is it specifying control technologies. Example permit limitations are developed for hypothetical plants to illustrate the intended use of the regulations.

K. Inadequate Notice and Opportunity for Comment

Comment: Comments on the February 15, 1985 notice asserted that EPA has not identified specific technologies, costs, effluent reduction benefits and associated effluent limitations and standards based upon best practicable technology, best available technology, standards of performance for new sources, and pretreatment standards for new and existing sources. These commenters believe that in the absence of specific limitations and standards, and indications in the record of consideration of other statutory criteria, EPA has not given adequate notice and opportunity for comment. Also, it was asserted that the length of time allowed for comment was not adequate, and that the record was incomplete and contained discrepancies.

Response: The Agency has provided detailed notice and extensive opportunity for comment on how new information and data were likely to affect final regulations. After the regulations were proposed, the Agency worked cooperatively with industry trade associations and individual companies to identify in detail and obtain the information and data necessary to correct and update the data base used to establish the final regulations. More than 250 plants were contacted, including seven plant sampling visits and 38 plant engineering visits, to gather new information. The Agency published in the **Federal Register** for March 20, 1984, at 49 FR 10280, an extensive notice of availability which discussed in detail the supplementary information and date gathered after proposal, and the preliminary technical and economic analysis of that information. The notice covered important issues raised in prior comments and all aspects of the basis for final regulations including data gathering, subcategorization, data base verification, analysis of recycle, treatment effectiveness data base, method for calculation of mass-based effluent limitations, control technologies and costs, economic impact analysis, regulatory flexibility, and further solicitation of comments. The Agency also presented tabulations of important information and data, including a tabulation of mass-based effluent limitations for the primary technology option (recycle, lime and settle) under consideration (at 49 FR 10308–10310, Appendix F). The Agency provided a 45 day comment period, and sent a complete copy of the entire supplementary record to each of two trade associations (American Foundrymen's Society, American Die Casting Institute) to assist in thorough and timely review and presentation of comments.

The Agency published in the **Federal Register** for February 15, 1985, at 50 FR 6572, a second notice of availability which discussed in detail the results of further analyses of information received after the March 20, 1984 notice. The notice discussed important issues raised in comments on the March 20, 1984 notice, and all technical, economic, and environmental analyses that would bear upon development of final regulations. The Agency provided a complete copy of the entire supplementary record to each of the two trade associations. A 30-day comment period was provided originally, and extended to 51 days after difficulties were encountered in reproducting and shipping the two copies of the record.

The Agency chose not to select among options for these two notices in order to contribute to a more balanced presentation of comments on all issues and areas of analysis. Nonetheless, it is the Agency's judgment that these two notices presented very clear indications of the Agency's intentions in proceeding toward final regulations.

XV. Availability of Technical Information

The major documents on which this regulation is based are (1) *Development Document for Effluent Limitations Guidelines, New Source Performance Standards, and Pretreatment Standards for the Metal Molding and Casting Point Source Category* (USEPA, Washington, D.C., October 1985), (2) *Economic Impact Analysis of Effluent Limitations Guidelines and Standards for the Metal Molding and Casting Industry* (USEPA, Washington, D.C., October 1985), (3) *Response to Public Comments, Proposed Metal Molding and Casting Effluent Limitations Guidelines and Standards* (USEPA, Washington, D.C., October 1985), and (4) *Sampling and Analysis Procedures for Screening of Industrial Effluents for Priority Pollutants* (USEPA, Cincinnati, Ohio, April 1977).

On December 14, 1985, copies of the technical Development Document and the economic analysis will be available for public review in EPA's Public Information Reference Unit, Room 2404 (Rear) (EPA Library), 401 M Street, SW., Washington, DC on January 3, 1986, the complete Record, including the Agency's responses to comments on the proposed regulation, will be available for review at the Public Information Reference Unit. The EPA information regulation (40 CFR Part 2) allows the Agency to charge a reasonable fee for copying.

Copies of the technical Development Document and the economic analysis may also be obtained from the National Technical Information Service (NTIS), Springfield, Virginia 22161 (703/487-6000). A notice will be published in the **Federal Register** announcing the availability of these documents from NTIS). (This should occur within 60 days of publication of this regulation.)

XVI. Office of Management and Budget (OMB) Review

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291. Written comments made by OMB are in the record for this final rulemaking.

XVII. List of Subjects

Iron and steel foundries, Nonferrous foundries, Waste treatment and disposal, Water pollution control.

Dated: October 8, 1985.

Lee M. Thomas,

Administrator.

Appendix A—Abbreviations, Acronyms, and Other Terms Used in This Notice

Act—The Clean Water Act.

Agency—The U.S. Environmental Protection Agency.

BAT—The best available technology economically achievable under section 304(b)(2) of the Act.

BCT—The best conventional pollutant control technology, under section 304(b)(4) of the Act.

BMP—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).

Direct Discharger—A plant that discharges of may discharge pollutants into waters of the United States.

Indirect Discharger—A plant that introduces or may introduce 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) of the Act.

PSNS—Pretreatment standards for new sources of indirect discharges under section 307 (b) and (c) of the Act.

RCRA—Resource Conservation and Recovery Act (Pub. L. 94-589) of 1976, as amended.

Appendix B—Pollutant Parameters Regulated

Subcategory and process segment	Characteristic pollutants				Toxic pollutants			
	pH	TSS	O&G	Phenol [1]	TT [2]	Copper	Lead	Zinc
Aluminum:								
Casting cleaning	X	X	X			X	X	X
Casting quench	X	X	X		X	X	X	X
Die casting	X	X	X	X	X	X	X	X
Dust collection scrubber	X	X	X	X	X	X	X	X
Grinding scrubber	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]
Investment casting	X	X	X		X	X	X	X
Melting furnace scrubber	X	X	X	X	X	X	X	X
Mold cooling	X	X	X		X	X	X	X
Copper:								
Casting quench	X	X	X		X	X	X	X
Direct chill casting	X	X	X			X	X	X
Dust collection scrubber	X	X	X	X	X	X	X	X
Grinding scrubber	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]
Investment casting	X	X	X		X	X	X	X
Melting furnace scrubber	X	X	X	X	X	X	X	X
Mold cooling	X	X	X		X	X	X	X
Ferrous:								
Casting cleaning	X	X	X			X	X	X
Casting quench	X	X	X		X	X	X	X
Dust collection scrubber	X	X	X	X	X	X	X	X
Grinding scrubber	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]
Investment casting	X	X	X		X	X	X	X
Melting furnace scrubber	X	X	X	X	X	X	X	X
Mold cooling	X	X	X		X			
Slag quench	X	X	X		X	X	X	X
Wet sand reclamation	X	X	X	X	X	X	X	X
Zinc:								
Casting quench	X	X	X		X	X	X	X
Die casting	X	X	X	X	X	X	X	X
Melting furnace scrubber	X	X	X	X	X	X	X	X
Mold cooling	X	X	X		X	X	X	X

[1] Total Phenols—Phenol as measured by the 4 aminoantipyrene method—4AAP.
[2] TTO—Total Toxic Organics measured as the sum of all toxic organic compounds found in treatable concentrations. See the "General definitions" section of the attached regulation (§ 464.02) for the definition of TTO and the "Specialized definitions" sections of the attached regulation (§ 464.11, 464.21, 464.31, and 464.41) for lists of the specific toxic organics included in TTO for each subcategory segment. Limitations for TTO are established only for PSES and PSNS.
[3] No discharge of pollutants.

Appendix C—Toxic Pollutants Not Detected or Not Detected At or Above the Nominal Analytical Limits of Quantification in Any Subcategories of the Metal Molding and Casting Point Source Category

2. acrolein
3. acrylonitrile
8. 1,2,4-trichlorobenzene
9. hexachlorobenzene
12. hexachloroethane
16. chloroethane
17. bis(chloro methyl) ether (deleted)
19. 2-chloroethyl vinyl ether (mixed)
25. 1,2-dichlorobenzene
26. 1,3-dichlorobenzene
27. 1,4-dichlorobenzene
28. 3,3-dichlorobenzidine
29. 1,1-dichloroethylene
32. 1,2-dichloropropane
33. 1,2-dichloropropylene (1,2-dichloropropene)
37. 1,2-diphenylhydrazine
40. 4-chlorophenyl phenyl ether
41. 4-bromophenyl phenyl ether
42. bis(2-chloroisopropyl) ether
46. methyl bromide (bromomethane)
47. bromoform (tribromomethane)

49. trichlorofluoromethane (deleted)
50. dichlorodifluoromethane (deleted)
51. chlorodibromomethane
52. hexachlorobutadiene
53. hexachlorocyclopentadiene
61. N-nitrosodimethylamine
79. benzo(ghi) perylene (1,12-benzoperylene)
82. dibenzo(a,h)anthracene (1,2,5,6-dibenzanthracene)
83. indeno (1,2,3-cd)pyrene(2,3,o-phenylenepyrene)
88. vinyl chloride (chloroethylene)
89. aldrin
90. dieldrin
91. chlordane
92. 4,4'-DDT
93. 4,4'-DDE
94. 4,4'-DDD (p,p' TDE)
95. a-endosulfan (Alpha)
96. b-endosulfan (Beta)
97. endosulfan sulfate
98. endrin
100. heptachlor
101. heptachlor epoxide
102. alpha-BHC
103. beta-BHC
104. gamma-BHC
105. delta-BHC
113. toxaphene
116. asbestos
129. 2,3,7,8-tetrachlorodibenzo-p-dioxin (TCDD)

Appendix D—Aluminum Subcategory

Toxic Pollutants Not Detected or Not Detected At or Above the Nominal Analytical Limits of Quantification

14. 1,1,2-trichloroethane
20. 2-chloronaphthalene
30. 1,2-trans-dichloroethylene
35. 2,4-dinitrotoluene
36. 2,6-dinitrotoluene
43. bis(2-choroethoxy) methane
45. methyl chloride (chloromethane)
54. isophorone
56. nitrobenzene
69. di-n-octyl phthalate
74. 3,4-benzofluoranthene
75. benzo(k)fluoranthene (11,12-benzofluoranthene)
99. endrin aldehyde
114. antimony
117. beryllium
118. cadmium
125. selenium
126. silver
127. thallium

Toxic Pollutants Present in Amounts Too Small to be Reduced Effectively by Technologies Known to the Administrator

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)
115. arsenic
119. chromium
121. cyanide (total)
123. mercury
124. nickel

Toxics Pollutants Detected in the Effluent From Only a Small Number of Sources

5. benzidine
6. carbon tetrachloride
10. 1,2-dichloroethane
13. 1,1-dichloroethane
15. 1,1,2,2-tetrachloroethane
18. bis(2-chloroethyl) ether
24. 2-chlorophenol
31. 2,4-dichlorophenol
38. ethylbenzene
48. dichlorobromomethane
57. 2-nitrophenol
58. 4-nitrophenol
59. 2,4-dinitrophenol
60. 4,6-dinitro-o-cresol
62. N-nitrosodiphenylamine
63. N-nitrosodi-n-propylamine
64. pentachlorophenol
71. dimethyl phthalate
77. acenaphthylene

Appendix E—Copper Subcategory

Toxic Pollutants Not Detected or Not Detected At or Above the Nominal Analytical Limits of Quantification

4. benzene
5. benzidine
7. chlorobenzene
10. 1,2-dichloroethane
13. 1,1-dichloroethane
15. 1,1,2,2-tetrachloroethane
18. bis(2-chloroethyl) ether
20. 2-chloronaphthalene
24. 2-chlorophenol
30. 1,2-trans-dichloroethylene
31. 2,4-dichlorophenol
35. 2,4-dinitrotoluene
38. ethylbenzene
39. fluoranthene
43. bis(2-choroethoxy) methane
44. methylene chloride (dichloromethane)
48. dichlorobromomethane
54. isophorone
56. nitrobenzene
59. 2,4-dinitrophenol
60. 4,6-dinitor-or-cresol
62. N-nitrosodiphenylamine
63. N-nitrosodi-n-propylamine
80. fluorene
86. toluene
99. endrin aldehyde
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)
114. antimony
117 beryllium
125. selenium
127. thallium

Toxic Pollutants Present in Amounts Too Small to be Reduced Effectively by Technologies Known to the Administrator

115. arsenic
121. cyanide (total)
123. mercury
126. silver

Toxic Pollutants Detected in the Effluent From Only a Small Number of Sources

6. carbon tetrachloride
11. 1,1,1-trichloroethane
14. 1,1,2-trichloroethane
21. 2,4,6-trichlorophenol
36. 2,6-dinitrotoluene
45. methyl chloride
57. 2-nitrophenol
69. di-n-octyl phthalate
73. benzo(a)pyrene
85. tetrachloroethylene
87. trichloroethylene
118. cadmium
119. chromium
124. nickel

Appendix F—Ferrous Subcategory

Toxic Pollutants Not Detected or Not Detected At or Above the Nominal Analytical Limits of Quantification

5. benzidine
6. carbon tetrachloride
7. chlorobenzene
10. 1,2-dichloroethane
13. 1,1-dichloroethane
14. 1,1,2-trichloroethane
15. 1,1,2,2-tetrachloroethane
18. bis(2-chloroethyl) ether
21. 2,4,6-trichlorophenol
38. ethylbenzene
45. methyl chloride (chloromethane)
48. dichlorobromomethane
63. N-nitrosodi-n-propylamine
73. benzo(a)pyrene (3,4-benzopyrene)

Toxic Pollutants Present in Amounts Too Small To Be Reduced Effectively by Technologies Known to the Administrator

20. 2-chloronaphthalene
115. arsenic
117. beryllium
121. cyanide (total)
123. mercury
126. silver
127. thallium

Toxic Pollutants Detected in the Effluent From Only a Small Number of Sources

4. benzene

11. 1,1,1-trichloroethane
22. para-chloro-meta-cresol
24. 2-chlorophenol
30. 1,2-trans-dichloroethylene
35. 2,4-dinitrotoluene
36. 2,6-dinitrotoluene
43. bis(2-chloroethoxy) methane
54. isophorone
56. nitrosbenzene
57. 2-nitrophenol
58. 4-nitrophenol
59. 2,4-dinitrophenol
60. 4,6-dinitro-o-cresol
62. N-nitrosodiphenylamine
69. di-n-octyl phthalate
74. 3,4-benzofluoranthene
75. benzo(k)fluoranthene
85. tetrachloroethylene
86. toluene
87. trichloroethylene
99. endrin aldehyde
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)

Toxic Pollutants for Which Equal or More Stringent Protection Is Provided by Existing Effluent Limitations and Standards

114. antimony
118. cadmium
119. chromium
124. nickel
125. selenium

Appendix G—Zinc Subcategory

Toxic Pollutants Not Detected or Not Detected at or Above the Nominal Analytical Limit of Quantification

5. benzidine
7. chlorobenzene
10. 1,2-dichloroethane
13. 1,1-dichloroethane
14. 1,1,2-trichloroethane
15. 1,1,2,2-tetrachloroethane
18. bis(2-chloroethyl) ether
20. 2-chloronaphthalene
35. 2,4-dinitrotoluene
36. 2,6-dinitrotoluene
43. bis(2-chloroethoxy) methane
45. methyl chloride (chloromethane)
48. dichlorobromomethane
54. isophorone
56. nitrobenzene
57. 2-nitrophenol
60. 4,6-dinitro-o-cresol
62. N-nitrosodiphenylamine
63. N-nitrosodi-n-propylamine
64. pentachlorophenol
71. dimethyl phthalate
73. benzo(a)pyrene (3,4-benzopyrene)
74. 3,4-benzofluoranthene
75. benzo(k)flouranthene (11,12-benzofluoranthene)
77. acenapthylene
80. flourene
99. endrin aldehyde
114. antimony
115. arsenic
117. beryllium
118. cadmium
119. chromium
125. selenium
126. silver
127. thallium

Toxic Pollutants Present in Amounts Too Small To Be Reduced Effectively by Technologies Known to the Administrator

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)
121. cyanide (total)
123. mercury
124. nickel

Toxic Pollutants Detected in the Effluent From Only a Small Number of Sources

4. benzene
6. carbon tetrachloride
11. 1,1,1-trichloroethane
23. chloroform
30. 1,2-trans-dichloroethylene
38. ethylbenzene
58. 4-nitrophenol
59. 2,4-dinitrophenol
67. butyl benzyl phthalate
69. di-n-octyl phthalate
72. benzo(a)anthracene
76. chrysene
78. anthracene
81. phenanthrene
84. pyrene

Appendix H

Subcategories and Process Segments Not Regulated Because They Do Not Generate Process Wastewater

Nickel Casting
Tin Casting
Titanium Casting

Appendix I

Other Subcategories and Process Segments Not Regulated by the Metal Molding and Casting Regulations

Magnesium Casting—Compliance with regulations is not economically achievable for existing sources and would pose a barrier to entry for new sources

Lead Casting—Now covered under the battery manufacturing point source category

Appendix J—Metal Molding and Casting Flow Rates and Recycle Rates

Subcategory process segment	Applied flow rate [1]	Recycle rate	Blowdown flow rate [1]
Aluminum:			
Casting cleaning	480/240	95	24.0/12
Casting quench	145/72.5	98	2.90/1.45
Die casting	41.4/20.7	95	2.07/1.04
Dust collection scrubber	[2]1.78	98	[2]0.036
Grinding scrubber	[2]0.063	100	0
Investment casting	17,600/8,800	85	2,640/1,320
Melting furnace scrubber	[2]11.7	96	[2]0.468
Mold cooling	1,850/925	95	92.5/46.3
Copper:			
Casting quench	478/239	98	9.56/4.78
Direct chill casting	5,780/2,890	95	289/145
Dust collection scrubber	[2]4.29	98	[2]0.086
Grinding scrubber	[2]0.111	100	0
Investment casting	17,600/8,800	85	2,640/1,320
Melting furnace scrubber	[2]7.04	96	[2]0.282
Mold cooling	2,450/1,225	95	122/61.3
Ferrous:			
Casting cleaning	213/107	95	10.7/5.33 [3]
Casting quench	571/286	98	11.4/5.71
Dust collection scrubber	[2]3.0	97	0.090
Grinding scrubber	[2]3/17	100	0
Investment casting	17,600/8,800	85	2,640/1,320
Melting furnace scrubber	[2]10.5	96	[2]0.420
Mold cooling	707/354	95	35.4/17.7
Slag quench	727/364	94	43.6/21.8
Wet sand reclamation	[3]895/448	80	[3]179/89.5
Zinc:			
Casting quench	533/267	98	10.7/5.34
Die casting	41.4/20.7	95	2.07/1.04
Melting furnace scrubber	[2]6.07	96	[2]0.243
Mold cooling	1,890/945	95	94.5/47.3

[1] Applied and blowdown flow rates are in gallons per ton/gallons per 1,000 lbs of metal poured except as otherwise noted.
[2] Applied and blowdown flow rates in gallons per 1,000 SCF.
[3] Applied and blowdown flow rates are in gallons per ton/gallons per 1,000 lbs of sand reclaimed.

APPENDIX K.—METAL MOLDING AND CASTING TREATMENT EFFECTIVENESS CONCENTRATIONS LIME AND SETTLE

	Maximum day [1]	Maximum month [1]	Long-term average [1]
Ferrous subcategory:			
Copper	0.29	0.16	0.065
Lead	0.79	0.39	0.22
Zinc	1.47	0.56	0.40
Total phenols	0.86	0.30	0.20
Oil and grease	30	10	5
TSS	38	15	10
Nonferrous subcategories:			
Copper	0.77	0.42	0.17
Lead	0.79	0.39	0.22
Zinc	1.14	0.43	0.27
Total phenols	0.86	0.30	0.20
Oil and grease	30	10	5
TSS	38	15	10

[1] Concentration units are milligrams per liter (mg/l).

APPENDIX L.—METAL MOLDING AND CASTING TREATMENT EFFECTIVENESS CONCENTRATIONS LIME AND SETTLE, FILTRATION

	Maximum day [1]	Maximum month [1]	Long-term average [1]
Ferrous subcategory:			
Copper	0.29	0.16	0.065
Lead	0.53	0.26	0.15
Zinc	0.96	0.37	0.26
Total phenols	0.86	0.30	0.20
Oil and grease	30	10	5
TSS	15	12	2.6
Nonferrous subcategories:			
Copper	0.77	0.42	0.17
Lead	0.53	0.26	0.15
Zinc	0.76	0.29	0.18
Total phenols	0.86	0.30	0.20
Oil and grease	30	10	5
TSS	15	12	2.6

[1] Concentration units are milligrams per liter (mg/l).

APPENDIX M.—TOTAL TOXIC ORGANIC (TTO) CONCENTRATIONS FOR PSES AND PSNS MASS LIMITATIONS

Subcategory process segment	Maximum day [1]	Maximum month [1]	Long-term average [1]
Aluminum:			
Casting quench	2.42	0.788	0.394
Die casting	3.56	1.16	0.560
Dust collection scrubber	2.04	0.666	0.333
Investment casting	1.64	0.536	0.268
Melting furnace scrubber	2.04	0.666	0.333
Mold cooling	2.42	0.788	0.394
Copper:			
Casting quench	0.84	0.274	0.137
Dust collection scrubber	2.30	0.752	0.376
Investment casting	2.30	0.752	0.376
Melting furnace scrubber	2.30	0.752	0.376
Mold cooling	0.84	0.274	0.137
Ferrous:			
Casting quench	0.539	0.176	0.088
Dust collection scrubber	2.71	0.884	0.442
Investment casting	1.20	0.390	0.195
Melting furnace scrubber	2.38	0.778	0.389
Mold cooling	0.539	0.176	0.088
Slag quench	0.141	0.046	0.023
Wet sand reclamation	1.58	0.516	0.258
Zinc:			
Casting quench	2.08	0.68	0.340
Die casting	2.27	0.74	0.370
Melting furnace scrubber	1.95	0.636	0.318
Mold cooling	2.08	0.68	0.340

[1] Concentration units are milligrams per liter (mg/l).

Accordingly, Title 40, Chapter I, of the Code of Federal Regulations is amended by adding new Part 464 to read as set forth below:

PART 464—METAL MOLDING AND CASTING POINT SOURCE CATEGORY

General Provisions

Sec.

464.01 Applicability.
464.02 General definitions.
464.03 Monitoring and reporting requirements.
464.04 Compliance date for PSES.

Subpart A—Aluminum Casting Subcategory

464.10 Applicability; description of the aluminum casting subcategory.
464.11 Specialized definitions.
464.12 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
464.13 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
464.14 New source performance standards.
464.15 Pretreatment standards for existing sources.
464.16 Pretreatment standards for new sources.
464.17 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology [Reserved].

Subpart B—Copper Casting Subcategory

464.20 Applicability; description of the copper casting subcategory.
464.21 Specialized definitions.
464.22 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
464.23 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
464.24 New source performance standards.
464.25 Pretreatment standards for existing sources.
464.26 Pretreatment standards for new sources.
464.27 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology [Reserved].

Subpart C—Ferrous Casting Subcategory

464.30 Applicability; description of the ferrous casting subcategory.
464.31 Specialized definitions.
464.32 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
464.33 Effluent limitations guidelines representing the degree of effluent reduction attainable by the attainable by the application of the best available technology economically achievable.
464.34 New source performance standards.
464.35 Pretreatment standards for existing sources.
464.36 Pretreatment standards for new sources.
464.37 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology [Reserved].

Subpart D—Zinc Casting Subcategory

464.40 Applicability; description of the zinc casting subcategory.
464.41 Specialized definitions.
464.42 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
464.43 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
464.44 New source performance standards.
464.45 Pretreatment standards for existing sources.
464.46 Pretreatment standards for new sources.
464.47 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology [Reserved].

Authority: Secs. 301, 304 (b), (c), (e), and (g), 306 (b) and (c), 307, 308, and 501 of the Clean Water Act (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), 1318, and 1361; 86 Stat. 816, Pub. L. 92–500; 91 Stat. 1567, Pub. L. 95–217.

General Provisions

§ 464.01 Applicability.

(a) This part applies to metal molding and casting facilities that discharge or may discharge pollutants to waters of the United States or that introduce pollutants into a publicly owned treatment works.

§ 464.02 General definitions.

In addition to the definitions set forth in 40 CFR Part 401, the following definitions apply to this part:

(a) *Aluminum Casting.* The remelting of aluminum or an aluminum alloy to form a cast intermediate or final product by pouring or forcing the molten metal into a mold, except for ingots, pigs, or other cast shapes related to nonferrous (primary and secondary) metals manufacturing (40 CFR Part 421) and aluminum forming (40 CFR Part 467).

Processing operations following the cooling of castings not covered under aluminum forming, except for grinding scrubber operations which are covered here, are covered under the electroplating and metal finishing point source categories (40 CFR Parts 413 and 433).

(b) *Copper Casting.* The remelting of copper or a copper alloy to form a cast intermediate or final product by pouring or forcing the molten metal into a mold, except for ingots, pigs, or other cast shapes related to nonferrous (primary and secondary) metals manufacturing (40 CFR Part 421). Also excluded are casting of beryllium alloys in which beryllium is present at 0.1 or greater percent by weight and precious metals alloys in which the precious metal is present at 30 or greater percent by weight. Except for grinding scrubber operations which are covered here, processing operations following the cooling of castings are covered under the electroplating and metal finishing point source categories (40 CFR Parts 413 and 433).

(c) *Ferrous Casting.* The remelting of ferrous metals to form a cast intermediate or finished product by pouring the molten metal into a mold. Except for grinding scrubber operations which are covered here, processing operations following the cooling of castings are covered under the electroplating and metal finishing point source categories (40 CFR Parts 413 and 433).

(d) *Zinc Casting.* The remelting of zinc or zinc alloy to form a cast intermediate or final product by pouring or forcing the molten metal into a mold, except for ingots, pigs, or other cast shapes related to nonferrous (primary) metals manufacturing (40 CFR Part 421) and nonferrous metals forming (40 CFR Part 471). Processing operations following the cooling of castings not covered under nonferrous metals forming are covered under the electroplating and metal finishing point source categories (40 CFR Parts 413 and 433).

(e) *POTW* shall mean "publicly owned treatment works."

(f) A *non-continuous discharger* is a plant which does not discharge pollutants during specific periods of time for reasons other than treatment plant upset, such periods being at least 24 hours in duration. A typical example of a non-continuous discharger is a plant where wastewaters are routinely stored for periods in excess of 24 hours to be treated on a batch basis. For non-continuous discharging direct discharging plants, NPDES permit authorities shall apply the mass-based annual average effluent limitations or standards and the concentration-based maximum day and maximum for monthly average effluent limitations or standards established in the regulations. POTWs may elect to establish concentration-based standards for non-continuous discharges to POTWs. They may do so by establishing concentration-based pretreatment standards equivalent to the mass-based standards provided in §§ 464.15, 464.16, 464.25, 464.26, 464.35, 464.36, 464.45, and 464.46 of the regulations. Equivalent concentration standards may be established by following the procedures outlined in Section 464.03(b).

(g) *Total Phenols* shall mean total phenolic compounds as measured by the procedure listed in 40 CFR Part 136 (distillation followed by colorimetric—4AAP).

(h) *Sm* ^{3} shall mean standard cubic meters.

(i) *SCF* shall means standard cubic feet.

(j) *Total Toxic Organics* (TTO) shall mean the sum of the mass of each of the toxic organic compounds which are found at a concentration greater than 0.010 mg/l. The specialized definitions for each subpart contain a discrete list of toxic organic compounds comprising TTO for each process segment in which TTO is regulated.

§ 464.03 Monitoring and reporting requirements.

(a) As an alternative to monitoring for TTO (total toxic organics), an indirect discharging plant may elect to monitor for Oil and Grease instead. Compliance with the Oil and Grease standard shall be considered equivalent to complying with the TTO standard. Alternate Oil and Grease standards are provided as substitutes for the TTO standards provided in §§ 464.15, 464.16, 464.25, 464.26, 464.35, 464.36, 464.45, and 464.46.

(b) POTWs may establish concentration standards rather than mass standards, but must ensure that the concentration standards are exactly equivalent to the mass-based standards provided in §§ 464.15, 464.16, 464.25, 464.26, 464.35, 464.36, 464.45, and 464.46. Equivalent concentration standards may be determined by multiplying the mass-based standards included in the regulations by an appropriate measurement of average production, raw material usage, or air scrubber flow (kkg of metal poured, kkg of sand reclaimed, or standard cubic meters of air scrubbed) and dividing by an appropriate measure of average discharge flow to the POTW, taking into account the proper conversion factors to ensure that the units (mg/l) are correct.

(c) The "monthly average" regulatory values shall be the basis for the monthly average effluent limitations guidelines and standards in direct discharge permits and for pretreatment standards. Compliance with the monthly average effluent limitations guidelines and standards is required regardless of the number of samples analyzed and averaged.

§ 464.04 Compliance date for PSES.

The compliance date of PSES is October 31, 1988.

Subpart A—Aluminum Casting Subcategory

§ 464.10 Applicability; description of the aluminum casting subcategory.

The provisions of this subpart are applicable to discharges to waters of the United States and to the introduction of pollutants into publicly owned treatment works resulting from aluminum casting operations as defined in § 464.02(a).

§ 464.11 Specialized definitions.

For the purpose of this subpart:

(a) *Total Toxic Organics (TTO).* TTO is a regulated parameter under PSES (§ 464.15) and PSNS (§ 464.16) for the aluminum subcategory and is comprised of a discrete list of toxic organic pollutants for each process segment where it is regulated, as follows:

(1) Casting Quench (§ 464.15(b) and § 464.16(b)):

4. benzene
21. 2,4,6-trichlorophenol
22. Para-chloro meta-cresol
23. chloroform (trichloromethane)
34. 2,4-dimethylphenol
39. fluoranthene
44. methylene chloride (dichloromethane)
65. phenol
66. bis(2-ethylhexyl)phthalate
67. butyl benzyl phthalate
84. pyrene
85. tetrachloroethylene
87. trichloroethylene

(2) Die Casting (§ 464.15(c) and § 464.16(c)):

1. acenaphthene
4. benzene
7. chlorobenzene
11. 1,1,1-trichloroethane
21. 2,4,6-trichlorophenol
22. para-chloro meta-cresol
23. chloroform (trichloromethane)
34. 2,4-dimethylphenol
39. fluoranthene
44. methylene chloride (dichloromethane)
55. naphthalene
65. phenol
66. bis(2-ethylhexyl)phthalate

67. butyl benzyl phthalate
68. di-n-butyl phthalate
70. diethyl phthalate
72. benzo (a)anthracene (1,2-benzanthracene)
73. benzo (a)pyrene (3,4-benzopyrene)
76. chrysene
78. anthracene
80. fluorene
81. phenanthrene
84. pyrene
85. tetrachloroethylene
86. toluene

(3) Dust Collection Scrubber (§ 464.15(d) and § 464.16(d)):

1. acenaphthene
21. 2,4,6-trichlorophenol
23. chloroform (trichloromethane)
34. 2,4-dimethylphenol
39. fluoranthene
44. methylene chloride (dichloromethane)
65. phenol
66. bis (2-ethylhexyl) phthalate
68. di-n-butyl phthalate
70. diethyl phthalate
73. benzo (a)pyrene (3,4-benzopyrene)
84. pyrene

(4) Investment Casting (§ 464.15(f) and § 464.16(f)):

11. 1,1,1-trichloroethane
23. chloroform (trichloromethane)
44. methylene chloride (dichloromethane)
66. bis (2-ethylhexyl) phthalate
84. pyrene
85. tetrachloroethylene
87. trichloroethylene

(5) Melting Furnace Scrubber (§ 464.15(g) and § 464.16(g)):

1. acenaphthene
21. 2,4,6-trichlorophenol
23. chloroform (trichloromethane)
34. 2,4-dimethylphenol
39. fluoranthene
44. methylene chloride (dichloromethane)
65. phenol
66. bis (2-ethylhexyl) phthalate
68. di-n-butyl phthalate
70. diethyl phthalate
73. benzo (a)pyrene (3,4-benzopyrene)
84. pyrene

(6) Mold Cooling (§ 464.15(h) and § 464.16(h)):

4. benzene
21. 2,4,6-trichlorophenol
22. para-chloro meta-cresol
23. chloroform (trichloromethane)
34. 2,4-dimethylphenol
39. fluoranthene
44. methylene chloride
65. phenol
66. bis(2-ethylhexyl) phthalate
67. butyl benzyl phthalate
84. pyrene
85. tetrachloroethylene
87. trichloroethylene

§ 464.12 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Except as provided in 40 CFR 125.30–125.32, 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, except that non-continuous dischargers shall not be subject to the maximum day and maximum for monthly average mass (kg/1,000 kkg or lb/million lb of metal poured; kg/62.3 million Sm^3 or lb/billion SCF of air scrubbed) effluent limitations for copper, lead, zinc, total phenols, oil and grease, and TSS. For non-continuous dischargers, annual average mass limitations and maximum day and maximum for monthly average concentration (mg/l) limitations shall apply. Concentration limitation and annual average mass limitation shall only apply to non-continuous dischargers.

(a) *Casting Cleaning Operations.*

BPT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/1,000 kkg (pounds per million pounds) of metal poured	
Copper (T)	0.0771	0.0421
Lead (T)	0.0791	0.039
Zinc (T)	0.114	0.0431
Oil & grease	3.0	1.0
TSS	3.80	1.50
pH	(1)	(1)

[1] Within the range of 7.0 to 10.00 at all times.

	Maximum for any 1 day	Maximum for monthly average	Annual average[1]
	(mg/l)[2]	(mg/l)[2]	
Copper (T)	0.77	0.042	0.017
Lead (T)	0.79	0.39	0.022
Zinc (T)	1.14	0.43	0.027
Oil & grease	30	10	0.501
TSS	38	15	1.0
pH	(3)	(3)	(3)

[1] kg/1,000 kkg (pounds per million pounds) of metal poured.
[2] These concentrations must be multiplied by the ratio of (12/x) where x is the actual normalized process wastewater flow (in gallons per 1,000 pounds of metal poured) for a specific plant.
[3] Within the range of 7.0 to 10.0 at all times.

(b) *Casting Quench Operations.*

BPT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/1,000 kkg (pounds per million pounds) of metal poured	
Copper (T)	0.0093	0.0051
Lead (T)	0.0096	0.0047
Zinc (T)	0.0138	0.0052
Oil & grease	0.363	0.121
TSS	0.46	0.162
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

	Maximum for any 1 day	Maximum for monthly average	Annual average[1]
	(mg/l)[2]	(mg/l)[2]	
Copper (T)	0.77	0.42	0.0021
Lead (T)	0.79	0.39	0.0027
Zinc (T)	1.14	0.43	0.0033
Oil & grease	30	10	0
TSS	38	15	0.121
pH	(3)	(3)	(3)

[1] kg/1,000 kkg (pounds per million pounds) of metal poured.
[2] These concentrations must be multiplied by the ratio of (1.45/x) where x is the actual normalized process wastewater flow (in gallons per 1,000 pounds of metal poured) for a specific plant.
[3] Within the range of 7.0 to 10.0 at all times.

(c) *Die Casting Operations.*

BPT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/1,000 kkg (pounds per million pounds) of metal poured	
Copper (T)	0.0066	0.0036
Lead (T)	0.0068	0.0034
Zinc (T)	0.0098	0.0037
Total Phenols	0.0074	0.0026
Oil & Grease	0.259	0.0864
TSS	0.33	0.13
pH	(1)	(1)

[1] With the range of 7.0 to 10.0 at all times.

	Maximum for any 1 day	Maximum for monthly average	Annual average[1]
	(mg/l) [2]	(mg/l) [2]	
Copper (T)	0.77	0.42	0.0015
Lead (T)	0.79	0.39	0.0019
Zinc (T)	1.14	0.43	0.0023
Total Phenols	0.66	0.3	0.0017
Oil & Grease	30	10	0.0432
TSS	38	15	0.0864
pH	[3]	[3]	[3]

[1] kg/1,000 kkg (pounds per million pounds) of metal poured.
[2] These concentrations must be multiplied by the ratio of (1.04/x) where x is the actual normalized process wastewater flow (in gallons per 1,000 pounds of metal poured) for a specific plant.
[3] Within the range of 7.0 to 10.0 at all times.

(d) *Dust Collection Scrubber Operations.*

BPT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/62.3 million Sm^3 (pounds per billion SCF) of air scrubbed	
Copper (T)	0.231	0.126
Lead (T)	0.237	0.117
Zinc (T)	0.343	0.129
Total Phenols	0.258	0.08
Oil & Grease	9.01	3.0
TSS	11.4	4.51
pH	[1]	[1]

[1] Within the range of 7.0 to 10.0 at all times.

	Maximum for any 1 day	Maximum for monthly average	Annual average [1]
	(mg/l) [2]	mg/l) [4]	
Copper (T)	0.77	0.42	0.0511
Lead (T)	0.79	0.39	0.0661
Zinc (T)	1.14	0.43	0.0811
Total Phenols	0.86	0.3	0.0601
Oil & Grease	30	10	1.5
TSS	38	15	3.0
pH	[3]	[3]	[3]

[1] kg/62.3 million SM^3 (pounds per billion SCF) of air scrubbed.
[2] These concentrations must be multiplied by the ratio of (0.036/x) where x is the actual normalized process wastewater flow (in gallons per 1,000 SCF of air scrubbed) for a specific plant.
[3] Within the range of 7.0 to 10.0 at all times.

(e) *Grinding Scrubber Operations.* No discharge of process wastewater pollutants to navigable waters.

(f) *Investment Casting.*

BPT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/1,000 kkg (pounds per million pounds) of metal poured	
Copper (T)	8.48	4.63
Lead (T)	8.7	4.3
Zinc (T)	12.6	4.74
Oil and grease	330	110
TSS	419	165
pH	[1]	[1]

[1] Within the range of 7.0 to 10.0 at all times.

	Maximum for any 1 day	Maximum for monthly average	Annual average [1]
	(mg/l) [2]	(mg/l) [2]	
Copper (T)	0.77	0.42	1.67
Lead (T)	0.79	0.39	2.42
Zinc (T)	1.14	0.43	2.97
Oil and grease	30	10	55.1
TSS	38	15	110
pH	[3]	[3]	[3]

[1] kg/1,000 kkg (pounds per million pounds) of metal poured.
[2] These concentrations must be multiplied by the ratio of (1,320/x) where x is the actual normalized process wastewater flow (in gallons per 1,000 pounds of metal poured) for a specific plant.
[3] Within the range of 7.0 to 10.0 at all times.

(g) *Melting Furnace Scrubber Operations.*

BPT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/62.3 million Sm^3 (pounds per billion SCF) of air scrubbed	
Copper (T)	3.01	1.64
Lead (T)	3.09	1.52
Zinc (T)	4.45	1.68
Total phenols	3.36	1.17
Oil and grease	117	39.1
TSS	148	58.6
pH	[1]	[1]

[1] Within the range of 7.0 to 10.0 at all times.

	Maximum for any 1 day	Maximum for monthly average	Annual average [1]
	(mg/l) [2]	(mg/l) [2]	
Copper (T)	0.47	0.42	0.664
Lead (T)	0.79	0.39	0.859
Zinc (T)	1.14	0.43	1.05
Total phenols	0.86	0.3	0.781
Oil and grease	30	10	19.5
TSS	38	15	39.1
pH	[3]	[3]	[3]

[1] kg/62.3 million Sm^3 (pounds per billion SCF) of air scrubbed.
[2] These concentrations must be multiplied by the ratio of (0.468/x) where x is the acutal normalized process wastewater flow (in gallons per 1,000 SCF of air scrubbed) for a specific plant.
[3] Within the range of 7.0 to 10.0 at all times.

(h) *Mold Cooling Operations.*

BPT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/1,000 kkg (pounds per million pounds) of metal poured	
Copper (T)	0.297	0.162
Lead (T)	0.305	0.151
Zinc (T)	0.44	0.166
Oil and grease	11.6	3.86
TSS	14.7	5.79
pH	[1]	[1]

[1] Within the range of 7.0 to 10.0 at all times.

	Maximum for any 1 day	Maximum for monthly average	Annual average [1]
	(mg/l) [1]	(mg/) [1]	
Copper (T)	0.77	0.42	0.0656
Lead (T)	0.79	0.39	0.0849
Zinc (T)	1.14	0.43	0.104
Oil and grease	30	10	1.93
TSS	38	15	3.96
pH	[3]	[3]	[3]

[1] kg/1,000 kkg (pounds per million pounds) of metal.
[2] These concentrations must be multiplied by the ratio of (46.3/x) where x is the actual normalized process wastewater flow (in gallons per 1,000 pounds of metal poured) for a specific plant.
[3] Within the range of 7.0 to 10.0 at all times.

§ 464.13 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

Except as provided in 40 CFR 125.30–125.32, 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, except that non-continuous dischargers shall not be subject to the maximum day and maximum for monthly average mass (kg/1,000 kkg or lb/million lb of metal poured; kg/62.3 million Sm^3 or lb/billion SOF of air scrubbed) effluent limitations for copper, lead, zinc, and total phenols. For non-continuous dischargers, annual average mass limitations and maximum day and maximum for monthly average concentration (mg/l) limitations shall apply. Concentration limitations and annual average mass limitations shall only apply to non-continuous dischargers.

(a) *Casting Cleaning Operations.*

BPT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/1,000 kkg (pounds per million pounds) of metal poured	
Copper (T)	0.771	0.0421
Lead (T)	0.0791	0.039
Zinc (T)	0.114	0.0431

	Maximum for any 1 day	Maximum for monthly average	Annual average [1]
	(mg/l) [2]	(mg/l) [2]	
Copper (T)	0.77	0.42	0.017
Lead (T)	0.79	0.39	0.022
Zinc (T)	1.14	0.43	0.027

[1] kg/1,000 kkg (pounds per million pounds) of metal poured.
[2] These concentrations must be multiplied by the ratio of (12/x) where x is the actual normalized process wastewater flow (in gallons per 1,000 pounds of metal poured) for a specific plant.

(b) *Casting Quench Operations.*

BAT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/1,000 kkg (pounds per million pounds) of metal poured	
Copper (T)	0.0093	0.0051
Lead (T)	0.0095	0.0047
Zinc (T)	0.0138	0.0052

	Maximum for any 1 day	Maximum for monthly average	Annual average [1]
	(mg/l) [2]	(mg/l) [2]	
Copper (T)	0.77	0.42	0.0021
Lead (T)	0.79	0.39	0.0027
Zinc (T)	1.14	0.43	0.0033

[1] kg/1,000 kkg (pounds per million pounds) of metal poured.
[2] These concentrations must be multiplied by the ratio of (1.45/x) where x is the actual normalized process wastewater flow (in gallons per 1,000 pounds of metal poured) for a specific plant.

(c) *Die Casting Operations.*

BAT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/1,000 kkg (pounds per million pounds) of metal poured	
Copper (T)	0.0066	0.0036
Lead (T)	0.0068	0.0034
Zinc (T)	0.0098	0.0037
Total Phenols	0.0074	0.0026

	Maximum for any 1 day	Maximum for monthly average	Annual average [1]
	(mg/l) [2]	(mg/l) [2]	
Copper (T)	0.77	0.42	0.0015
Lead (T)	0.79	0.39	0.0019
Zinc (T)	1.14	0.43	0.0023
Total Phenols	0.86	0.3	0.0017

[1] kg/1,000 kkg (pounds per million pounds) of metal poured.
[2] These concentrations must be multiplied by the ratio of (1.04/x) where x is the actual normalized process wastewater flow (in gallons per 1,000 pounds of metal poured) for a specific plant.

(d) *Dust Collection Scrubber Operations.*

BAT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/62.3 million Sm^3 (pounds per billion SCF) of air scrubbed	
Copper (T)	0.231	0.126
Lead (T)	0.237	0.117
Zinc (T)	0.343	0.129
Total Phenols	0.258	0.09

	Maximum for any 1 day	Maximum for monthly average	Annual average [1]
	(mg/l) [2]	(mg/l) [2]	
Copper (T)	0.77	0.42	0.0511
Lead (T)	0.79	0.39	0.0661
Zinc (T)	1.14	0.43	0.0811
Total Phenols	0.86	0.3	0.0601

[1] kg/62.3 million Sm^3 (lb per billion SCF) of air scrubbed.
[2] These concentrations must be multiplied by the ratio of (0.038/x) where x is the actual normalized process wastewater flow (in gallons per 1,000 SCF of air scrubbed) for a specific plant.

(e) *Grinding Scrubber Operations.* No discharge of process wastewater pollutants to navigable waters.

(f) *Investment Casting.*

BAT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/1,000 kkg (pounds per million pounds) of metal poured	
Copper (T)	8.48	4.63
Lead (T)	8.7	4.3
Zinc (T)	12.6	4.74

	Maximum for any 1 day	Maximum for monthly average	Annual average [1]
	(mg/l) [2]	(mg/l) [2]	
Copper (T)	0.77	0.42	0.87
Lead (T)	0.79	0.39	2.42
Zinc (T)	1.14	0.43	2.97

[1] kg/1,000 kkg pounds per million pounds of metal poured.
[2] These concentrations must be multiplied by the ratio of (1,320/x) where x is the actual normalized process wastewater flow (in gallons per 1,000 pounds of metal poured) for a specific plant.

(g) *Melting Furnace Scrubber Operations.*

BAT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/62.3 million Sm^3 (pounds per billion SCF) of air scrubbed	
Copper (T)	3.01	1.64
Lead (T)	3.09	1.52
Zinc (T)	4.45	1.68
Total phenols	3.36	1.17

	Maximum for any 1 day	Maximum for monthly average	Annual average [1]
	(mg/l) [2]	(mg/l) [2]	
Copper (T)	0.77	0.42	0.664
Lead (T)	0.79	0.39	0.859
Zinc (T)	1.14	0.43	1.05
Total phenols	0.86	0.3	0.781

[1] kg/62.3 million Sm^3 (pounds per billion SCF) of air scrubbed.
[2] These concentrations must be multiplied by the ratio of (0.468/x) where x is the actual normalized process wastewater flow (in gallons per 1,000 SCF of air scrubbed) for a specific plant.

(h) *Mold Cooling Operations.*

BAT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/1,000 kkg (pounds per million pounds) of metal poured	
Copper (T)	0.297	0.162
Lead (T)	0.305	0.151
Zinc (T)	0.44	0.166

	Maximum for any 1 day	Maximum for monthly average	Annual average [1]
	(mg/l) [2]	(mg/l) [2]	
Copper (T)	0.77	0.42	0.0656
Lead (T)	0.79	0.39	0.0849
Zinc (T)	1.14	0.43	0.104

[1] kg/1,000 kkg (pounds per million pounds) of metal poured.
[2] These concentrations must be multiplied by the ratio of (46.3/x) where x is the actual normalized process wastewater flow (in gallons per 1,000 pounds of metal poured) for a specific plant.

§ 464.14 New source performance standards.

Any new source subject to this subpart must achieve the following new source performance standards (NSPS), except that non-continuous dischargers shall not be subject to the maximum day and maximum for monthly average mass (kg/1,000 kkg or lb/million lb of metal poured; kg/62.3 million Sm^3 or lb/billion SCF of air scrubbed) effluent standards for copper, lead, zinc, total phenols, oil and grease, and TSS. For non-continuous dischargers, annual average mass standards and maximum day and maximum for monthly average concentration (mg/l) standards shall apply. Concentration standards and annual average mass standards shall only apply to non-continuous dischargers.

(a) *Casting Cleaning Operations.*

NSPS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/1,000 kkg (pounds per million pounds) of metal poured	
Copper (T)	0.0771	0.0421
Lead (T)	0.0791	0.039
Zinc (T)	0.114	0.0431
Oil and grease	3.0	1.0
TSS	3.8	1.5
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

	Maximum for any 1 day	Maximum for monthly average	Annual average [1]
	(mg/l) [2]	(mg/l) [2]	
Copper (T)	0.77	0.42	0.017
Lead (T)	0.79	0.39	0.022
Zinc (T)	1.14	0.43	0.027
Oil and grease	30	10	0.501
TSS	38	15	1.0
pH	(3)	(3)	(3)

[1] kg/1,000 kkg (pounds per million pounds) of metal poured.
[2] These concentrations must be multiplied by the ratio of (12/x) where x is the actual normalized process wastewater flow (in gallons per 1,000 pounds of metal poured) for a specific plant.
[3] Within the range of 7.0 to 10.0 at all times.

(b) *Casting Quench Operations.*

NSPS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/1,000 kkg (pounds per million pounds) of metal poured	
Copper (T)	0.0093	0.0051
Lead (T)	0.0096	0.0047
Zinc (T)	0.0138	0.0052
Oil and grease	0.363	0.121
TSS	0.46	0.182
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

	Maximum for any 1 day	Maximum for monthly average	Annual average [1]
	(mg/l) [2]	(mg/l) [2]	
Copper (T)	0.77	0.42	0.0021
Lead (T)	0.79	0.39	0.0027
Zinc (T)	1.14	0.43	0.0033
Oil and grease	30	10	0.0605
TSS	38	15	0.121

	Maximum for any 1 day	Maximum for monthly average	Annual average [1]
	(mg/l) [2]	(mg/l) [2]	
pH	([3])	([3])	([3])

[1] kg/1,000 kkg (pounds per million pounds) of metal poured.
[2] These concentrations must be multiplied by the ratio of (1.45/x) where x is the actual normalized process wastewater flow (in gallons per 1,000 pounds of metal poured) for a specific plant.
[3] Within the range of 7.0 to 10.0 at all times.

(c) *Die Casting Operations.*

NSPS

Pollutant or pollutant property	Maximum for one 1 day	Maximum for monthly average
	kg/1,000 kkg (pounds per million pounds of metal poured	
Copper (T)	0.0066	0.0036
Lead (T)	0.0068	0.0034
Zinc (T)	0.0098	0.0037
Total Phenols	0.0074	0.0026
Oil and grease	0.259	0.0864
TSS and	0.33	0.13
pH	([1])	([1])

[1] Within the range of 7.0 to 10.0 at all times.

	Maximum for any 1 day	Maximum for monthly average	Annual average [1]
	(mg/l) [2]	(mg/l) [2]	
Copper (T)	0.77	0.42	0.0015
Lead (T)	0.79	0.39	0.0019
Zinc (T)	1.14	0.43	0.0023
Total phenols	0.86	0.3	0.0017
Oil and grease	30	10	0.0432
TSS and	38	15	0.0864
pH	([3])	([3])	([3])

[1] kg/1,000 kkg (pounds per million pounds) of metal poured.
[2] These concentrations must be multiplied by the ratio of (1.04/x) where x is the actual normalized process wastewater flow (in gallons per 1,000 pounds of metal poured)
[3] Within the range of 7.0 to 10.0 at all times.

(d) *Dust Collection Scrubber Operations.*

NSPS

Pollutant of pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/62.3 million Sm [3] (pounds per billion SCF) of air scrubbed	
Cooper (T)	0.231	0.126
Lead (T)	0.237	0.117
Zinc (T)	0.343	0.129
Total phenols	0.258	0.09
Oil and grease	9.01	3.0
TSS	11.4	4.51
pH	([1])	([1])

[1] Within the range of 7.0 to 10.0 at all times.

	Maximum for any 1 day	maximum for monthly average	Annual average [1]
	(mg/l) [2]	(mg/l) [2]	
Cooper (T)	0.77	0.42	0.0511
Lead (T)	0.79	0.39	0.0661
Zinc (T)	1.14	0.43	0.0811
Total phenols	0.86	0.3	0.0601
Oil and grease	30	10	1.5
TSS	38	15	3.0

	Maximum for any 1 day	maximum for monthly average	Annual average [1]
	(mg/l) [2]	(mg/l) [2]	
pH	([3])	([3])	([3])

[1] kg/62.3 million Sm [3] (pounds per billion SCF) of air scrubbed.
[2] These concentrations must be multiplied by the ratio of (0.035/x) where x is the actual normalized process wastewater flow (in gallons per 1,000 SCF of air scrubbed) for a specific plant.
[3] Within the range of 7.0 to 10.0 at all times.

(e) *Grinding Scrubber Operations.* No discharge of process wastewater pollutants to navigable waters.

(f) *Investment Casting*

NSPS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/1,000 kkg (pounds per million pounds) of metal poured	
Copper (T)	6.48	4.63
Lead (T)	6.7	4.3
Zinc (T)	12.6	4.74
Oil and grease	300	110
TSS	419	165
pH	([1])	([1])

[1] Within the range of 7.0 to 10.0 at all times.

	Maximum for any 1 day	Maximum for monthly average	Annual average [1]
	(mg/l) [2]	(mg/l) [2]	
Copper (T)	0.77	0.42	1.87
Lead (T)	0.79	0.39	2.42
Zinc (T)	1.14	0.43	2.97
Oil and grease	30	10	55.1
TSS	38	15	110
pH	([3])	([3])	([3])

[1] kg/1,000 kkg (pounds per million pounds) of metal poured
[2] These concentrations must be multiplied by the ratio of (1.320/x) where x is the actual normalized process wastewater flow (in gallons per 1,000 pounds of metal poured) for a specific plant.
[3] Within the range of 7.0 to 10.0 at all times.

(g) *Melting Furnace Scrubber Operations*

NSPS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/62.3 million Sm [3] (pounds per billion SCF) of air scrubbed	
Copper (T)	3.01	1.64
Lead (T)	3.09	1.52
Zinc (T)	4.45	1.68
Total phenols	3.38	1.17
Oil and grease	117	39.1
TSS	148	58.6
pH	([1])	([1])

[1] Within the range of 7.0 to 10.0 at all times.

	Maximum for any 1 day	Maximum for monthly average	Annual average [1]
	(mg/l) [2]	(mg/l) [2]	
Copper (T)	0.77	0.42	0.664
Lead (T)	0.79	0.39	0.859
Zinc (T)	1.14	0.43	1.05
Total phenols	0.86	0.3	0.781

	Maximum for any 1 day	Maximum for monthly average	Annual average [1]
	(mg/l) [2]	(mg/l) [2]	
Oil and grease	30	10	19.5
TSS	38	15	39.1
pH	([3])	([3])	([3])

[1] (kg/62.3 million Sm [3] (pounds per billion SCF) of air scrubbed.
[2] These concentrations must be multiplied by the ratio of (0.468/x) where x is the actual normalized process water-water flow (in gallowns per 1,000 SCF of air scrubbed) for a specific plant.
[3] Within the range of 7.0 to 10.0 at all times.

(h) *Mold Cooling Operations*

NSPS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/1,000 kkg (pounds per million pounds) of metal poured	
Copper (T)	0.297	0.162
Lead (T)	0.305	0.151
Zinc (T)	0.44	0.166
Oil and grease	11.6	3.86
TSS	14.7	5.79
pH	([1])	([1])

[1] Within the range of 7.0 to 10.0 at all times.

	Maximum for any 1 day	Maximum for monthly average	Annual average [1]
	(mg/l) [2]	(mg/l) [2]	
Copper (T)	0.77	0.42	0.0656
Lead (T)	0.79	0.39	0.0849
Zinc (T)	1.14	0.43	0.104
Oil and grease	30	10	1.93
TSS	38	15	3.86
pH	([3])	([3])	([3])

[1] kg/1,000 kkg (pounds per million pounds) of metal poured.
[2] These concentrations must be multiplied by the ratio of (46.3/x) where x is the actual normalized process wastewater flow (in gallons per 1,000 pounds of metal poured) for a specific plant.
[3] Within the range of 7.0 to 10.0 at all times.

§ 464.15 Pretreatment standards for existing sources.

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 following pretreatment standards for existing sources.

(a) *Casting Cleaning Operations.*

PSES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/1,000 kkg (pounds per million pounds) of metal poured	
Copper (T)	0.0771	0.0421
Lead (T)	0.0791	0.039
Zinc (T)	0.114	0.0431

(b) *Casting Quench Operation.*

PSES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/1,000 kkg (pounds per million pounds) of metal poured	
Copper (T)	0.0093	0.0051
Lead (T)	0.0096	0.0047
Zinc (T)	0.0138	0.0052
TTO	0.029	0.0095
Oil and grease (for alternate monitoring)	0.363	0.121

(c) *Die Casting Operations.*

PSES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/1,000 kkg (pounds per million pounds) of metal poured	
Copper (T)	0.0066	0.0036
Lead (T)	0.0068	0.0034
Zinc (T)	0.0098	0.0037
Total phenols	0.0074	0.0026
TTO	0.0308	0.01
Oil and grease (for alternate monitoring	0.259	0.0864

(d) *Dust Collection Scrubber Operations.*

PSES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/62.3 million Sm^3 (pounds per billion SCF) or air scrubbed	
Copper (T)	0.231	0.126
Lead (T)	0.237	0.0117
Zinc (T)	0.343	0.129
Total phenols	0.256	0.09
TTO	0.613	0.2
Oil and grease (for alternate monitoring	9.01	3.00

(e) *Grinding Scrubber Operations.* No discharge of process wastewater pollutants to a POTW.

(f) *Investment Casting*

PSES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/1,000 kkg (pounds per million pounds) of metal poured	
Copper (T)	8.48	4.63
Lead (T)	8.7	4.3
Zinc (T)	12.6	4.74
TTO	16.1	5.91
Oil and grease (for alternate monitoring	330	110

(g) *Melting Furnace Scrubber Operations.*

PSES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/62.3 million Sm^3 (pounds per billion SCF) of air scrubbed	
Copper (T)	3.01	1.64
Lead (T)	3.09	1.52
Zinc (T)	4.45	1.68
Total phenols	3.36	1.17
TTO	7.97	2.6
Oil and grease (for alternate monitoring)	117	39.1

(h) *Mold Cooling Operations.*

PSES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/1,000 kkg (pounds per million pounds) of metal poured	
Copper (T)	0.297	0.162
Lead (T)	0.305	0.151
Zinc (T)	0.44	0.166
TTO	0.935	0.304
Oil and grease (for alternate monitoring)	11.6	3.66

§ 464.16 Pretreatment standards for new sources.

Except as provided in 40 CFR 403.7, any new source subject to this subpart which introduces pollutants into publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources.

(a) *Casting Cleaning Operations.*

PSNS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/1,000 kkg (pounds per million pounds) of metal poured	
Copper (T)	0.0771	0.0421
Lead (T)	0.0791	0.039
Zinc (T)	0.114	0.0431

(b) *Casting Quench Operations.*

PSNS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/1,000 kkg (pounds per million pounds) of metal poured	
Copper (T)	0.0093	0.0051
Lead (T)	0.0096	0.0047
Zinc (T)	0.0138	0.0052
TTO	0.029	0.0095
Oil and grease (for alternate monitoring)	0.363	0.121

(c) *Die Casting Operations.*

PSNS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/1,000 kkg (pounds per million pounds) of metal poured	
Copper (T)	0.0066	0.0036
Lead (T)	0.0068	0.0034
Zinc (T)	0.0098	0.0037
Total Phenols	0.0074	0.0026
TTO	0.0308	0.01
Oil and grease (for alternate monitoring)	0.259	0.0864

(d) *Dust Collection Scrubber Operations.*

PSNS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/62.3 million Sm^3 (pounds per billion SCF) of air scrubbed	
Copper (T)	0.231	0.126
Lead (T)	0.237	0.117
Zinc (T)	0.343	0.129
Total Phenols	0.256	0.09
TTO	0.613	0.2
Oil and grease (for alternate monitoring)	9.01	3.0

(e) *Grinding Scrubber Operations.* No discharge of process wastewater pollutants to a POTW.

(f) *Investment Casting.*

PSNS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/1,000 kkg (pounds per million pounds) of metal poured	
Copper (T)	8.48	4.63
Lead (T)	8.7	4.3
Zinc (T)	12.6	4.74
TTO	16.1	5.91
Oil and grease (for alternate monitoring)	330	110

(g) *Melting Furnace Scrubber Operations.*

PSNS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/62.3 million Sm^3 (pounds per billion SCF) of air scrubbed	
Copper (T)	3.01	1.64
Lead (T)	3.09	1.52
Zinc (T)	4.45	1.68
Total Phenols	3.36	1.17
TTO	7.97	2.6
Oil and grease (for alternate monitoring)	117	39.1

(h) *Mold Cooling Operations.*

PSNS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/1,000 kkg (pounds per million pounds) of metal poured	
Copper (T)	0.297	0.162
Lead (T)	0.305	0.151
Zinc (T)	0.44	0.166
TTO	0.935	0.304
Oil and grease (for alternate monitoring)	11.6	3.86

§ 464.17 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology. [Reserved].

Subpart B—Copper Casting Subcategory

§ 464.20 Applicability; description of the copper casting subcategory.

The provisions of this subpart are applicable to discharges to waters of the United States and to the introduction of pollutants into publicly owned treatment works resulting from copper casting operations as defined in § 464.02(b).

§ 464.21 Specialized definitions.

For the purpose of this subpart:

(a) *Total Toxic Organics (TTO).* TTO is a regulated parameter under PSES (§ 464.25) and PSNS (§ 464.26) for the copper subcategory and is comprised of a discrete list of toxic organic pollutants for each process segment where it is regulated, as follows:

(1) Casting Quench (§ 464.25(a) and § 464.26(a)):
23. chloroform (trichloromethane)
64. pentachlorophenol
66. bis(2-ethylhexyl)phthalate
71. dimethyl phthalate

(2) Dust Collection Scrubbers (§ 464.25(c) and 464.26(c)):
1. acenaphthene
22. para-chloro meta-cresol
23. chloroform (trichloromethane)
34. 2,4-dimethylphenol
55. naphthalene
58. 4-nitrophenol
64. pentachlorophenol
65. phenol
66. bis(2-ethylhexyl)phthalate
67. butyl benzyl phthalate
68. di-n-butyl phthalate
70. diethyl phthalate
71. dimethyl phthalate
72. benzo(a)anthracene (1,2-benzanthracene)
74. 3,4-benzofluoranthene
75. benzo(k) fluoranthene
76. chrysene
77. acenaphthylene
78. anthracene
81. phenanthrene
84. pyrene

(3) Investment Casting (§ 464.25(e) and § 464.26(e)):
1. acenaphthene
22. para-chloro meta-cresol
23. chloroform (trichloromethane)
34. 2,4-dimethylphenol
55. naphthalene
58. 4-nitrophenol
64. pentachlorophenol
65. phenol
66. bis (2-ethylhexyl)phthalate
67. butyl benzyl phthalate
68. di-n-butyl phthalate
70. diethyl phthalate
71. dimethyl phthalate
72. benzo(a)anthracene (1,2-benzanthracene)
74. 3,4-benzofluoranthene
75. benzo(k) fluoranthene
76. chrysene
77. acenaphthylene
78. anthracene
81. Phenanthrene
84. pyrene

(4) Melting Furnace Scrubber (§ 464.25(f) and § 464.26(f)):
1. acenaphthene
22. para-chloro meta-cresol
23. chloroform (trichloromethane)
34. 2,4-dimethylphenol
55. naphthalene
58. 4-nitrophenol
64. pentachlorophenol
65. phenol
66. bis (2-ethylhexyl) phthalate
67. butyl benzyl phthalate
68. di-n-butyl phthalate
70. diethyl phthalate
71. dimethyl phthalate
72. benzo(a)anthracene (1,2-benzanthracene)
74. 3,4-benzoflouranthene
75. benzo(k) flouranthene
76. chrysene
77. acenaphthylene
78. anthracene
81. phenanthrene
84. pyrene

(5) Mold Cooling (§ 464.25(g) and § 464.26(g)):
23. chloroform (trichloromethane)
64. pentachlorophenol
66. bis(2-ethylhexyl)phthalate
71. dimethyl phthalate

§ 464.22 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Except as provided in 40 CFR 125.30—125.32, 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, except that non-continuous dischargers shall not be subject to the maximum day and maximum for monthly average mass (kg/1,000 kkg or lb/million lb of metal poured; kg/62.3 million Sm^3 or lb/billion SCF of air scrubbed) effluent limitations for copper, lead, zinc, total phenols, oil and grease, and TSS. For non-continuous dischargers, annual average mass limitations and maximum day and maximum for monthly average concentration (mg/l) limitations shall apply. Concentration limitations and annual average mass limitations shall only apply to non-continuous dischargers.

(a) *Casting Quench Operations.*

BPT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/1,000 kkg (pounds per million pounds) of metal poured	
Copper (T)	0.0307	0.0168
Lead (T)	0.0315	0.0156
Zinc (T)	0.0455	0.0171
Oil and grease	1.2	0.399
TSS	1.52	0.598
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

	Maximum for any 1 day	Maximum for monthly average	Annual average [2]
	(mg/l) [3]	(mg/l) [3]	
Copper (T)	0.77	0.42	0.0068
Lead (T)	0.79	0.39	0.0068
Zinc (T)	1.14	0.43	0.0108
Oil and grease	30	10	0.199
TSS	38	15	0.399
pH	(4)	(4)	(4)

[1] kg/1000 kkg (pounds per million pounds) of metal poured
[3] These concentrations must be multiplied by the ratio of (4.8/x) where x is the actual normalized process wastewater flow (in gallons per 1,000 pounds of metal poured) for a specific plant.
[4] Within the range of 7.0 to 10.0 at all times.

(b) *Direct Chill Casting Operations.*

BPT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/1,000 kkg (pounds per million pounds) of metal poured	
Copper (T)	0.928	0.506
Lead (T)	0.952	0.47
Zinc (T)	1.37	0.518
Oil and grease	36.2	12.1
TSS	45.8	18.1
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

	Maximum for any 1 day	Maximum for monthly average	Annual average [2]
	(mg/l) [3]	(mg/l) [3]	
Copper (T)	0.77	0.42	0.205
Lead (T)	0.79	0.39	0.265
Zinc (T)	1.14	0.43	0.326

	Maximum for any 1 day	Maximum for monthly average	Annual average [1]
	(mg/l) [2]	(mg/l) [2]	
Oil and grease	30	10	6.03
TSS	38	15	12.1
pH	([3])	([3])	([3])

[1] kg/1000 kkg (pounds per million pounds) of metal poured.
[2] These concentrations must be multiplied by the ratio of (145/x) where x is the actual normalized process wastewater flow (in gallons per 1,000 pounds of metal poured) for a specific plant.
[3] Within the range of 7.0 to 10.0 at all times.

(a) *Dust Collection Scrubber Operations*

BPT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/62.3 million Sm^3 (pounds per billion SCF) of air scrubbed	
Copper (T)	0.553	0.301
Lead (T)	0.567	0.28
Zinc (T)	0.818	0.309
Total phenols	0.617	0.215
Oil and grease	21.5	7.18
TSS	27.3	10.8
ph	([1])	([1])

[1] Within the range of 7.0 to 10.0 at all times.

	Maximum for any 1 day	Maximum for monthly average	Annual average [1]
	(mg/l) [2]	(mg/l) [2]	
Copper (T)	0.77	0.42	0.122
Lead (T)	0.79	0.39	0.158
Zinc (T)	1.14	0.43	0.194
Total phenols	0.86	0.3	0.144
Oil and grease	30	10	3.59
TSS	38	15	7.18
pH	([3])	([3])	([3])

[1] kg/62.3 million Sm^3 (pounds per billion SCF) of air scrubbed.
[2] These concentrations must be multiplied by the ratio of (0.086/x) where x is the actual normalized process wastewater flow (in gallons per 1,000 SCF of air scrubbed) for a specific plant.
[3] Within the range of 7.0 to 10.0 at all times.

(d) *Grinding Scrubber Operations.* No discharge of process wastewater pollutants to navigable waters.

(e) *Investment Casting.*

BPT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/1,000 kkg (pounds per million pounds) of metal poured	
Copper (T)	8.48	4.63
Lead (T)	8.7	4.3
Zinc (T)	12.6	4.74
Oil and grease	330	110
TTS	419	165
Ph	([1])	([1])

[1] Within the range of 7.0 to 10.0 at all times.

	Maximum for any 1 day	Maximum for monthly average	Annual average [1]
	(mg/l) [2]	(mg/l) [2]	
Copper (T)	0.77	0.42	1.87
Lead (T)	0.79	0.39	2.42
Zinc (T)	1.14	0.43	2.97
Oil and grease	30	10	55.1
TSS	38	15	110
pH	([3])	([3])	([3])

[1] kg/1,000 kkg (pounds per million pounds) of metal poured.
[2] These concentrations must be multiplied by the ratio of (1,320/x) where x is the actual normalized process wastewater flow (in gallons per 1,000 pounds of metal poured) for a specific plant.
[3] Within the range of 7.0 to 10.0 at all times.

(f) *Melting Furnace Scrubber Operations.*

BPT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/62.3 million Sm^3 (pounds per billion SCF) of air scrubbed	
Copper (T)	1.81	0.986
Lead (T)	1.86	0.918
Zinc (T)	2.66	1.01
Total phenols	2.02	0.706
Oil and grease	70.6	23.5
TSS	89.4	35.3
pH	([1])	([1])

[1] Within the range of 7.0 to 10.0 at all times.

	Maximum for any 1 day	Maximum for monthly average	Annual average [1]
	(mg/l) [2]	(mg/l) [2]	
Copper (T)	0.77	0.42	0.4
Lead (T)	0.79	0.39	0.518
Zinc (T)	1.14	0.43	0.635
Total phenols	0.86	0.3	0.467
Oil and grease	30	10	11.7
TSS	38	15	23.5
pH	([3])	([3])	([3])

[1] kg/62.3 million Sm^3 (pound per billion SCF) of air scrubbed.
[2] These concentrations must be multiplied by the ratio of (0.282/x) where x is the actual normalized process wastewater flow (in gallons per 1,000 SCF of air scrubbed) for a specific plant.
[3] Within the range of 7.0 to 10.0 at all times.

(g) *Mold Cooling Operations.*

BPT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/1,000 kkg (pounds million pounds) of metal poured	
Copper (T)	0.392	0.214
Lead (T)	0.402	0.199
Zinc (T)	0.58	0.219
Oil and grease	15.3	5.09
TSS	19.3	7.63
pH	([1])	([1])

[1] Within the range of 7.0 to 10.0 at all times.

	Maximum for any 1 day	Maximum for monthly average	Annual average [1]
	(mg/l) [2]	(mg/l) [2]	
Copper (T)	0.77	0.42	0.0865
Lead (T)	0.79	0.39	0.112
Zinc (T)	1.14	0.43	0.137
Oil and grease	30	10	2.54
TSS	38	15	5.09
pH	([3])	([3])	([3])

[1] kg/1000 kkg pounds per million pounds of metal poured.
[2] These concentrations must be multiplied by the ratio of (61/x) where x is the actual normalized process wastewater flow (in gallons per 1,000 pounds of metal poured) for a specific plant.
[3] Within the range of 7.0 to 10.0 at all times.

§ 464.23 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

Except as provided in 40 CFR 125.30–125.32, 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, except that non-continuous dischargers shall not be suject to the maximum day and maximum for monthly average mass (kg/1,000 kkg or lb/million lb of metal poured; kg/62.3 million Sm^3 or lb/billion SCF of air scrubbed) effluent limitations for copper, lead, zinc, and total phenols. For non-continuous discharges, annual average mass limitations and maximum day and maximum for monthly average concentration (mg/l) limitations shall apply. Concentration limitations and annual average mass limitations shall only apply to non-continuous dischargers.

(a) *Casting Quench Operations.*

BAT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/1,000 kkg (pounds per million pounds) of metal poured	
Copper (T)	0.0307	.0168
Lead (T)	0.0211	.0104
Zinc (T)	0.0303	.0116

	Maximum for any 1 day	Maximum for monthly average	Annual average [1]
	(mg/l) [2]	(mg/l) [2]	
Copper (T)	0.77	0.42	0.0068
Lead (T)	0.53	0.26	0.006
Zinc (T)	0.76	0.29	0.0072

[1] kg/1,000 kkg (pounds per million pounds) of metal poured.
[2] These concentrations must be multiplied by the ratio of (4.8/x) where x is the actual normalized process waste-water flow (in gallons per 1,000 pounds of metal poured) for a specific plant.

(b) *Direct Chill Casting Operations.*

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/1,000 kkg (pounds per million pounds) of metal poured	
Copper (T)	0.928	0.506
Lead (T)	0.639	0.314
Zinc (T)	0.916	0.35

	Maximum for any 1 day	Maximum for monthly average	Annual average[1]
	(mg/l)[2]	(mg/l)[2]	
Copper (T)	0.77	0.42	0.205
Lead (T)	0.53	0.26	0.181
Zinc (T)	0.76	0.29	0.217

[1] kg/1,000 kkg (pounds per million pounds) of metal poured.
[2] These concentrations must be multiplied by the ratio of (145/x) where x is the actual normalized process wastewater flow (in gallons per 1,000 pounds of metal poured) for a specific plant.

(c) *Dust Collection Scrubber Operations.*

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/62.3 million Sm^3 (pounds per billion SCF) of air scrubbed	
Copper (T)	0.553	0.301
Lead (T)	0.38	0.187
Zinc (T)	0.545	0.208
Total phenols	0.617	0.215

	Maximum for any 1 day	Maximum for monthly average	Annual average[1]
	(mg/l)[2]	(mg/l)[2]	
Copper (T)	0.77	0.42	0.122
Lead (T)	0.53	0.26	0.108
Zinc (T)	0.76	0.29	0.129
Total phenols	0.86	0.3	0.144

[1] kg/62.3 million Sm^3 (pounds per billion SCF) of air scrubbed
[2] These concentrations must be multiplied by the ratio of (0.066/x) where x is the actual normalized process wastewater flow (in gallons per 1,000 SCF of air scrubbed) for a specific plant.

(d) *Grinding Scrubber Operations.* No discharge of process wastewater pollutants to navigable waters.

(e) *Investment Casting.*

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/1000 kkg (pounds per million pounds) of metal poured	
Copper (T)	8.48	4.63
Lead (T)	5.84	2.86
Zinc (T)	8.37	3.19

	Maximum for any 1 day	Maximum for monthly average	Annual average[1]
	(mg/l)[2]	(mg/l)[2]	
Copper (T)	0.77	0.42	1.87
Lead (T)	0.53	0.26	1.65
Zinc (T)	0.76	0.29	1.98

[1] kg/1000 kkg (pounds per million pounds) of metal poured.
[2] These concentrations must be multiplied by the ratio of (1,320/x) where x is the actual normalized process wastewater flow (in gallons per 1,000 pounds of metal poured) for a specific plant.

(f) *Melting Furnace Scrubber Operations.*

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/62.3 million Sm^3 (pounds per billion SCF) of air scrubbed	
Copper (T)	1.61	0.988
Lead (T)	1.25	0.612
Zinc (T)	1.79	0.673
Total phenols	2.02	0.706

	Maximum for any 1 day	Maximum for monthly average	Annual average[1]
	(mg/l)[2]	(mg/l)[2]	
Copper (T)	0.77	0.42	0.4
Lead (T)	0.53	0.26	0.353
Zinc (T)	0.76	0.29	0.424
Total phenols	0.86	0.3	0.471

[1] kg/62.3 million Sm^3 (pounds per billion SCF) of air scrubbed.
[2] These concentrations must be multiplied by the ratio of (0.282/x) where x is the actual normalized process wastewater flow (in gallons per 1,000 SCF of air scrubbed) for a specific plant.

(g) *Mold Cooling Operations.*

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/1,000 kkg (pounds per million pounds) of metal poured	
Copper (T)	0.392	0.214
Lead (T)	0.27	0.132
Zinc (T)	0.387	0.148

	Maximum for any 1 day	Maximum for monthly average	Annual average[1]
	kg/1,000 kkg pounds per million pounds of metal poured		
	(mg/l)[2]	(mg/l)[2]	
Copper (T)	0.77	0.42	0.0865
Lead (T)	0.53	0.26	0.0763
Zinc (T)	0.76	0.29	0.0916

[1] kg/1,000 kkg (pounds per million pounds) of metal poured.
[2] These concentrations must be multiplied by the ratio of (61/x) where x is the actual normalized process wastewater flow (in gallons per 1,000 pounds of metal poured) for a specific plant.

§ 464.24 New source performance standards.

Any new source subject to this subpart must achieve the following new source performance standards (NSPS), except that non-continuous dischargers shall not be subject to the maximum day and maximum for monthly average mass (kg/1,000 kkg or lb/million lb of metal poured; kg/62.3 million Sm^3 or lb/billion SCF of air scrubbed) effluent standards for copper, lead, zinc, total phenols, oil and grease, and TSS. For non-continuous dischargers, annual average mass standards and maximum day and maximum for monthly average concentration (mg/l) standards shall apply. Concentration standards and annual average mass standards shall only apply to non-continuous dischargers.

(a) *Casting Quench Operations.*

NSPS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/1,000 kkg (pounds per million pounds) of metal poured	
Copper (T)	0.0307	0.0168
Lead (T)	0.0211	0.0104
Zinc (T)	0.0303	0.0116
Oil and grease	1.2	0.399
TSS	0.598	0.479
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

	Maximum for any 1 day	Maximum for monthly average	Annual average[1]
	(mg/l)[2]	(mg/l)[2]	
Copper (T)	0.77	0.42	0.068
Lead (T)	0.53	0.26	0.006
Zinc (T)	0.76	0.29	0.0072
Oil and grease	30	10	0.199
TSS	15	12	0.104
pH	(3)	(3)	(3)

[1] kg/1,000 kkg (pounds per million pounds of metal poured.
[2] These concentrations must be multiplied by the ratio of (4.8/x) where x is the actual normalized process wastewater flow (in gallons per 1,000 pounds of metal poured) for a specific plant.
[3] Within the range of 7.0 to 10.0 at all times.

(b) *Direct Chill Casting Operations.*

NSPS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/1,000 kkg (pounds per million pounds) of metal poured	
Copper (T)	0.928	0.506
Lead (T)	0.639	0.314
Zinc (T)	0.916	0.35
Oil and grease	36.2	12.1
TSS	18.1	14.5
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

	Maximum for any 1 day	Maximum for monthly average	Annual average [1]
	(mg/l) [2]	(mg/l) [2]	
Copper (T)	0.77	0.42	0.205
Lead (T)	0.53	0.26	0.181
Zinc (T)	0.76	0.29	0.217
Oil and grease	30	10	6.03
TSS	15	12	3.13
pH	[3]	[3]	[3]

[1] kg/1,000 kkg (pounds per million pounds of metal poured.
[2] These concentrations must be multiplied by the ratio of (145/x) where x is the actual normalized process wastewater flow (in gallons per 1,000 pounds of metal poured) for a specific plant.
[3] Within the range of 7.0 to 10.0 at all times.

(c) *Dust Collection Scrubber Operations.*

NSPS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/62.3 million Sm^3 (pounds per billion SCF) of air scrubbed	
Copper (T)	0.553	0.301
Lead (T)	0.38	0.187
Zinc (T)	0.545	0.208
Total phenols	0.617	0.215
Oil and grease	21.5	7.18
TSS	10.8	6.61
pH	[1]	[1]

[1] Within the range of 7.0 to 10.0 at all times.

	Maximum for any 1 day	Maximum for monthly average	Annual average [1]
	(mg/l) [2]	(mg/l) [2]	
Copper (T)	0.77	0.42	0.122
Lead (T)	0.53	0.26	0.106
Zinc (T)	0.76	0.29	0.129
Total phenols	0.86	0.3	0.144
Oil and grease	30	10	3.59
TSS	15	12	1.87
pH	[3]	[3]	[3]

[1] kg/62.3 million Sm^3 (pounds per billion SCF) of air scrubbed.
[2] These concentrations must be multiplied by the ratio of (0.086/x) where x is the actual normalized process wastewater flow (in gallons per 1,000 SCF of air scrubbed) for a specific plant.
[3] Within the range of 7.0 to 10.0 at all times.

(d) *Grinding Scrubber Operations.* No discharge of process wastewater pollutants to navigable waters.

(e) *Investment Casting.*

NSPS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/1,000 kkg (pounds per millions pounds) of metal poured	
Copper (T)	8.48	4.63
Lead (T)	5.84	2.66
Zinc (T)	8.37	3.19
Oil and grease	330	110
TSS	165	132
pH	[1]	[1]

[1] Within the range of 7.0 to 10.0 at all times.

	Maximum for any 1 day	Maximum for monthly average	Annual average [1]
	(mg/l) [2]	mg/l) [2]	
Copper (T)	0.77	0.42	1.87
Lead (T)	0.53	0.26	1.65
Zinc (T)	0.76	0.29	1.98
Oil and grease	30	10	55.1
TSS	15	12	26.6
pH	[3]	[3]	[3]

[1] kg/1,000 kkg (pounds per million pounds) of metal poured.
[2] These concentrations must be multiplied by the ratio of (1,320/x) where x is the actual normalized process wastewater flow (in gallons per 1,000 pounds of metal poured) for a specific plant.
[3] Within the range of 7.0 to 10.0 at all times.

(f) *Melting Furnace Scrubber Operations.*

NSPS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/62.3 million Sm^3 (pounds per billion SCF) of air scrubbed	
Copper (T)	1.81	0.968
Lead (T)	1.25	0.612
Zinc (T)	1.79	0.673
Total phenols	2.02	0.706
Oil and grease	70.6	23.5
TSS	35.3	28.2
pH	[1]	[1]

[1] Within the range of 7.0 to 10.0 at all times.

	Maximum for any 1 day	Maximum for monthly average	Annual average [1]
	(mg/l) [2]	(mg/l) [2]	
Copper (T)	0.77	0.42	0.4
Lead (T)	0.53	0.26	0.353
Zinc (T)	0.76	0.29	0.424
Total phenols	0.86	0.3	0.471
Oil and grease	30	10	11.8
TSS	15	12	6.12
pH	[3]	[3]	[3]

[1] kg/62.3 million Sm^3 pounds per billion SCF) of air scrubbed.
[2] These concentrations must be multiplied by the ratio of (0.262/x) where x is the actual normalized process wastewater flow (in gallons per 1,000 SCF of air scrubbed) for a specific plant.
[3] Within the range of 7.0 to 10.0 at all times.

(g) *Mold Cooling Operations.*

NSPS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/1,000 kkg pounds per million pounds of metal poured	
Copper (T)	0.392	0.214
Lead (T)	0.27	0.132
Zinc (T)	0.387	0.148
Oil and grease	15.3	5.09
TSS	7.63	6.11
pH	[1]	[1]

[1] Within the range of 7.0 to 10.0 at all times.

	Maximum for any 1 day	Maximum for monthly average	Annual average [1]
	(mg/1) [2]	(mg/1) [2]	
Copper (T)	0.77	0.42	0.0865
Lead (T)	0.53	0.26	0.0763
Zinc (T)	0.76	0.29	0.0916
Oil and grease	30	10	2.54
TSS	15	12	1.32
pH	[3]	[3]	[3]

[1] kg/1,000 kkg (pounds per million pound) of metal poured.
[2] These concentrations must be multiplied by the ratio of (61/x) where x is the actual normalized process waste-water flow (in gallons per 1,000 pounds of metal poured) for a specific plant.
[3] Within the range of 7.0 to 10.0 at all times.

§ 464.25 Pretreatment standards for existing sources.

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 following pretreatment standards for existing sources.

(a) *Casting Quench Operations.*

PSES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/1000 kkg (pounds per million pounds) of metal poured	
Copper (T)	0.0307	0.0168
Lead (T)	0.0211	0.0104
Zinc (T)	0.0303	0.0116
TTO	0.0335	0.0109
Oil and grease (for alternate monitoring)	1.2	0.399

(b) *Direct Chill Casting Operations*

PSES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/1,000 kkg (pounds per million pounds) of metal poured	
Copper (T)	0.926	0.506
Lead (T)	0.639	0.314
Zinc (T)	0.916	0.35

(c) *Dust Collection Scrubber Operations.*

PSES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/62.3 million Sm^3 (pounds per billion SCF) of air scrubbed	
Copper (T)	0.552	0.301
Lead (T)	0.38	0.187
Zinc (T)	0.545	0.208
Total phenols	0.617	0.215
TTO	1.65	0.54

PSES—Continued

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Oil and grease (for alternate monitoring)	21.5	7.18

(d) *Grinding Scrubber Operations.* No discharge of process wastewater pollutants to a POTW.

(e) *Investment Casting.*

PSES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/1,000 kkg (pounds per million pounds) of metal poured	
Copper (T)	8.48	4.63
Lead (T)	5.84	2.86
Zinc (T)	8.37	3.19
TTO	25.4	8.29
Oil and grease for alternate monitoring)	330	110

(f) *Melting Furnace Scrubber Operations.*

PSES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/62.3 million Sm^3 (pounds per billion SCF) of air scrubbed	
Copper (T)	1.81	0.988
Lead (T)	1.25	0.612
Zinc (T)	1.79	0.673
Total phenols	2.02	0.706
TTO	5.41	1.77
Oil and grease (for alternate monitoring)	70.6	23.5

(g) *Mold Cooling Operations.*

PSES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/1,000 kkg (pounds per million pounds) of metal poured	
Copper (T)	0.392	0.214
Lead (T)	0.27	0.132
Zinc (T)	0.387	0.148
TTO	0.426	0.14
Oil and grease (for alternate monitoring)	15.3	5.09

§ 464.26 Pretreatment standards for new sources.

Except as provided in 40 CFR 403.7, any new source subject to this subpart which introduces pollutants into publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources.

(a) *Casting Quench Operations.*

PSNS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/1,000 kkg (pounds per million pounds) of metal poured	
Copper (T)	0.0307	0.0168
Lead (T)	0.0211	0.0104
Zinc (T)	0.0303	0.0116
TTO	0.0335	0.0109
Oil and grease (for alternate monitoring)	1.2	0.399

(b) *Direct Chill Casting Operations.*

PSNS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/1,000 kkg (pounds per million pounds) of metal poured	
Copper (T)	0.928	0.506
Lead (T)	0.639	0.314
Zinc (T)	0.916	0.35

(c) *Dust Collection Scrubber Operations.*

PSNS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/62.3 Million Sm^3 (pounds per billion SCF) of air scrubbed	
Copper (T)	0.552	0.301
Lead (T)	0.38	0.187
Zinc (T)	0.545	0.208
Total Phenols	0.617	0.215
TTO	1.65	0.54
Oil and Grease (for alternate monitoring	21.5	7.18

(d) *Grinding Scrubber Operations.* No discharge of process wastewater pollutants to a POTW.

(e) *Investment Casting.*

PSNS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/1,000 kkg (pounds per million pounds) of metal poured	
Copper (T)	8.48	4.63
Lead (T)	5.84	2.86
Zinc (T)	8.37	3.19
TTO	25.4	8.29
Oil and Grease (for alternate monitoring	330	110

(f) *Melting Furnace Scrubber Operations.*

PSNS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/62.3 million Sm^3 (pounds per billion SCF) of air scrubbed	
Copper (T)	1.81	0.988
Lead (T)	1.25	0.612
Zinc (T)	1.79	0.673
Total Phenols	2.02	0.706
TTO	5.41	1.77
Oil and Grease (for alternate monitoring	70.6	23.5

(g) *Mold Cooling Operations.*

PSNS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/1,000 kkg (pounds per million pounds) of metal poured	
Copper (T)	0.392	0.214
Lead (T)	0.27	0.132
Zinc (T)	0.387	0.148
TTO	0.426	0.14
Oil and Grease (for alternate monitoring	15.3	5.09

§ 464.27 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology. [Reserved].

Subpart C—Ferrous Casting Subcategory

§ 464.30 Applicability; description of the ferrous casting subcategory.

The provisions of this subpart are applicable to discharges to waters of the United States and to the introduction of pollutants into publicly owned treatment works resulting from ferrous casting operations as defined in § 464.02(c).

§ 464.31 Specialized definitions.

For the purpose of this subpart:

(a) *Total Toxic Organics (TTO).* TTO is a regulated parameter under PSES (§ 464.35) and PSNS (§ 464.36) for the ferrous subcategory and is comprised of a discrete list of toxic organic pollutants for each process segment where it is regulated, as follows:

(1) Casting Quench (§ 464.35(b) and § 464.36(b)):

23. chloroform (trichloromethane)
34. 2,4-dimethylphenol

(2) Dust Collection Scrubber (§ 464.35(c) and § 464.36(b)):

1. acenaphthene
23. chloroform (trichloromethane)
31. 2,4-dichlorophenol
34. 2,4-dimethylphenol
39. fluoranthene

44. methylene chloride (dichloromethane)
55. naphthalene
64. pentachlorophenol
65. phenol
66. bis(2-ethylhexyl)phthalate
67. butyl benzyl phthalate
68. di-n-butyl phthalate
70. diethyl phthalate
71. dimethyl phthalate
72. benzo (a)anthracene (1,2-benzanthracene)
76. chrysene
77. acenaphthylene
78. anthracene
80. fluorene
81. phenanthrene
84. pyrene

(3) Investment Casting (§ 464.35(e) and § 464.36(e)):

23. chloroform (trichloromethane)
44. methylene chloride (dichloromethane)
66. bis (2-ethylhexyl) phthalate
77. acenaphthylene
84. pyrene

(4) Melting Furnace Scrubber (§ 464.35(f) and § 464.36(f)):

23. chloroform (trichloromethane)
31. 2,4-dichlorophenol
34. 2,4-dimethylphenol
39. fluoranthene
44. methylene chloride (dichloromethane)
55. naphthalene
65. phenol
66. bis (2-ethylhexyl) phthalate
67. butyl benzyl phthalate
68. di-n-butyl phthalate
72. benzo (a)anthracene (1,2-benzanthracene)
76. chrysene
77. acenaphthylene
78. anthracene
80. fluorene
81. phenanthrene
84. pyrene

(5) Mold Cooling (§ 464.35(g) and § 464.36(g)):

23. chloroform (trichloromethane)
34. 2,4-dimethylphenol

(6) Slag Quench (§ 464.35(h) and § 464.36(h)):

34. 2,4-dimethylphenol
71. dimethyl phthalate

(7) Wet Sand Reclamation (§ 464.35(i) and § 464.36(i)):

1. acenaphthene
34. 2,4-dimethylphenol
39. fluoranthene
44. methylene chloride (dichloromethane)
55. naphthalene
65. phenol
66. bis (2-ethylhexyl) phthalate
68. di-n-butyl phthalate
70. diethyl phthalate
71. dimethyl phthalate
72. benzo(a)anthracene (1,2-benzanthracene)
77. acenaphthylene
84. pyrene

(b) *Cast Iron.* An iron containing carbon in excess of the solubility in the austentite that exists in the alloy at the eutectic temperature. Cast iron also is defined here to include any iron-carbon alloys containing 1.2 percent or more carbon by weight.

(c) *Ductile Iron.* A cast iron that has been treated while molten with a master alloy containing an element such as magnesium or cerium to induce the formation of free graphite as nodules or spherules, which imparts a measurable degree of ductility to the cast metal.

(d) *Gray Iron.* A cast iron that gives a gray fracture due to the presence of flake graphite.

(e) *Malleable Iron.* A cast iron made by a prolonged anneal of white cast iron in which decarburization or graphitization, or both, take place to eliminate some or all of the cementite. Graphite is present in the form of temper carbon.

(f) *Steel.* An iron-base alloy containing carbon, manganese, and often other alloying elements. Steel is defined here to include only those iron-carbon alloys containing less than 1.2 percent carbon by weight.

(g) The "primary metal cast" shall mean the metal that is poured in the greatest quantity at an individual plant.

(h) *Multiple Ferrous Melting Furnace Scrubber Configuration.* A multiple ferrous melting furnace scrubber configuration is a configuration where two or more discrete wet scrubbing devices are employed in series in a single melting furnace exhaust gas stream. The ferrous melting furnace scrubber mass allowance shall be given to each discrete wet scrubbing device that has an associated wastewater discharge in a multiple ferrous melting furnace scrubber configuration. The mass allowance for each discrete wet scrubber shall be identical and based on the air flow of the exhaust gas stream that passes through the multiple scrubber configuration.

(i) *Discrete Wet Scrubbing Device.* A discrete wet scrubbing device is a distinct, stand-alone device that removes particulates and fumes from a contaminated gas stream by bringing the gas stream into contact with a scrubber liquor, usually water, and from which there is a wastewater discharge. Examples of discrete wet scrubbing devices are: Spray towers and chambers, venturi scrubbers (fixed and variable), wet caps, packed bed scrubbers, quenchers, and orifice scrubbers. Semi-wet scrubbing devices where water is added and totally evaporates prior to dry air pollution control are not considered to be discrete wet scrubbing devices. Ancillary scrubber operations such as fan washes and backwashes are not considered to be discrete wet scrubber devices. These ancillary operations are covered by the mass limitations of the associated scrubber. Aftercoolers are not considered to be discrete wet scrubbing devices, and water discharges from aftercooling are not regulated as a process wastewater in this category.

§ 464.32 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Except as provided in 40 CFR 125.30—125.32, 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, except that non-continuous dischargers shall not be subject to the maximum day and maximum for monthly average mass (kg/1,000 kkg or lb/million lb of metal poured; kg/1,000 kkg or lb/million lb of sand reclaimed; kg/62.3 million Sm^3 or lb/billion SCF of air scrubbed) effluent limitations for copper, lead, zinc, total phenols, oil and grease, and TSS. For non-continuous dischargers, annual average mass limitations and maximum day and maximum for monthly average concentration (mg/l) limitations shall apply. Concentration limitations and annual average mass limitations shall only apply to non-continuous dischargers.

(a) *Casting Cleaning Operations*

BPT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/1,000 kkg (pounds per million pounds) of metal poured	
Copper (T)	0.0129	0.0071
Lead (T)	0.0353	0.0174
Zinc (T)	0.0656	0.025
Oil and grease	1.34	0.446
TSS	1.7	0.67
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

	Maximum for any 1 day	Maximum for monthly average	Annual average [1]
	(mg/l) [2]	(mg/l) [2]	
Copper (T)	0.29	0.16	0.0029
Lead (T)	0.79	0.39	0.0098
Zinc (T)	1.47	0.56	0.0179
Oil and grease	30	10	0.223
TSS	38	15	0.446
pH	(3)	(3)	(3)

[1] kg/1,000 kkg (pounds per million pounds) of metal poured.
[2] These concentrations must be multiplied by the ratio of (5.35/x) where x is the actual normalized process wastewater flow (in gallons per 1,000 pounds of metal poured) for a specific plant.
[3] Within the range of 7.0 to 10.0 at all times.

(b) *Casting Quench Operations*

BPT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/1,000 kkg (pounds per million pounds) of metal poured	
Copper (T)	0.0138	0.0078
Lead (T)	0.0376	0.0185
Zinc (T)	0.0699	0.0266
Oil and grease	1.43	0.476
TSS	1.81	0.713
pH	[1]	[1]

[1] Within the range of 7.0 to 10.0 at all times.

	Maximum for any 1 day	Maximum for monthly average	Annual average [1]
	(mg/l) [2]	(mg/l) [2]	
Copper (T)	0.29	0.16	0.0031
Lead (T)	0.79	0.39	0.0105
Zinc (T)	1.47	0.56	0.019
Oil and grease	30	10	0.238
TSS	38	15	0.476
pH	[3]	[3]	[3]

[1] kg/1,000 kkg (pounds per million pounds) of metal poured.
[2] These concentrations must be multiplied by the ratio of (5.7/x) where x is the actual normalized process wastewater flow (in gallons per 1,000 pounds of metal poured) for a specific plant.
[3] Within the range of 7.0 to 10.0 at all times.

(c) *Dust Collection Scrubber Operations.*

BPT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/62.3 million Sm^3 (pounds per billion SCF) of air scrubbed	
Copper (T)	0.218	0.12
Lead (T)	0.593	0.293
Zinc (T)	1.1	0.421
Total phenols	0.656	0.225
Oil and grease	22.5	7.51
TSS	28.5	11.3
pH	[1]	[1]

[1] Within the range of 7.0 to 10.0 at all times.

	Maximum for any 1 day	Maximum for monthly average	Annual average [1]
	(mg/l) [2]	(mg/l) [2]	(mg/l) [2]
Copper (T)	0.29	0.16	0.0488
Lead (T)	0.79	0.39	0.165
Zinc (T)	1.47	0.56	0.3
Total phenols	0.86	0.3	0.15
Oil and grease	30	10	3.76
TSS	38	15	7.51
pH	[3]	[3]	[3]

[1] kg/62.3 million Sm^3 (pounds per billion SCF) of air scrubbed.
[2] These concentrations must be multiplied by the ratio of (0.039/x) where x is the actual normalized process wastewater flow (in gallons per 1,000 SCF of air scrubbed) for a specific plant.
[3] Within the range of 7.0 to 10.0 at all times.

(d) *Grinding Scrubber Operations.* No discharge of process wastewater pollutants to navigable waters.

(e) *Investment Casting.*

BPT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/1,000 kkg (pounds per million pounds) of metal poured	
Copper (T)	3.19	1.76
Lead (T)	8.7	4.3
Zinc (T)	16.2	6.17
Oil and grease	330	110
TSS	419	165
pH	[1]	[1]

[1] Within the range of 7.0 to 10.0 at all times.

	Maximum for any 1 day	Maximum for monthly average	Annual average [1]
	(mg/l) [2]	(mg/l) [2]	
Copper (T)	0.29	0.16	0.716
Lead (T)	0.79	0.39	2.42
Zinc (T)	1.47	0.56	4.41
Oil and grease	30	10	55.1
TSS	38	15	110
pH	[3]	[3]	[3]

[1] kg/1,000 kkg (pounds per million pounds) of metal poured.
[2] These concentrations must be multiplied by the ratio of (1.320/x) where x is the actual normalized process wastewater flow (in gallons per 1,000 pounds of metal poured) for a specific plant.
[3] Within the range of 7.0 to 10.0 at all times.

(f) *Melting Furnace Scrubber Operations.*

BPT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/62.3 million Sm^3 (pounds per billion SCF) of air scrubbed	
Copper (T)	1.02	0.561
Lead (T)	2.77	1.37
Zinc (T_r)	5.15	1.96
Total phenols	3.01	1.05
Oil and grease	105	35
TSS	133	52.6
pH	[1]	[1]

[1] Within the range of 7.0 to 10.0 at all times.

	Maximum for any 1 day	Maximum for monthly average	Annual average [1]
	(mg/l) [2]	(mg/l) [2]	
Copper (T)	0.29	0.16	0.228
Lead (T)	0.79	0.39	0.771
Zinc (T)	1.47	0.56	1.4
Total phenols	0.86	0.3	0.701
Oil and grease	30	10	17.5
TSS	38	15	35
pH	[3]	[3]	[3]

[1] kg/62.3 million Sm^3 (pounds per billion SCF) or air scrubbed.
[2] These concentrations must be multiplied by the ratio of (0.42/x) where x is the actual normalized process wastewater flow (in gallons per 1,000 SCF of air scrubbed) for a specific plant.
[3] Within the range of 7.0 to 10.0 at all times.

(g) *Mold Cooling Operations.*

BPT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/1,000 kkg (pounds per million pounds) of metal poured	
Copper (T)	0.0428	0.0236
Lead (T)	0.117	0.0576
Zinc (T)	0.217	0.0827
Oil and grease	4.43	1.48
TSS	5.61	2.22
pH	[1]	[1]

[1] Within the range of 7.0 to 10.0 at all times.

	Maximum for any 1 day	Maximum for monthly average	Annual average [1]
	(mg/l) [2]	(mg/l) [2]	
Copper (T)	0.29	0.16	0.0096
Lead (T)	0.79	0.39	0.0325
Zinc (T)	1.47	0.56	0.0591
Oil and grease	30	10	0.738
TSS	38	15	1.48
pH	[3]	[3]	[3]

[1] kg/1,000 kkg (pounds per million pounds) of metal poured.
[2] These concentrations must be multiplied by the ratio of (17.7/x) where x is the actual normalized process wastewater flow (in gallons per 1,000 pounds of metal poured) for a specific plant.
[3] Within the range of 7.0 to 10.0 at all times.

(h) *Slag Quench Operations.*

BPT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/1,000 kkg (pounds per million pounds) of metal poured	
Cooper (T)	0.0527	0.0291
Lead (T)	0.144	0.0709
Zinc (T)	0.267	0.102
Oil and grease	5.46	1.82
TSS	6.91	2.73
pH	[1]	[1]

[1] Within the range 7.0 to 10.0 at all times.

	Maximum for any 1 day	Maximum for monthly average	Annual average [1]
	(mg/l) [2]	(mg/l) [2]	
Copper (T)	0.29	0.16	0.0116
Lead (T)	0.79	0.39	0.04
Zinc (T)	1.47	0.56	0.0728
Oil and grease	30	10	0.909
TSS	38	15	1.82
pH	[3]	[3]	[3]

[1] kg/1,000 kkg (pounds per million pounds) of metal poured.
[2] These concentrations must be multiplied by the ratio of (21.8/x) where x is the actual normalized process wastewater flow (in gallons per 1,000 pounds of metal poured) for a specific plant.
[3] Within the range of 7.0 to 10.0 at all times.

(i) *Wet Sand Reclamation Operations.*

BPT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/1,000 kkg (pounds per million pounds) of sand reclaimed	
Cooper (T)	0.217	0.12

BPT EFFLUENT LIMITATIONS—Continued

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Lead (T)	0.59	0.291
Zinc (T)	1.1	0.418
Total phenols	0.642	0.224
Oil and grease	22.4	7.47
TSS	28.4	11.2
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

	Maximum for any 1 day	Maximum for monthly average	Annual average [1]
	(mg/l) [2]	(mg/l) [2]	
Copper (T)	0.29	0.16	0.0485
Lead (T)	0.79	0.39	0.164
Zinc (T)	1.47	0.56	0.299
Total phenols	0.66	0.3	0.149
Oil and grease	30	10	3.73
TSS	38	15	7.47
pH	(3)	(3)	(3)

[1] kg/1,000 kkg (pounds per million pounds) of sand reclaimed.
[2] These concentrations must be multiplied by the ratio of (89.5/x) where x is the actual normalized process wastewater flow (in gallons per 1,000 pounds of sand reclaimed) for a specific plant.
[3] Within the range of 7.0 to 10.0 at all times.

§ 464.33 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

Except as provided in 40 CFR 125.30–125.32, 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, except that non-continuous dischargers shall not be subject to the maximum day and maximum for monthly average mass (kg/1,000 kkg or lb/million lb of metal poured; kg/1,000 kkg or lb/million lb of sand reclaimed; kg/62.3 million Sm^3 or lb/billion SCF of air scrubbed) effluent limitations for copper, lead, zinc, and total phenols. For non-continuous dischargers, annual average mass limitations and maximum day and maximum for monthly average concentration (mg/l) limitations shall apply. Concentration limitations and annual average mass limitations shall only apply to non-continuous dischargers.

(a) *Casting Cleaning Operations.*

(1) Applicable to plants that are casting primarily ductile or gray iron and to plants that are casting primarily malleable iron where greater than 3,557 tons of metal are poured per year.

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/1,000 kkg (pounds per million pounds) of metal poured	
Copper (T)	0.0129	0.0071
Lead (T)	0.0237	0.0116
Zinc (T)	0.0437	0.0165

	Maximum for any 1 day	Maximum for monthly average	Annual average [1]
	(mg/l) [2]	(mg/l) [2]	
Copper (T)	0.29	0.16	0.0029
Lead (T)	0.53	0.26	0.0067
Zinc (T)	0.98	0.37	0.0116

[1] kg/1,000 kkg (pounds per million pounds) of metal poured.
[2] These concentrations must be multiplied by the ratio of (5.35/x) where x is the actual normalized process wastewater flow (in gallons per 1,000 pounds of metal poured) for a specific plant.

(2) Applicable to plants that are casting primarily steel to plants that are casting primarily malleable iron where equal to or less than 3,557 tons of metal are poured per year.

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/1,000 kkg (pounds per million pounds) of metal poured	
Copper (T)	0.0129	0.0071
Lead (T)	0.0353	0.0174
Zinc (T)	0.0656	0.025

	Maximum for any 1 day	Maximum for monthly average	Annual average [1]
	(mg/l) [2]	(mg/l) [2]	
Copper (T)	0.29	0.16	0.0029
Lead (T)	0.79	0.39	0.0096
Zinc (T)	1.47	0.56	0.0179

[1] kg/1,000 kkg (pounds per million pounds) of metal poured.
[2] These concentrations must be multiplied by the ratio of (5.35/x) where x is the actual normalized process wastewater flow (in gallons per 1,000 pounds of metal poured) for a specific plant.

(b) *Casting Quench Operations.*

(1) Applicable to plants that are casting primarily ductile or gray iron and to plants that are casting primarily malleable iron where greater than 3,557 tons of metal are poured per year.

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/100 kkg (pounds per million pounds) of metal poured	
Copper (T)	0.0138	0.0076
Lead (T)	0.0252	0.0124
Zinc (T)	0.0466	0.0176

	Maximum for any 1 day	Maximum for monthly average	Annual average [1]
	(mg/l) [2]	(mg/l) [2]	
Copper (T)	0.29	0.16	0.0031
Lead (T)	0.53	0.26	0.0071
Zinc (T)	0.98	0.37	0.0124

[1] kg/1,000 kkg (pounds per million pounds) of metal poured.
[2] These concentrations must be multiplied by the ratio of (5.7/x) where x is the actual normalized process wastewater flow (in gallons per 1,000 pounds of metal poured) for a specific plant.

(2) Applicable to plants that are casting primarily steel and to plants that are casting primarily malleable iron where equal to or less than 3,557 tons of metal are poured per year.

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/1,000 kkg (pounds per million pounds) of metal poured	
Copper (T)	0.0138	0.0076
Lead (T)	0.0376	0.0185
Zinc (T)	0.0699	0.0266

	Maximum for any 1 day	Maximum for monthly average	Annual average [1]
	(mg/l) [2]	(mg/l) [2]	
Copper (T)	0.29	0.16	0.0031
Lead (T)	0.79	0.39	0.0105
Zinc (T)	1.47	0.56	0.019

[1] kg/1,000 kkg (pounds per million pounds) of metal poured.
[2] These concentrations must be multiplied by the ratio of (5.7/x) where x is the actual normalized process wastewater flow (in gallons per 1,000 pounds of metal poured) for a specific plant.

(c) *Dust Collection Scrubber Operations.*

(1) Applicable to plants that are casting primarily ductile or gray iron and to plants that are casting primarily malleable iron where greater than 3,557 tons of metal are poured per year.

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/62.3 million Sm^3 (pounds per billion SCF) of air scrubbed	
Copper (T)	0.218	0.12
Lead (T)	0.398	0.195
Zinc (T)	0.736	0.279
Total phenols	0.646	0.225

	Maximum for any 1 day	Maximum for monthly average	Annual average [1]
	(mg/l) [2]	(mg/l) [2]	
Copper (T)	0.29	0.16	0.0488
Lead (T)	0.53	0.26	0.113
Zinc (T)	0.98	0.37	0.195
Total phenols	0.66	0.3	0.15

[1] kg/62.3 million Sm^3 (pounds per billion SCF) of air scrubbed.
[2] These concentrations must be multiplied by the ratio of (0.09/x) where x is the actual normalized process wastewater flow (in gallons per 1,000 SCF of air scrubbed) for a specific plant.

(2) Applicable to plants that are casting primarily steel and to plants that are casting primarily malleable iron where equal to or less than 3,557 tons of metal are poured per year.

BAT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/62.3 million Sm^3 (pounds per billion SCF) of air scrubbed	
Copper (T)	0.218	0.12
Lead (T)	0.593	0.293
Zinc (T)	1.1	0.421
Total phenols	0.656	0.225

	Maximum for any 1 day	Maximum for monthly average	Annual average [1]
	(mg/l) [2]	(mg/l) [2]	
Copper (T)	0.29	0.16	0.0468
Lead (T)	0.79	0.39	0.165
Zinc (T)	1.47	0.56	0.3
Total phenols	0.86	0.3	0.15

[1] kg/62.3 million Sm^3 (pounds per billion SCF) of air scrubbed.
[2] These concentrations must be multiplied by the ratio of (0.09/x) where x is the actual normalized process wastewater flow (in gallons per 1,000 SCF of air scrubbed) for a specific plant.

(d) *Grinding Scrubber Operations.* No discharge of process wastewater pollutants to navigable waters.

(e) *Investment Casting.*

(1) Applicable to plants that are casting primarily ductile or gray iron and to plants that are casting primarily malleable iron where greater than 3,557 tons of metal are poured per year.

BAT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/1,000 kkg (pounds per million pounds) of metal poured	
Copper (T)	3.19	1.76
Lead (T)	5.84	2.66
Zinc (T)	10.8	4.07

	Maximum for any 1 day	Maximum for monthly average	Annual average [1]
	(mg/l) [2]	(mg/l) [2]	
Copper (T)	0.29	0.16	0.716
Lead (T)	0.53	0.26	1.65
Zinc (T)	0.98	0.37	2.66

[1] kg/1,000 kkg (pounds per million pounds) of metal poured.
[2] These concentrations must be multiplied by the ratio of (1,320/x) where x is the actual normalized process wastewater flow (in gallons per 1,000 pounds of metal poured) for a specific plant.

(2) Applicable to plants that are casting primarily steel and to plants that are casting primarily malleable iron where equal to or less than 3,557 tons of metal are poured per year.

BAT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/1,000 kkg (pounds per million pounds) of metal poured	
Copper (T)	3.19	1.76
Lead (T)	6.7	4.3
Zinc (T)	16.2	6.17

	Maximum for any 1 day	Maximum for monthly average	Annual average [1]
	(mg/l) [2]	(mg/l) [2]	
Copper (T)	0.29	0.16	0.716
Lead (T)	0.79	0.39	2.42
Zinc (T)	1.47	0.56	4.41

[1] kg/1,000 kkg (pounds per million pounds) of metal poured.
[2] These concentrations must be multiplied by the ratio of (1,320/x) where x is the actual normalized process wastewater flow (in gallons per 1,000 pounds of metal poured) for a specific plant.

(f) *Melting Furnace Scrubber Operations.*

(1) Applicable to plants that are casting primarily ductile or gray iron and to plants that are casting primarily malleable iron where greater than 3,557 tons of metal are poured per year.

BAT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/62.3 million Sm^3 (pounds per billion SCF) of air scrubbed	
Copper (T)	1.02	0.561
Lead (T)	1.86	0.911
Zinc (T)	3.44	1.3
Total Phenols	3.01	1.05

	Maximum for any 1 day	Maximum for monthly average	Annual average [1]
	(mg/l) [2]	(mg/l) [2]	
Copper (T)	0.29	0.16	0.228
Lead (T)	0.53	0.26	0.526
Zinc (T)	0.98	0.37	0.911
Total Phenols	0.86	0.3	0.701

[1] kg/62.3 million Sm^3 (pounds per billion SCF) of air scrubbed.
[2] These concentrations must be multiplied by the ratio of (0.42/x) where x is the actual normalized process wastewater flow (in gallons per 1,000 SCF of air scrubbed) for a specific plant.

(2) Applicable to plants that are casting primarily steel and to plants that are casting primarily malleable iron where equal to or less than 3,557 tons of metal are poured per year.

BAT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/62.3 million Sm^3 (pounds per billion SCF) of air scrubbed	
Copper (T)	1.02	0.561
Lead (T)	2.77	1.37
Zinc (T)	5.15	1.96
Total Phenols	3.01	1.05

	Maximum for any 1 day	Maximum for monthly average	Annual average [1]
	(mg/l) [2]	(mg/l) [2]	
Copper (T)	0.29	0.16	0.228
Lead (T)	0.79	0.39	0.771
Zinc (T)	1.47	0.56	1.4
Total Phenols	0.86	0.3	0.701

[1] kg/62.3 million Sm^3 (pounds per billion SCF) of air scrubbed.
[2] These concentrations must be multiplied by the ratio of (0.42/x) where x is the actual normalized process wastewater flow (in gallons per 1,000 SCF of air scrubbed) for a specific plant.

(g) *Mold Cooling Operations.*

(1) Applicable to plants that are casting primarily ductile or gray iron and to plants that are casting primarily malleable iron where greater than 3,557 tons of metal are poured per year.

BAT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/1,000 kkg (pounds per million pounds) of metal poured	
Copper (T)	0.0428	0.0236
Lead (T)	0.0783	0.0384
Zinc (T)	0.145	0.0546

	Maximum for any 1 day	Maximum for monthly average	Annual average [1]
	(mg/l) [2]	(mg/l) [2]	
Copper (T)	0.29	0.16	0.0096
Lead (T)	0.53	0.26	0.0222
Zinc (T)	0.98	0.37	0.0384

[1] kg/1,000 kkg (pounds per million pounds) of metal poured.
[2] These concentrations must be multiplied by the ratio of (17.7/x) where x is the actual normalized process wastewater flow (in gallons per 1,000 pounds of metal poured) for a specific plant.

(2) Applicable to plants that are casting primarily steel and to plants that are casting primarily malleable iron where equal to or less than 3,557 tons of metal are poured per year.

BAT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/1,000 kkg (pounds per million pounds) of metal poured	
Copper (T)	0.0428	0.0236
Lead (T)	0.117	0.0576
Zinc (T)	0.217	0.0827

	Maximum for any 1 day	Maximum for monthly average	Annual average [1]
	(mg/l) [2]	(mg/l) [2]	
Copper (T)	0.29	0.16	0.0096
Lead (T)	0.79	0.39	0.0325
Zinc (T)	1.47	0.56	0.0591

[1] kg/1,000 kkg (pounds per million pounds) of metal poured.

[2] These concentrations must be multiplied by the ratio of (17.7/x) where x is the actual normalized process wastewater flow (in gallons per 1,000 pounds of metal poured) for a specific plant.

(h) *Slag Quench Operations.*

(1) Applicable to plants that are casting primarily ductile or gray iron and to plants that are casting primarily malleable iron where greater than 3,557 tons of metal are poured per year.

BAT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/1,000 kkg (pounds per million pounds) of metal poured	
Copper (T)	0.0527	0.0291
Lead (T)	0.0964	0.0473
Zinc (T)	0.178	0.0673

	Maximum for any 1 day	Maximum for monthly average	Annual average [1]
	(mg/l) [2]	(mg/l) [2]	
Copper (T)	0.29	0.16	0.0116
Lead (T)	0.53	0.26	0.0273
Zinc (T)	0.98	0.37	0.0473

[1] Kg/1,000 kkg (pounds per million pounds) of metal poured.

[2] These concentrations must be multiplied by the ratio of (21.8/x) where x is the actual normalized process wastewater flow (in gallons per 1,000 pounds of metal poured) for a specific plant.

(2) Applicable to plants that are casting primarily steel and to plants that are casting primarily malleable iron where equal to or less than 3,557 tons of metal are poured per year.

BAT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/1,000 kkg (pounds per million pounds) of metal poured	
Copper (T)	0.0527	0.0231
Lead (T)	0.144	0.0709

BAT Effluent Limitations—Continued

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Zinc (T)	0.267	0.102

	Maximum for any 1 day	Maximum for monthly average	Annual average [1]
	(mg/l) [2]	(mg/l) [2]	
Copper (T)	0.29	0.16	0.0118
Lead (T)	0.79	0.39	0.04
Zinc (T)	1.47	0.56	0.0728

[1] kg/1,000 kkg (pounds per million pounds) of metal poured.

[2] These concentrations must be multiplied by the ratio of (21.5/x) where x is the actual normalized process wastewater flow (in gallons per 1,000 pounds of metal poured) for a specific plant.

(i) *Wet Sand Reclamation Operations.*

(1) Applicable to plants that are casting primarily ductible or gray iron and to plants that are casting malleable iron where greater than 3,557 tons of metal are poured per year.

BAT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/1,000 kkg (pounds per million pounds) of sand reclaimed	
Copper (T)	0.217	0.12
Lead (T)	0.396	0.194
Zinc (T)	0.732	0.276
Total Phenols	0.642	0.224

	Maximum for any 1 day	Maximum for monthly average	Annual average [1]
	(mg/l) [2]	(mg/l) [2]	
Copper (T)	0.29	0.16	0.65
Lead (T)	0.53	0.26	0.112
Zinc (T)	0.98	0.37	0.194
Total Phenols	0.86	0.3	0.149

[1] kg/1000 kkg (pounds per million pounds) of sand reclaimed.

[2] These concentrations must be multiplied by the ratio of (89.5/x) where x is the actual normalized process wastewater flow (in gallons per 1,000 pounds of sand reclaimed) for a specific plant.

(2) Applicable to plants that are casting primarily steel and to plants that are casting primarily malleable iron where equal to or less than 3,557 tons of metal are poured per year.

BAT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/1,000 kkg (pounds per million pounds) of sand reclaimed	
Copper (T)	0.217	0.12
Lead (T)	0.59	0.291
Zinc (T)	1.1	0.418
Total Phenols	0.642	0.224

	Maximum for any 1 day	Maximum for monthly average	Annual average [1]
	(mg/l) [2]	(mg/l) [2]	
Copper (T)	0.29	0.16	0.0485
Lead (T)	0.79	0.39	0.164
Zinc (T)	1.47	0.58	0.299
Total Phenols	0.86	0.3	0.149

[1] kg/1000 kkg (pounds per million pounds) of sand reclaimed.

[2] These concentrations must be multiplied by the ratio of (89.5/x) where x is the actual normalized process wastewater flow (in gallons per 1,000 pounds of sand reclaimed) for a specific plant.

§ 464.34 New source performance standards.

Any new source subject to this subpart must achieve the following new source performance standards (NSPS), except that non-continuous dischargers shall not be subject to the maximum day and maximum for monthly average mass (kg/1,000 kkg or lb/million lb of metal poured; kg/1,000 kkg or lb/million lb of sand reclaimed; kg/62.3 million Sm^3 or lb/billion SCF of air scrubbed) effluent standards for copper, lead, zinc, total phenols, oil and grease, and TSS. For non-continuous dischargers, annual average mass standards and maximum day and maximum for monthly average concentration (mg/l) standards shall apply. Concentration standards and annual average mass standards shall only apply to non-continuous dischargers.

(a) *Casting Cleaning Operations.*

(1) Applicable to plants that are casting primarily ductile or gray iron and to plants that are casting primarily malleable iron where greater than 3,557 tons of metal are poured per year.

NSPS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/1,000 kkg (pounds per million pounds) of metal poured	
Copper (T)	0.0129	0.0071
Lead (T)	0.0237	0.0116
Zinc (T)	0.0437	0.0165
Oil and grease	1.34	0.446
TSS	0.67	0.536
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

	Maximum for any 1 day	Maximum for monthly average	Annual average [1]
	(mg/l) [2]	(mg/l) [2]	
Copper (T)	0.29	0.16	0.0029
Lead (T)	0.53	0.26	0.0067
Zinc (T)	0.98	0.37	0.0116
Oil and grease	30	10	0.223
TTS	15	12	0.116
pH	(3)	(3)	(3)

[1] kg/1000 kkg (pounds per million pounds) of metal poured.

[2] These concentrations must be multiplied by the ratio of (5.35/x) where x is the actual normalized process

wastewater flow (in gallons per 1,000 pounds of metal poured) for a specific plant.
[3] Within the range of 7.0 to 10.0 at all times.

(2) Applicable to plants that are casting primarily steel and to plants that are casting primarily malleable iron where equal to or less than 3,557 tons of metal are poured per year.

NSPS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/1,000 kkg (pounds per million pounds) of metal poured	
Copper (T)	0.0129	0.0071
Lead (T)	0.0353	0.0174
Zinc (T)	0.0656	0.0325
Oil and grease	1.34	0.446
TSS	1.7	0.67
pH	[1]	[1]

[1] Within the range of 7.0 to 10.0 at all times.

	Maximum for any 1 day	Maximum for monthly average	Annual average [1]
	(mg/l) [2]	(mg/l) [2]	
Copper (T)	0.29	0.16	0.0029
Lead (T)	0.79	0.39	0.0098
Zinc (T)	1.47	0.56	0.0179
Oil and grease	30	10	0.223
TTS	38	15	0.446
pH	[3]	[3]	[3]

[1] kg/1,000 kkg (pounds per million pounds) of metal poured.
[2] These concentrations must be multiplied by the ratio of (5.35/x) where x is the actual normalized process wastewater flow (in gallons per 1,000 pounds of metal poured) for a specific plant.
[3] Within the range of 7.0 to 10.0 at all times.

(b) *Casting Quench Operations.*

(1) Applicable to plants that are casting primarily ductile or gray iron and to plants that are casting primarily malleable iron where greater than 3,557 tons of metal are poured per year.

NSPS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/1,000 kkg (pounds per million pounds) of metal poured	
Copper (T)	0.0138	0.0076
Lead (T)	0.0252	0.0124
Zinc (T)	0.0466	0.0176
Oil and grease	1.43	0.476
TSS	0.713	0.571
pH	[1]	[1]

[1] Within the range of 7.0 to 10.0 at all times.

	Maximum for any 1 day	Maximum for monthly average	Annual average [1]
	(mg/l) [2]	(mg/l) [2]	
Copper (T)	0.29	0.16	0.0031
Lead (T)	0.53	0.26	0.0071
Zinc (T)	0.98	0.37	0.0124
Oil and grease	30	10	0.238
TSS	15	12	0.124
pH	[1]	[1]	[1]

[1] Kg/1000 kkg (pounds per million pounds) of metal poured.
[2] Within the range of 7.0 to 10.0 at all times.
[3] These concentrations must be multiplied by the ratio of (5.7/x) where x is the actual normalized process wastewater flow (in gallons per 1,000 pounds of metal poured) for a specific plant.

(2) Applicable to plants that are casting primarily steel and to plants that are casting primarily malleable iron where equal to or less than 3,557 tons of metal are poured per year.

NSPS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/1,000 kkg (pounds per million pounds) of metal poured	
Copper (T)	0.0138	0.0076
Lead (T)	0.0378	0.0185
Zinc (T)	0.0699	0.0266
Oil and grease	1.43	0.476
TSS	1.81	0.713
pH	[1]	[1]

[1] Within the range of 7.0 to 10.0 at all times.

	Maximum for any 1 day	Maximum for monthly average	Annual average [1]
	(mg/l) [2]	(mg/l) [2]	
Copper (T)	0.29	0.16	0.0031
Lead (T)	0.79	0.39	0.0105
Zinc (T)	1.47	0.56	0.019
Oil and grease	30	10	0.238
TSS	38	15	0.476
pH	[1]	[1]	[1]

[1] Kg/1000 kkg (pounds per million pounds) of metal poured.
[2] These concentrations must be multiplied by the ratio of (5.7/x) where x is the actual normalized process wastewater flow (in gallons per 1,000 pounds of metal poured) for a specific plant.
[3] Within the range of 7.0 to 10.0 at all times.

(c) *Dust Collection Scrubber Operations.*

(1) Applicable to plants that are casting primarily ductible or gray iron and to plants that are casting primarily malleable iron where greater than 3,557 tons of metal are poured per year.

NSPS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/62.3 million Sm^3 (pounds per billion SCF) of air scrubbed	
Copper (T)	0.218	0.12
Lead (T)	0.398	0.195
Zinc (T)	0.736	0.278
Total Phenols	0.646	0.225
Oil and grease	22.5	7.51
TSS	11.3	9.01
pH	[1]	[1]

[1] Within the range of 7.0 to 10.0 at all times.

	Maximum for any 1 day	Maximum for monthly average	Annual average [1]
	(mg/l) [2]	(mg/l) [2]	
Copper (T)	0.29	0.16	0.0488
Lead (T)	0.53	0.26	0.113
Zinc (T)	0.98	0.37	0.195
Total phenols	0.86	0.3	0.15
Oil and grease	30	10	3.76
TSS	15	12	1.95
pH	[3]	[3]	[3]

[1] kg/62.3 millions Sm^3 (pound per billion SCF) of air scrubbed.
[2] Within the range of 7.0 to 10.0 at all times.
[3] These concentrations must be multiplied by the ratio of (0.09/x) where x is the actual normalized process wastewater flow (in gallons per 1,000 SCF of air scrubbed) for a specific plant.

(2) Applicable to plants that are casting primarily steel and to plants that are casting primarily malleable iron where equal to or less than 3,557 tons of metal are poured per year.

NSPS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/62.3 million Sm^3 (pounds per billion SCF) of air scrubbed	
Copper (T)	0.218	0.12
Lead (T)	0.593	0.293
Zinc (T)	1.1	0.421
Total phenols	0.656	0.225
Oil and grease	22.5	7.51
TSS	28.5	11.3
pH	[1]	[1]

[1] Within the range of 7.0 to 10.0 at all times.

	Maximum for any 1 day	Maximum for monthly average	Annual average [1]
	(mg/l) [2]	(mg/l) [2]	
Copper (T)	0.29	0.16	0.0488
Lead (T)	0.79	0.39	0.165
Zinc (T)	1.47	0.56	0.3
Total phenols	0.86	0.3	0.15
Oil and grease	30	10	3.76
TSS	38	15	7.51
pH	[3]	[3]	[3]

[1] kg/62.3 millions Sm^3 (pound per billion SCF) of air scrubbed.
[2] Within the range of 7.0 to 10.0 at all times.
[3] These concentrations must be multiplied by the ratio of (0.09/) where is the actual normalized process wastewater flow (in gallons per 1,000 SCF of air scrubbed) for a specific plant.

(d) *Grinding Scrubber Operations.* No discharge of process wastewater pollutants to navigable waters.

(3) *Investment Casting.*

(1) Applicable to plants that are casting primarily ductile or gray iron and to plants that are casting primarily malleable iron where greater than 3,557 tons of metal are poured per year.

NSPS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/1,000 kkg (pounds per million pounds) of metal poured	
Copper (T)	3.19	1.76
Lead (T)	5.84	2.86
Zinc (T)	10.8	4.07
Oil and grease	330	110

NSPS—Continued

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
TSS	165	132
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

	Maximum for any 1 day	Maximum for monthly average	Annual average [1]
	(mg/l) [2]	(mg/l) [2]	
Copper (T)	0.29	0.16	0.716
Lead (T)	0.53	0.26	1.65
Zinc (T)	0.98	0.37	2.86
Oil and grease	30	10	55.1
TSS	15	12	28.6
pH	(3)	(3)	(3)

[1] kg/1,000 kkg (pounds per million pounds) of metal poured.
[2] These concentrations must be multiplied by the ratio of (1,320/x) where x is the actual normalized process wastewater flow (in gallons per 1,000 pounds of metal poured) for a specific plant.
[3] Within the range of 7.0 to 10.0 at all times.

(2) Applicable to plants that are casting primarily steel and to plants that are casting primarily malleable iron where equal to or less than 3,557 tons of metal are poured per year.

NSPS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/1,000 kkg (pounds per million pounds) of metal poured	
Copper (T)	3.19	1.76
Lead (T)	8.7	4.3
Zinc (T)	16.2	6.17
Oil and grease	330	110
TSS	419	165
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

	Maximum for any 1 day	Maximum for monthly average	Annual average [1]
	(mg/l) [2]	(mg/l) [2]	
Copper (T)	0.29	0.16	0.716
Lead (T)	0.79	0.39	2.42
Zinc (T)	1.47	0.56	4.41
Oil and grease	30	10	55.1
TSS	38	15	110
pH	(3)	(3)	(3)

[1] kg/1,000 kkg (pounds per million pounds) of metal poured.
[2] These concentrations must be multiplied by the ratio of (1,320/x) where x is the actual normalized process wastewater flow (in gallons per 1,000 pounds of metal poured) for a specific plant.
[3] Within the range of 7.0 to 10.0 at all times.

(f) *Melting Furnace Scrubber Operations.*

(1) Applicable to plants that are casting primarily ductile or gray iron and to plants that are casting primarily malleable iron where greater than 3,557 tons of metal are poured per year.

NSPS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/62.3 million Sm^3 (pounds per billion SCF) of air scrubbed	
Copper (T)	1.02	0.561
Lead (T)	1.66	0.911
Zinc (T)	3.44	1.30
Total phenols	3.01	1.05
Oil and grease	105	35
TSS	52.6	42.1
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

	Maximum for any 1 day	Maximum for monthly average	Annual average
	(mg/l) [2]	(mg/l) [2]	
Copper (T)	0.29	0.16	0.228
Lead (T)	0.53	0.26	0.526
Zinc (T)	0.98	0.37	0.911
Total phenols	0.96	0.3	0.701
Oil and grease	30	10	17.5
TSS	15	12	9.11
pH	(3)	(3)	(3)

[1] kg/62.3 million Sm^3 (pounds per billion SCF) of air scrubbed.
[2] These concentrations must be multiplied by the ratio of (0.42/x) where x is the actual normalized process wastewater flow (in gallons per 1,000 SCF of air scrubbed) for a specific plant.
[3] Within the range of 7.0 to 10.0 at all times.

(2) Applicable to plants that are casting primarily steel and to plants that are casting primarily malleable iron where equal to or less than 3,557 tons of metal are poured per year.

NSPS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/62.3 million Sm^3 (pounds per billion SCF) of air scrubbed	
Copper (T)	1.02	0.561
Lead (T)	2.77	1.37
Zinc (T)	5.15	1.96
Total phenols	3.01	1.05
Oil and grease	105	35
TSS	133	52.6
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

	Maximum for any 1 day	Maximum for monthly average	Annual average
	(mg/l) [2]	(mg/l) [2]	
Copper (T)	0.29	0.16	0.228
Lead (T)	0.79	0.39	0.771
Zinc (T)	1.47	0.56	1.4
Total phenols	0.38	0.3	0.701
Oil and grease	30	10	17.5
TSS	38	15	35
pH	(3)	(3)	(3)

[1] kg/62.3 million Sm^3 (pounds per billion SCF) of air scrubbed.
[2] These concentrations must be multiplied by the ratio of (0.42/x) where x is the actual normalized process wastewater flow (in gallons per 1,000 SCF of air scrubbed) for a specific plant.
[3] Within the range of 7.0 to 10.0 at all times.

(g) *Mold Cooling Operations.*

(1) Applicable to plants that are casting primarily ductile or gray iron and to plants that are casting primarily malleable iron where greater that 3,557 tons of metal are poured per year.

NSPS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/1,000 kkg pounds per million pounds of metal poured	
Copper (T)	0.0428	0.0236
Lead (T)	0.0783	0.0384
Zinc (T)	0.0145	0.0546
Oil and grease	4.43	1.48
TSS	2.22	1.77
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

	Maximum for any 1 day	Maximum for monthly average	Annual average [1]
	(mg/l) [2]	(mg/l) [2]	
Copper (T)	0.29	0.16	0.0096
Lead (T)	0.53	0.26	0.0222
Zinc (T)	0.98	0.37	0.0384
Oil and grease	30	10	0.738
TSS	15	12	0.384
pH	(3)	(3)	(3)

[1] kg/1,000 kkg (pounds per million pounds) of metal poured.
[2] These concentrations must be multiplied by the ratio of (1,320/x) where x is the actual normalized process wastewater flow (in gallons per 1,000 pounds of metal poured) for a specific plant.
[3] Within the range of 7.0 to 10.0 at all times.

(2) Applicable to plants that are casting primarily steel and to plants that are casting primarily malleable iron where equal to less that 3,557 tons of metal are poured per year.

NSPS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/1,000 kkg pounds per million pounds of metal poured	
Copper (T)	0.0428	0.0236
Lead (T)	0.117	0.0576
Zinc (T)	0.217	0.0827
Oil and grease	4.43	1.48
TSS	5.61	2.22
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

	Maximum for any 1 day	Maximum for monthly average	Annual average [1]
	(mg/1) [2]	(mg/l) [2]	
Copper (T)	0.29	0.16	0.0096
Lead (T)	0.79	0.39	0.0325
Zinc (T)	1.47	0.56	0.0591
Oil and grease	30	10	0.738
TSS	38	15	1.48
pH	(3)	(3)	(3)

[1] kg/1,000 kkg (pounds per million pounds) of metal poured.
[2] These concentrations must be multiplied by the ratio of (1,320/x) where x is the actual normalized process wastewater flow (in gallons per 1,000 pounds of metal poured) for a specific plant.
[3] Within the range of 7.0 to 10.0 at all times.

(h) *Slag Quench Operations.*

(1) Applicable to plants that are casting primarily ductile or gray iron and to plants that are casting primarily

malleable iron where greater than 3,557 tons of metal are poured per year.

NSPS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/1,000 kkg (pounds per million pounds) of metal poured	
Copper (T)	0.0527	0.0291
Lead (T)	0.0964	0.0473
Zinc (T)	0.178	0.0673
Oil and grease	5.46	1.82
TSS	2.73	2.18
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

	Maximum for any 1 day	Maximum for monthly average	Annual average[1]
	(mg/l)[2]	(mg/l)[2]	
Copper (T)	0.29	0.16	0.0118
Lead (T)	0.53	0.26	0.0273
Zinc (T)	0.98	0.37	0.0473
Oil and grease	30	10	0.909
TSS	15	12	0.473
pH	(3)	(3)	(3)

[1] kg/1,000 kkg (pounds per million pounds) of metal poured.
[2] These concentrations must be multiplied by the ratio of (21.8/x) where x is the actual normalized process wastewater flow (in gallons per 1,000 pounds of metal poured) for a specific plant.
[3] Within the range of 7.0 to 10.0 at all times.

(2) Applicable to plants that are casting primarily steel and to plants that are casting primarily malleable iron where equal to or less than 3,557 tons of metal are poured per year.

NSPS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/1,000 kkg (pounds per million pounds) of metal poured	
Copper (T)	0.0527	0.0291
Lead (T)	0.144	0.0709
Zinc (T)	0.267	0.102
Oil and grease	5.46	1.82
TSS	6.91	2.73
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

	Maximum for any 1 day	Maximum for monthly average	Annual average
	(mg/l)[2]	(mg/1)[2]	
Copper (T)	0.29	0.16	0.0118
Lead (T)	0.79	0.39	0.04
Zinc (T)	1.47	0.56	0.0726
Oil and grease	30	10	0.909
TSS	38	15	1.82
pH	(3)	(3)	(3)

[1] kg/1000 kkg pounds per million pounds) of metal poured.
[2] These concentrations must be multiplied by the ratio of (21.8/x) where x is the actual normalized process wastewater flow (in gallons per 1,000 pounds of metal poured) for a specific plant.
[3] Within the range of 7.0 to 10.0 at all times.

(i) *Wet Sand Reclamation Operations.*

(1) Applicable to plants that are casting primarily ductile or gray iron and to plants that are casting primarily malleable iron where greater than 3,557 tons of metal are poured per year.

NSPS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/1,000 kkg (pounds per million pounds) of sand reclaimed	
Copper (T)	0.217	0.12
Lead (T)	0.396	0.194
Zinc (T)	0.732	0.276
Total phenols	0.642	0.224
Oil and grease	22.4	7.47
TSS	11.2	8.96
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

	Maximum for any 1 day	Maximum for monthly average	Annual average[1]
	(mg/l)[2]	(mg/l)[2]	
Copper (T)	0.29	0.16	0.0485
Lead (T)	0.53	0.26	0.112
Zinc (T)	0.98	0.37	0.194
Total phenols	0.86	0.3	0.149
Oil and grease	30	10	3.71
TSS	15	12	1.94
pH	(3)	(3)	(3)

[1] kg/1,000 kkg (pounds per million pounds) of sand reclaimed.
[2] These concentrations must be multiplied by the ratio of (89.5/x) where x is the actual normalized process wastewater flow (in gallons per 1,000 pounds of sand reclaimed) for a specific plant.
[3] Within the range of 7.0 to 10.0 at all times.

(2) Applicable to plants that are casting primarily steel and to plants that are casting primarily malleable iron where equal to or less than 3,557 tons of metal are poured per year.

NSPS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/1,000 kkg (pounds per million pounds) of sand reclaimed	
Copper (T)	0.217	0.12
Lead (T)	0.59	0.291
Zinc (T)	1.1	0.418
Total phenols	0.642	0.224
Oil and grease	22.4	7.47
TSS	28.4	11.2
pH	(1)	(1)

[1] Within the range of 7.0 to at all times.

	Maximum for any 1 day	Maximum for monthly average	Annual average[1]
	(mg/l)[2]	(mg/l)[2]	
Copper (T)	0.29	0.16	0.0485
Lead (T)	0.79	0.39	0.164
Zinc (T)	1.47	0.56	0.299
Total phenols	0.86	0.3	0.149
Oil and grease	30	10	3.73
TSS	38	15	7.47
pH	(3)	(3)	(3)

[1] kg/1,000 kkg (pounds per million pounds) of sand reclaimed.
[2] These concentrations must be multiplied by the ratio of (89.5/x) where x is the actual normalized process wastewater flow (in gallons per 1,000 pounds of sand reclaimed) for a specific plant.
[3] Within the range of 7.0 to 10.0 at all times.

§ 464.35 Pretreatment standards for existing sources.

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 following pretreatment standards for existing sources.

(a) *Casting Cleaning Operations.*

(1) Applicable to plants that are casting primarily ductile iron, to plants that are casting primarily malleable iron where greater than 3,557 tons of metal are poured per year, and to plants that are casting primarily gray iron where greater than 1,784 tons of metal are poured per year.

PSES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/1,000 kkg (pounds per million pounds) of metal poured	
Copper (T)	0.0129	0.0071
Lead (T)	0.0237	0.0116
Zinc (T)	0.0437	0.0165

(2) Applicable to plants that are casting primarily steel, to plants that are casting primarily malleable iron where equal to or less than 3,557 tons of metal are poured per year, and to plants that are casting primarily gray iron where equal to or less than 1,784 tons of metal are poured per year.

PSES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/1,000 kkg (pounds per million pounds) of metal poured	
Copper (T)	0.0129	0.0071
Lead (T)	0.0353	0.0174
Zinc (T)	0.0656	0.025

(b) *Casting Quench Operations.*

(1) Applicable to plants that are casting primarily ductile iron, to plants that are casting primarily malleable iron where greater than 3,557 tons of metal are poured per year, and to plants that are casting primarily gray iron where greater than 1,784 tons of metal are poured per year.

PSES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/1,000 kkg (pounds per million pounds) of metal poured	
Copper (T)	0.0138	0.0076
Lead (T)	0.0252	0.0124
Zinc (T)	0.0466	0.0176
TTO	0.0257	0.00838
Oil and grease (for alternate monitoring)	1.43	0.476

(2) Applicable to plants that are casting primarily steel, to plants that are casting primarily malleable iron where equal to or less than 3,557 tons of metal are poured per year, and to plants that are casting primarily gray iron where equal to or less than 1,784 tons of metal are poured per year.

PSES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/1,000 kkg (pounds per million pounds) of metal poured	
Copper (T)	0.0138	0.0076
Lead (T)	0.0376	0.0185
Zinc (T)	0.0699	0.0266
TTO	0.0257	0.00838
Oil and grease (for alternate monitoring)	1.43	0.476

(c) *Dust Collection Scrubber Operations.*

(1) Applicable to plants that are casting primarily ductile iron, to plants that are casting primarily malleable iron where greater than 3,557 tons of metal are poured per year, and to plants that are casting primarily gray iron where greater than 1,784 tons of metal are poured per year.

PSES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/62.3 million Sm^3 (pounds per billion SCF) of air scrubbed	
Copper (T)	0.218	0.12
Lead (T)	0.396	0.195
Zinc (T)	0.736	0.278
Total Phenols	0.646	0.225
TTO	2.04	0.664
Oil and Grease (for alternate monitoring)	22.5	7.51

(2) Applicable to plants that are casting primarily steel, to plants that are casting primarily malleable iron where equal to or less than 3,557 tons of metal are poured per year, and to plants that are casting primarily gray iron where equal to or less than 1,784 tons of metal are poured per year.

PSES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/62.3 million Sm^3 (pounds per billion SCF) of air scrubbed	
Copper (T)	0.218	0.12
Lead (T)	0.593	0.293
Zinc (T)	1.1	0.421
Total Phenols	0.656	0.225
TTO	2.04	0.664
Oil and Grease (for alternate monitoring)	22.5	7.51

(d) *Grinding Scrubber Operations.* No discharge of process wastewater pollutants to a POTW.

(e) *Investment Casting.*

(1) Applicable to plants that are casting primarily ductile iron, to plants that are casting primarily malleable iron where greater than 3,557 tons of metal are poured per year, and to plants that are casting primarily gray iron where greater than 1,784 tons of metal are poured per year.

PSES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/1,000 kkg (pounds per million pounds) of metal poured	
Copper (T)	3.19	1.76
Lead (T)	5.84	2.86
Zinc (T)	10.8	4.07
TTO	13.2	4.3
Oil and Grease (for alternate monitoring)	330	110

(2) Applicable to plants that are casting primarily steel, to plants that are casting primarily malleable iron where equal to or less than 3,557 tons of metal are poured per year, and to plants that are casting primarily gray iron where equal to or less than 1,784 tons of metal are poured per year.

PSES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/1,000 kkg (pounds per million pounds) of metal poured	
Copper (T)	3.19	1.76
Lead (T)	8.7	4.3
Zinc (T)	16.2	6.17
TTO	13.2	4.3
Oil and Grease (for alternate monitoring)	330	110

(f) *Melting Furnace Scrubber Operations.*

(1) Applicable to plants that are casting primarily ductile iron, to plants that are casting primarily malleable iron where greater than 3,557 tons of metal are poured per year, and to plants that are casting primarily gray iron where greater than 1,784 tons of metal are poured per year.

PSES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/62.3 million Sm^3 (pounds per billion SCF) of air scrubbed	
Copper (T)	1.02	0.561
Lead (T)	1.86	0.911
Zinc (T)	3.44	1.30
Total phenols	3.01	1.05
TTO	8.34	2.73
Oil and grease (for alternate monitoring)	105	35

(2) Applicable to plants that are casting primarily steel, to plants that are casting primarily malleable iron where equal to or less than 3,557 tons of metal are poured per year, and to plants that are casting primarily gray iron where equal to or less than 1,784 tons of metal are poured per year.

PSES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/62.3 million Sm^3 (pounds per billion SCF) of air scrubbed	
Copper (T)	1.02	0.561
Lead (T)	2.77	1.37
Zinc (T)	5.15	1.96
Total phenols	3.01	1.05
TTO	8.34	2.73
Oil and grease (for alternate monitoring)	105	35

(g) *Mold Cooling Operations.*

(1) Applicable to plants that are casting primarily ductile iron, to plants that are casting primarily malleable iron where greater than 3,557 tons of metal are poured per year, and to plants that are casting primarily gray iron where greater than 1,784 tons of metal are poured per year.

PSES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/1,000 kkg (pounds per billion pounds) of metal poured	
Copper (T)	0.0428	0.0236
Lead (T)	0.0783	0.0384
Zinc (T)	0.145	0.0546
TTO	0.0797	0.026
Oil and grease (for alternate monitoring)	4.43	1.48

(2) Applicable to plants that are casting primarily steel, to plants that are casting primarily malleable iron where

greater than 3,557 tons of metal are poured per year, and to plants that are casting primarily gray iron where equal to or less than 1,784 tons of metal are poured per year.

PSES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/1,000 kkg (pounds per billion pounds) of metal poured	
Copper (T)	0.0428	0.0236
Lead (T)	0.117	0.0576
Zinc (T)	0.217	0.0627
TTO	0.0797	0.026
Oil and grease (for alternate monitoring)	4.43	1.46

(h) *Slag Quench Operations.*

(1) Applicable to plants that are casting primarily ductile iron, to plants that are casting primarily malleable iron where greater than 3,557 tons of metal are poured per year, and to plants that are casting primarily gray iron where greater than 1,784 tons of metal are poured per year.

PSES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/1,000 kkg (pounds per million pounds) of metal poured	
Copper (T)	0.0527	0.0291
Lead (T)	0.0964	0.0473
Zinc (T)	0.178	0.0573
TTO	0.0257	0.00838
Oil and grease (for alternate monitoring)	5.46	1.82

(2) Applicable to plants that are casting primarily steel, to plants that are casting primarily malleable iron where equal to or less than 3,557 tons of metal are poured per year, and to plants that are casting primarily gray iron where equal to or less than 1,784 tons of metal are poured per year.

PSES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/1,000 kkg (pounds per million pounds) of metal poured	
Copper (T)	0.0527	0.0291
Lead (T)	0.144	0.0709
Zinc (T)	0.267	0.102
TTO	0.0257	0.00838
Oil and grease (for alternate monitoring)	5.46	1.82

(i) *West Sand Reclamation Operations.*

(1) Applicable to plants that are casting primarily ductile iron, to plants that are casting primarily malleable iron where greater than 3,557 tons of metal are poured per year, and to plants that are casting gray iron where greater than 1,784 tons of metal are poured per year.

PSES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/1,000 kkg (pounds per million pounds) of sand reclaimed	
Copper (T)	0.217	0.12
Lead (T)	0.396	0.194
Zinc (T)	0.732	0.276
Total Phenols	0.642	0.224
TTO	1.18	0.386
Oil and grease (for alternate monitoring)	22.4	7.47

(2) Applicable to plants that are casting primarily steel, to plants that are casting primarily malleable iron where equal to or less than 3,557 tons of metal are poured per year, and to plants that are casting primarily gray iron where equal to or less than 1,784 tons of metal are poured per year.

PSES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/1,000 kkg (pounds per million pounds) of sand reclaimed	
Copper (T)	0.217	0.12
Lead (T)	0.59	0.291
Zinc (T)	1.1	0.418
Total Phenols	0.642	0.224
TTO	1.18	0.386
Oil and grease (for alternate monitoring)	22.4	7.47

§ 464.36 Pretreatment standards for new sources.

Except as provided in 40 CFR 403.7, any new source subject to this subpart which introduces pollutants into publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources.

(a) *Casting Cleaning Operations.*

(1) Applicable to plants that are casting primarily ductile iron, to plants that are casting primarily malleable iron where greater than 3,557 tons of metal are poured per year, and to plants that are casting primarily gray iron where greater than 1,784 tons of metal are poured per year.

PSNS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/1,000 kkg (pounds per million pounds) of metal poured	
Copper (T)	0.0129	0.0071
Lead (T)	0.0237	0.0116
Zinc (T)	0.0437	0.0165

(2) Applicable to plants that are casting primarily steel, to plants that are casting primarily malleable iron where equal to or less than 3,557 tons of metal are poured per year, and to plants that are casting primarily gray iron where equal to or less than 1,784 tons of metal are poured per year.

PSNS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/1,000 kkg (pounds per million pounds) of metal poured	
Copper (T)	0.0129	0.0071
Lead (T)	0.0353	0.0174
Zinc (T)	0.0656	0.025

(b) *Casting Quench Operations.*

(1) Applicable to plants that are casting primarily ductile iron, to plants that are casting primarily malleable iron where greater than 3,557 tons of metal are poured per year, and to plants that are casting primarily gray iron where greater than 1,784 tons of metal are poured per year.

PSNS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/1,000 kkg (pounds per million pounds) of metal poured	
Copper (T)	0.0138	0.0076
Lead (T)	0.0252	0.0124
Zinc (T)	0.0466	0.0176
TTO	0.0257	0.00838
Oil and Grease (for alternate monitoring)	1.43	0.476

(2) Applicable to plants that are casting primarily steel, to plants that are casting primarily malleable iron where equal to or less than 3,557 tons of metal are poured per year, and to plants that are casting primarily gray iron where equal to or less than 1,784 tons of metal are poured per year.

PSNS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/1,000 kkg (pounds per million pounds) of metal poured	
Copper (T)	0.0138	0.0076
Lead (T)	0.0376	0.0185
Zinc (T)	0.0699	0.0266
TTO	0.0257	0.00838
Oil and Grease (for alternate monitoring)	1.43	0.476

(c) *Dust Collection Scrubber Operations.*

(1) Applicable to plants that are casting primarily ductile iron, to plants that are casting primarily malleable iron where greater than 3,557 tons of metal are poured per year, and to plants that are casting primarily gray iron where greater than 1,784 tons of metal are poured per year.

PSNS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/62.3 million Sm^3 (pounds per billion SCF) of air scrubbed	
Copper (T)	0.218	0.12
Lead (T)	0.398	0.195
Zinc (T)	0.736	0.278
Total Phenols	0.646	0.225
TTO	2.04	0.664
Oil and Grease (for alternate monitoring)	22.5	7.51

(2) Applicable to plants that are casting primarily steel, to plants that are casting primarily malleable iron where equal to or less than 3,557 tons of metal are poured per year, and to plants that are casting primarily gray iron where equal to or less than 1,784 tons of metal are poured per year.

PSNS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/62.3 million Sm^3 (pounds per billion SCF) of air scrubbed	
Copper (T)	0.218	0.12
Lead (T)	0.593	0.293
Zinc (T)	1.1	0.421
Total Phenols	0.656	0.225
TTO	2.04	0.664
Oil and Grease (for alternate monitoring)	22.5	7.51

(d) *Grinding Scrubber Operations.* No discharge of process wastewater pollutants to a POTW.

(e) *Investment Casting.*

(1) Applicable to plants that are casting primarily ductile iron, to plants that are casting primarily malleable iron where greater than 3,557 tons of metal are poured per year, and to plants that are casting primarily gray iron where greater than 1,784 tons of metal are poured per year.

PSNS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/1,000 kkg (pounds per million pounds) of metal poured	
Copper (T)	3.19	1.76
Lead (T)	5.84	2.86
Zinc (T)	10.8	4.07
TTO	13.2	4.3
Oil and Grease (for alternate monitoring)	330	110

(2) Applicable to plants that are casting primarily steel, to plants that are casting primarily malleable iron where equal to or less than 3,557 tons of metal are poured per year, and to plants that are casting primarily gray iron where equal to or less than 1,784 tons of metal are poured per year.

PSNS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/1,000 kkg (pounds per million pounds) of metal poured	
Copper (T)	3.19	1.76
Lead (T)	8.7	4.3
Zinc (T)	16.2	5.17
TTO	13.2	4.3
Oil and Grease (for alternate monitoring)	330	110

(f) *Melting Furnace Scrubber Operations.*

(1) Applicable to plants that are casting primarily ductile iron, to plants that are casting primarily malleable iron where greater than 3,557 tons of metal are poured per year, and to plants that are casting primarily gray iron where greater than 1,784 tons of metal are poured per year.

PSNS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/62.3 million Sm^3 (pounds per billion SCF) of air scrubbed	
Copper (T)	1.02	0.561
Lead (T)	1.86	0.911
Zinc (T)	3.44	1.3
Total Phenols	3.01	1.05
TTO	8.34	2.73
Oil and Grease (for alternate monitoring)	105	35

(2) Applicable to plants that are casting primarily steel, to plants that are casting primarily malleable iron where equal to or less than 3,557 tons of metal are poured per year, and to plants that are casting primarily gray iron where equal to or less than 1,784 tons of metal are poured per year.

PSNS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/62.3 million Sm^3 (pounds per billion SCF) of air scrubbed	
Copper (T)	1.02	0.561
Lead (T)	2.77	1.37
Zinc (T)	5.15	1.96
Total Phenols	3.01	1.05
TTO	8.34	2.73
Oil and Grease (for alternate monitoring)	105	35

(g) *Mold Cooling Operations.*

(1) Applicable to plants that are casting primarily ductile iron, to plants that are casting primarily malleable iron where greater than 3,557 tons of metal are poured per year, and to plants that are casting primarily gray iron where greater than 1,784 tons of metal are poured per year.

PSNS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/1,000 kkg (pounds per million pounds) of metal poured	
Copper (T)	0.0428	0.0236
Lead (T)	0.0783	0.0384
Zinc (T)	0.145	0.0546
TTO	0.0797	0.026
Oil and Grease (for alternate monitoring)	4.43	1.48

(2) Applicable to plants that are casting primarily steel, to plants that are casting primarily malleable iron where equal to or less than 3,557 tons of metal are poured per year, and to plants that are casting primarily gray iron where equal to or less than 1,784 tons of metal are poured per year.

PSNS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/1,000 kkg (pounds per million pounds) of metal poured	
Copper (T)	0.0428	0.0236
Lead (T)	0.117	0.0576
Zinc (T)	0.217	0.0827
TTO	0.0797	0.026
Oil and Grease (for alternate monitoring)	4.43	1.48

(h) *Slag Quench Operations.*

(1) Applicable to plants that are casting primarily ductile iron, to plants that are casting primarily malleable iron

where greater than 3,557 tons of metal are poured per year, and to plants that are casting primarily gray iron where greater than 1,784 tons of metal are poured per year.

PSNS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/1,000 kkg (pounds per million pounds) of metal poured	
Copper (T)	0.0527	0.0291
Lead (T)	0.0964	0.0473
Zinc (T)	0.178	0.0673
TTO	0.0257	0.00838
Oil and grease (for alternate monitoring)	5.46	1.82

(2) Applicable to plants that are casting primarily steel, to plants that are casting primarily malleable iron where equal to or less than 3,557 tons of metal are poured per year, and to plants that are casting primarily gray iron where equal to or less than 1,784 tons of metal are poured per year.

PSNS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/1,000 kkg (pounds per million pounds) of metal poured	
Copper (T)	0.0527	0.0291
Lead (T)	0.144	0.0709
Zinc (T)	0.267	0.102
TTO	0.0257	0.00838
Oil and grease (for alternate monitoring)	5.46	1.82

(i) *Wet Sand Reclamation Operations.*

(1) Applicable to plants that are casting primarily ductile iron, to plants that are casting primarily malleable iron where greater than 3,557 tons of metal are poured per year, and to plants that are casting primarily gray iron where greater than 1,784 tons of metal are poured per year.

PSNS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/1,000 kkg (pounds per million pounds) of sand reclaimed	
Copper (T)	0.217	0.12
Lead (T)	0.396	0.194
Zinc (T)	0.732	0.276
Total phenols	0.642	0.224
TTO	1.18	0.386
Oil and grease (for alternate monitoring)	22.4	7.47

(2) Applicable to plants that are casting primarily steel, to plants that are casting primarily malleable iron where equal to or less than 3,557 tons of metal are poured per year, and to plants that are casting primarily gray iron where equal to or less than 1,784 tons of metal are poured per year.

PSNS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/1,000 kkg (pounds per million pounds) of sand reclaimed	
Copper (T)	0.217	0.12
Lead (T)	0.59	0.291
Zinc (T)	1.10	0.418
Total phenols	0.642	0.224
TTO	1.18	0.386
Oil and grease (for alternate monitoring)	22.4	7.47

§ 464.37 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology. [Reserved].

Subpart D—Zinc Casting Subcategory

§ 464.40 Applicability; description of the zinc casting subcategory.

The provisions of this subpart are applicable to discharges to waters of the United States and to the introduction of pollutants into publicly owned treatment works resulting from zinc casting operations as defined in § 464.02(d).

§ 464.41 Specialized definitions.

For the purpose of this subpart:

(a) *Total Toxic Organics* (TTO). TTO is a regulated parameter under PSES (§ 464.45) and PSNS (§ 464.46) for the zinc subcategory and is comprised of a discrete list of toxic organic pollutants for each process segment where it is regulated, as follows:

(1) Casting Quench (§ 464.45(a) and § 464.46(b)):

21. 2,4,6-trichlorophenol
22. para-chloro meta-cresol
31. 2,4-dichlorophenol
34. 2,4-dimethylphenol
39. fluoranthene
44. methylene chloride (dichloromethane)
65. phenol
66. bis(2-ethylhexyl) phthalate
68. di-n-butyl phthalate
70. diethyl phthalate
85. tetrachloroethylene

(2) Die Casting (§ 465.45(b) and § 464.46(b)):

1. acenaphthene
21. 2,4,6-trichlorophenol
22. para-chloro meta-cresol
24. 2-chlorophenol
34. 2,4-dimethylphenol
44. methylene chloride (dichloromethane)
55. naphthalene
65. phenol
66. bis (2-ethylhexyl) phthalate
68. di-n-butyl phthalate
70. diethyl phthalate
85. tetrachloroethylene
86. toluene
87. trichloroethylene

(3) Melting Furnace Scrubber (§ 464.45(c) and § 464.46(c)):

31. 2,4-dichlorophenol
34. 2,4-dimethylphenol
39. fluoranthene
44. methylene chloride (dichloromethane)
55. naphthalene
65. phenol
66. bis(2-ethylhexyl) phthalate
68. di-n-butyl phthalate
85. tetrachloroethylene
86. toluene
87. trichloroethylene

(4) Mold Cooling (§ 464.45(d) and § 464.46(d)):

21. 2,4,6-trichlorophenol
22. para-chloro meta-cresol
31. 2,4-dichlorophenol
34. 2,4-dimethylphenol
39. fluoranthene
44. methylene chloride (dichloromethane)
65. phenol
66. bis(2-ethylhexyl) phthalate
68. di-n-butyl phthalate
70. diethyl phthalate
85. tetrachloroethylene

§ 464.42 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Except as provided in 40 CFR 125.30–125.32, 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, except that non-continuous dischargers shall not be subject to the maximum day and maximum for monthly average mass (kg/1,000 kkg or lb/million lb of metal poured; kg/62.3 million Sm^3 or lb/billion SCF of air scrubbed) effluent limitations for copper, lead, zinc, total phenols, oil and grease, and TSS. For non-continuous dischargers, annual average mass limitations and maximum day and maximum for monthly average concentration (mg/1) limitations shall apply. Concentration limitations and annual average mass limitations shall only apply to noncontinuous dischargers.

(a) *Casting Quench Operations.*

BPT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/1,000 kkg (pounds per million pounds) of metal poured	
Copper (T)	0.0344	0.0187
Lead (T)	0.0353	0.0174
Zinc (T)	0.0509	0.0192
Oil and grease	1.34	0.446
TSS	1.7	0.67
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

	Maximum for any 1 day	Maximum for monthly average	Annual average [1]
	(mg/1) [2]	(mg/1) [2]	
Copper (T)	0.77	0.42	0.0076
Lead (T)	0.79	0.39	0.0098
Zinc (T)	1.14	0.43	0.0121
Oil and grease	30	10	0.223
TSS	38	15	0.446
pH	(3)	(3)	(3)

[1] kg/1000 kkg (pound per million pounds) of metal poured.
[2] These concentrations must be multiplied by the ratio of (5.35/x) where x is the actual normalized process wastewater flow (in gallons per 1,000 pounds of metal poured) for a specific plant.
[3] Within the range of 7.0 to 10.0 at all times.

(b) *Die Casting Operations.*

BPT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/1,000 kkg (pounds per million pounds) of metal poured	
Copper (T)	0.0066	0.0036
Lead (T)	0.0068	0.0034
Zinc (T)	0.0098	0.0037
Total phenols	0.0074	0.0026
Oil and grease	0.259	0.0864
TTS	0.328	0.13
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

	Maximum for any 1 day	Maximum for monthly average	Annual average [1]
	(mg/l) [2]	(mg/l) [2]	
Copper (T)	0.77	0.42	0.0015
Lead (T)	0.79	0.39	0.0019
Zinc (T)	1.14	0.43	0.0023
Total phenols	0.86	0.3	0.0017
Oil and grease	30	10	0.0432
TSS	38	15	0.0864
pH	(3)	(3)	(3)

[1] kg/1000 kkg (pound per million pounds) of metal poured.
[2] These concentrations must be multiplied by the ratio of (1.04/x) where x is the actual normalized process wastewater flow (in gallons per 1,000 pounds of metal poured) for a specific plant.
[3] Within the range of 7.0 to 10.0 at all times.

(c) *Melting Furnace Scrubber Operations.*

BPT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/62.3 millions Sm^3 (pounds per billion SCF) of air scrubbed	
Copper (T)	1.56	0.852
Lead (T)	1.6	0.791
Zinc (T)	2.31	0.872
Total Phenols	1.74	0.608
Oil and grease	60.8	20.3
TSS	77.1	30.4
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

	Maximum for any 1 day	Maximum for monthly average	Annual average [1]
	(mg/l) [2]	(mg/l) [2]	
Copper (T)	0.77	0.42	0.345
Lead (T)	0.79	0.39	0.446
Zinc (T)	1.44	0.43	0.548
Total Phenols	0.86	0.3	0.406
Oil and grease	30	10	10.1
TSS	38	15	20.3
pH	(3)	(3)	(3)

[1] kg/62.3 million Sm^3 (pounds per billion SCF) of air scrubbed.
[2] These concentrations must be multiplied by the ratio of (0.243/x) where x is the actual normalized process wastewater flow (in gallons per 1,000 SCF of air scrubbed for a specific plant.
[3] Within the range of 7.0 to 10.0 at all times.

(d) *Mold Cooling Operations.*

BPT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/1,000 kkg (pounds per million SCF) of metal poured	
Copper (T)	0.304	0.166
Lead (T)	0.311	0.154
Zinc (T)	0.449	0.17
Oil and grease	11.8	3.94
TSS	15	5.91
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

	Maximum for any 1 day	Maximum for monthly average	Annual average [2]
	(mg/l) [3]	(mg/l) [3]	
Copper (T)	0.77	0.42	0.067
Lead (T)	0.79	0.39	0.0867
Zinc (T)	1.44	0.43	0.106
Oil and grease	30	10	1.97
TSS	38	15	3.94
pH	(3)	(3)	(3)

[1] kg/1,000 kkg (pounds per million pounds) of metal poured.
[2] These concentrations must be multiplied by the ratio of (47.3/x) where x is the actual normalized process wastewater flow (in gallons per 1,000 pounds of metal poured) for a specific plant.
[3] Within the range of 7.0 to 10.0 at all times.

§ 464.43 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

Except as provided in 40 CFR 125.30–125.32, 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, except that non-continuous dischargers shall not be subject to the maximum day and maximum for monthly average mass (kg/1,000 kkg or lb/million lb of metal poured; kg/62.3 million Sm^3 or lb/billion SCF of air scrubbed) effluent limitations for copper, lead, zinc, and total phenols. For non-continuous dischargers, annual average mass limitations and maximum day and maximum for monthly average concentration (mg/1) limitations shall apply. Concentration limitations and annual average mass limitations shall only apply to non-continuous dischargers.

(a) *Casting Quench Operations.*

BAT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/1,000 kkg (pounds per million pounds) of metal poured	
Copper (T)	0.0344	0.0187
Lead (T)	0.0237	0.0116
Zinc (T)	0.0339	0.0129

	Maximum for any 1 day	Maximum for monthly average	Annual average [1]
	(mg/l) [2]	(mg/l) [2]	
Copper (T)	0.77	0.42	0.0076
Lead (T)	0.53	0.26	0.0067
Zinc (T)	0.76	0.29	0.008

[1] kg/1,000 kkg (pounds per million pounds) of metal poured
[2] These concentrations must be multiplied by the ratio of (5.35/x) where x is the actual normalized process wastewater flow (in gallons per 1,000 pounds of metal poured) for a specific plant.

(b) *Die Casting Operations.*

BAT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/1,000 kkg (pounds per million pounds) of metal poured	
Copper (T)	0.0066	0.0036
Lead (T)	0.0046	0.0022
Zinc (T)	0.0066	0.0025
Total phenols	0.0074	0.0026

	Maximum for any 1 day	Maximum for monthly average	Annual average [1]
	(mg/l) [2]	(mg/l) [2]	
Copper (T)	0.77	0.42	0.0015
Lead (T)	0.53	0.26	0.0013
Zinc (T)	0.76	0.29	0.0016
Total phenols	0.86	0.3	0.0017

[1] kg/1,000 kkg (pounds per million pounds) of metal poured.
[2] These concentrations must be multiplied by the ratio of (1.04/x) where x is the actual normalized process

wastewater flow (in gallons per 1,000 pounds of metal poured) for a specific plant.

(c) *Melting Furnace Scrubber Operations.*

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/62.3 million Sm^3 (pounds per billion SCF) of air scrubbed	
Copper (T)	1.56	0.852
Lead (T)	1.07	0.527
Zinc (T)	1.54	0.588
Total phenolse	1.74	0.608

	Maximum for any 1 day	Maximum for monthly average	Annual average [1]
	(mg/l) [2]	(mg/l) [2]	
Copper (T)	0.77	0.42	0.345
Lead (T)	0.53	0.26	0.304
Zinc (T)	0.76	0.29	0.365
Total phenols	0.86	0.3	0.406

[1] kg/62.3 million Sm^3 (pounds per billion SCF) of air scrubbed.
[2] These concentrations must be multiplied by the ratio of (0.243/x) where x is the actual normalized process wastewater flow (in gallons per 1,000 pounds of metal poured) for a specific plant.

(d) *Mold Cooling Operations.*

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/1,000 kkg (pounds per million pounds) of metal poured	
Copper (T)	0.304	0.166
Lead (T)	0.209	0.103
Zinc (T)	0.3	0.114

	Maximum for any 1 day	Maximum for monthly average	Annual average [1]
	(mg/l) [2]	(mg/l) [2]	
Copper (T)	0.77	0.042	0.067
Lead (T)	0.53	0.26	0.0591
Zinc (T)	0.76	0.29	0.071

[1] kg/1,000 kkg (pounds per million pounds) of metal poured.
[2] These concentrations must be multiplied by the ratio of (47.3/x) where x is the actual normalized process wastewater flow (in gallons per 1,000 pounds of metal poured) for a specific plant.

§ 464.44 New source performance standards.

Any new source subject to this subpart must achieve the following new source performance standards (NSPS), except that non-continuous dischargers shall not be subject to the maximum day and maximum for monthly average mass (kg/1,000 kkg or lb/million lb of metal poured; kg/62.3 million Sm^3 or lb/billion SCF of air scrubbed) effluent standards for copper, lead, zinc, total phenols, oil and grease, and TSS. For non-continuous dischargers, annual average mass standards and maximum day and maximum for monthly average concentration (mg/l) standards shall apply. Concentration standards and annual average mass standards shall only apply to non-continuous dischargers.

(a) *Casting Quench Operations.*

NSPS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/1,000 kkg (pounds per million pounds) of metal poured	
Copper (T)	0.0344	0.0187
Lead (T)	0.0237	0.0166
Zinc (T)	0.0339	0.0129
Oil and grease	1.34	0.446
TSS	0.67	0.536
pH	[1]	[1]

[1] Within the range of 7.0 to 10.0 at all times.

	Maximum for any 1 day	Maximum for monthly average	Annual average [1]
	(mg/l) [2]	(mg/l) [2]	
Copper (T)	0.77	0.42	0.0076
Lead (T)	0.53	0.26	0.0067
Zinc (T)	0.76	0.29	0.008
Oil and grease	30	10	0.223
TSS	15	12	0.116
pH	[3]	[3]	[3]

[1] kg/1,000 kkg (pounds per million pounds) of metal poured.
[2] These concentrations must be multiplied by the ratio of (5.35/x) where x is the actual normalized process wastewater flow (in gallons per 1,000 pounds of metal poured) for a specific plant.
[3] Within the range of 7.0 to 10.0 at all times.

(b) *Die Casting Operations.*

NSPS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/1,000 kkg (pounds per million pounds) of metal poured	
Copper (T)	0.0066	0.0036
Lead (T)	0.0046	0.0022
Zinc (T)	0.0066	0.0025
Total phenols	0.0074	0.0026
Oil and grease	0.259	0.0864
TSS	0.13	0.104
pH	[1]	[1]

[1] Within the range of 7.0 to 10.0 at all times.

	Maximum for any 1 day	Maximum for monthly average	Annual average [1]
	(mg/l) [2]	(mg/l) [2]	
Copper (T)	0.77	0.42	0.0015
Lead (T)	0.53	0.26	0.0013
Zinc (T)	0.76	0.29	0.0016
Total phenols	0.86	0.3	0.0017
Oil and grease	30	10	0.0432
TSS	15	12	0.0225
pH	[3]	[3]	[3]

[1] kg/1,000 kkg (pounds per million pounds) of metal poured.
[2] These concentrations must be multiplied by the ratio of (1.04/x) where x is the actual normalized process wastewater flow (in gallons per 1,000 pounds of metal poured) for a specific plant.
[3] Within the range of 7.0 to 10.0 at all times.

(c) *Melting Furnace Scrubber Operations.*

NSPS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/62.3 million Sm^3 (pounds per billion SCF) of air scrubbed	
Copper (T)	1.56	0.852
Lead (T)	1.07	0.527
Zinc (T)	1.54	0.588
Total phenols	1.74	0.608
Oil and grease	60.8	20.3
TSS	30.4	24.3
pH	[1]	[1]

[1] Within the range of 7.0 to 10.0 at all times.

	Maximum for any 1 day	Maximum for monthly average	Annual average [1]
	(mg/l) [2]	(mg/l) [2]	
Copper (T)	0.77	0.42	0.345
Lead (T)	0.53	0.26	0.304
Zinc (T)	0.76	0.29	0.365
Total phenols	0.86	0.3	0.406
Oil and grease	30	10	10.1
TSS	15	12	5.27
pH	[3]	[3]	[3]

[1] kg/62.3 million Sm^3 (pounds per billion SCF) of air scrubbed.
[2] These concentrations must be multiplied by the ratio of (0.243/x) where x is the actual normalized process wastewater flow (in gallons per 1,000 SCF of air scrubbed) for a specific plant.
[3] Within the range of 7.0 to 10.0 at all times.

(d) *Mold Cooling Operations.*

NSPS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/1,000 kkg (pounds per million pounds) of metal poured	
Copper (T)	0.304	0.166
Lead (T)	0.209	0.103
Zinc (T)	0.3	0.114
Oil and grease	11.8	3.94
TSS	5.91	4.73
pH	[1]	[1]

[1] Within the range of 7.0 to 10.0 at all times.

	Maximum for any 1 day	Maximum for monthly average	Annual average [1]
	(mg/l) [2]	(mg/l) [2]	
Copper (T)	0.77	0.42	0.067
Lead (T)	0.53	0.26	0.0591
Zinc (T)	0.76	0.29	0.71
Oil and grease	30	10	1.07
TSS	15	12	1.03
pH	[3]	[3]	[3]

[1] kg/1,000 kkg (pounds per million pounds) of metal poured.
[2] These concentrations must be multiplied by the ratio of (47.3/x) where x is the actual normalized process wastewater flow (in gallons per 1,000 pounds of metal poured) for a specific plant.
[3] Within the range of 7.0 to 10.0 at all times.

§ 464.45 Pretreatment standards for existing sources.

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 following pretreatment standards for existing sources.

(a) *Casting Quench Operations.*

PSES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/1,000 kkg (pounds per million pounds) of metal poured	
Copper (T)	0.0344	0.0187
Lead (T)	0.0237	0.0116
Zinc (T)	0.0339	0.0129
TTO	0.093	0.0304
Oil and grease (for alternate monitoring)	1.34	0.446

(b) *Die Casting Operations.*

PSES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/1,000 kkg (pounds per million pounds of metal poured)	
Copper (T)	0.0066	0.0036
Lead (T)	0.0046	0.0022
Zinc (T)	0.0066	0.0025
Total phenols	0.0074	0.0026
TTO	0.0196	0.0064
Oil and grease for alternate monitoring)	0.259	0.0864

(c) *Melting Furnace Scrubber Operations.*

PSES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/62.3 million Sm^3 (pounds per billion SCF) of air scrubbed	
Copper (T)	1.56	0.852
Lead (T)	1.07	0.527
Zinc (T)	1.54	0.588
Total phenols	1.74	0.608
TTO	3.95	1.29
Oil and grease for alternate monitoring)	60.8	20.3

(d) *Mold Cooling Operations.*

PSES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/1,000 kkg (pounds per million pounds) of metal poured	
Copper (T)	0.304	0.166
Lead (T)	0.209	0.103
Zinc (T)	0.3	0.114
TTO	0.821	0.268
Oil and grease for alternate monitoring)	11.8	3.94

§ 464.46 Pretreatment standards for new sources.

Except as provided in 40 CFR 403.7, any new source subject to this subpart which introduces pollutants into publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources.

(a) *Casting Quench Operations.*

PSNS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/1,000 kkg (pounds per million pounds) of metal poured	
Copper (T)	0.0344	0.0187
Lead (T)	0.0237	.0116
Zinc (T)	0.0339	0.0129
TTO	0.093	0.0304
Oil and grease (for alternate monitoring)	1.34	0.446

(b) *Die Casting Operations.*

PSNS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/1,000 kkg (pounds per million pounds) of metal poured	
Copper (T)	0.0066	0.0036
Lead (T)	0.0046	0.0022
Zinc (T)	0.0066	0.0025

PSNS—Continued

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Total phenols	0.0074	0.0026
TTO	0.0196	0.0064
Oil and grease (for alternate monitoring)	0.259	0.0864

(c) *Melting Furnace Scrubber Operations.*

PSNS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/62.3 million Sm^3 (pounds per billion SCF) of air scrubbed	
Copper (T)	1.56	0.852
Lead (T)	1.07	0.527
Zinc (T)	1.54	0.588
Total phenols	1.74	0.608
TTO	3.95	1.29
Oil and grease (for alternate monitoring)	60.8	20.3

(d) *Mold Cooling Operations.*

PSNS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	kg/1,000 kkg (pounds per million pounds) of metal poured	
Copper (T)	0.304	0.166
Lead (T)	0.209	0.103
Zinc (T)	0.3	0.114
TTO	0.821	0.268
Oil and grease (for alternate monitoring)	11.8	3.94

§ 464.47 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology [Reserved].

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federal register

Wednesday
October 30, 1985

Part III

Department of the Treasury

Comptroller of the Currency

12 CFR Part 11

Securities Exchange Act Disclosure Rules; Final Rule

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

12 CFR Part 11

[Docket No. 84-32]

Securities Exchange Act Disclosure Rules

AGENCY: Comptroller of the Currency, Treasury.

ACTION: Final rule.

SUMMARY: The Office of the Comptroller of the Currency ("Office") announces the adoption of final amendments to its Securities Exchange Act Disclosure Rules promulgated under the Securities Exchange Act of 1934 ("Act" or "Exchange Act"). The amendments adopt, with minor changes, proposed amendments that were published for comment on September 21, 1984 (49 FR 37246). The Exchange Act requires the Office to issue regulations substantially similar to those adopted by the Securities and Exchange Commission ("SEC") or publish its reasons for not doing so. The amendments are designed primarily to comply with this requirement.

As proposed, the Office is reformatting the Securities Exchange Act Disclosure Rules in a more logical sequence that will make them easier to understand and use. The amendments will also simplify a number of disclosure requirements for registration, periodic reporting and proxy solicitation by banks through the adoption of common disclosure items for nonfinancial statements and reports, as well as for financial statements. Where practicable, common requirements applicable to various forms are being centralized for ease of reference. Finally, the Office is adopting a number of substantive changes to its Exchange Act Disclosure Rules which conform to comparable provisions adopted by the SEC; in certain limited instances, however, the Office is not conforming its new regulations to comparable SEC provisions and is stating its reasons for not doing so. The collection of information requirements in the existing rule have been approved by the Office of Management and Budget and given OMB No. 1557-0106. See § 11.101(b).

EFFECTIVE DATE: December 30, 1985.

FOR FURTHER INFORMATION CONTACT: Michael C. Dugas, Securities & Corporate Practices Division, Telephone: (202) 447-1954, Zane D. Blackburn or Eugene W. Green, Bank Accounting Division, Telephone: (202) 447-0471, Office of the Comptroller of the Currency, 490 L'Enfant Plaza East SW., Washington, D.C. 20219.

SUPPLEMENTARY INFORMATION: The Office today is adopting amendments to its Securities Exchange Act Disclosure Rules ("Rules") codified in 12 CFR Part 11 ("Part 11"), which were proposed on September 21, 1984 (49 FR 37246). The amendments to Part 11 are being adopted pursuant to Section 12(i) of the Exchange Act, 15 U.S.C. 78*l*(i). That section authorizes the Office to administer and enforce Sections 12, 13, 14(a), 14(c), 14(d), 14(f), and 16 of the Exchange Act, 15 U.S.C. 78*l*, 78m, 78n(a), 78n(c), 78n(d), 78n(f), and 78p, with respect to national banks and banks operating under the Code of Law for the District of Columbia (collectively referred to as "banks" or "national banks"). Section 12(i) also requires the Office to issue, with respect to national banks, regulations substantially similar to those issued by the SEC under the foregoing sections unless the Office finds that such regulations are "not necessary or appropriate in the public interest or for the protection of investors," and publishes such findings, and the detailed reasons therefor, in the **Federal Register.** The amendments adopted today are identical, with minor changes, to those which were proposed in September 1984, and are virtually identical to regulations adopted by the SEC, except where specifically noted and discussed below.[1]

The new Rules will eliminate certain inconsistencies in disclosure items and will include a number of substantive changes in disclosure requirements which conform to changes made by the SEC in its comparable regulations. The resulting disclosure items, as well as certain other requirements common to various parts of the regulation, will be arranged in a more logical sequence in a reformatted Part 11. These changes will lessen the burden of some disclosure requirements and facilitate ease of reference in preparing disclosure material.

I. Background

On September 21, 1984, the Office published for comment in the **Federal Register** amendments to its Securities Exchange Act Disclosure Rules ("Rules") which are codified in 12 CFR Part 11 ("Part 11"). The amendments to Part 11 were proposed pursuant to Section 12(i) of the Exchange Act.

As stated in the Notice of Proposed Rulemaking, a major purpose of the proposed Part 11 changes was to revise this Office's Exchange Act Disclosure Rules to conform to comparable SEC regulations. In addition, however, the Office proposed a comprehensive reformatting of Part 11 to make the Rules easier to understand and follow.

The substantive proposals in the September 1984 rulemaking proceedings included: (1) Granting immediate relief from certain reporting obligations for banks filing deregistration certifications under Section 12 of the Exchange Act; (2) revising the annual report nonfinancial disclosure requirements for registered national banks to make them consistent with other periodic reporting requirements under Section 13 of the Exchange Act; (3) revising the annual report financial statement disclosure requirements to make them consistent with other financial statement requirements under Section 13 of the Exchange Act and to eliminate certain of those requirements that are duplicative of generally accepted accounting principles; (4) revising the beneficial ownership reporting requirements under Sections 13(d), 13(g) and 16(a) of the Exchange Act to reduce the number of required filings and raise the initial threshold for reporting certain shareholder transactions; (5) amending proxy rules relating to proposals of security holders to prescribe various standards and eligibility tests for the submission of such proposals; (6) revising requirements relating to disclosure of executive compensation to restructure and simplify them; (7) amending the pro rata requirements relating to tender offers under Section 14(d) of the Exchange Act to provide for fairer treatment of national bank shareholders; (8) amending certain requirements in the Office's proxy regulations under Section 14(a) of the Exchange Act to improve communications between banks and beneficial owners of their securities; and (9) making certain technical amendments to conform the Rules of the Office with those of the SEC.[2]

[1] For instance, the Office has not included in Part 11 sections or phrases or SEC regulations applicable only to industries other than banking. *See, e.g.*, 17 CFR 229.101(c)(1) (i)–(iv), (vi), (viii), (ix) and (xi) (industry segments, raw materials, patents, trademarks, government contracts, research and development, etc.).

[2] Some of the September 1984 proposals relating to financial statements—and set forth in reformatted Subparts A and I—were the subject of a notice of proposed rulemaking by this Office published on January 29, 1981 (46 FR 9618) ("January 1981 proposals") and appear as final rules in the Exchange Act disclosure regulations issued by the Board of Governors of the Federal Reserve System and the Federal Deposit Insurance Corporation. *See* 12 CFR Parts 206 and 335, respectively. Due to the substantiality of the amendments proposed in September 1984, the Office decided to repropose the January 1981 proposals, as subsequently modified

Continued

The Office also requested comments as to the criteria which should be used for (i) exempting small publicly held banks from the registration requirements of Section 12(g) and (ii) allowing deregistration of small publicly held bank registrants. Specifically, the Office requested comments on, among other things, whether it should incorporate certain thresholds for small issuers, and issuers with less than a certain number of shareholders, adopted by the SEC in its Exchange Act disclosure regulations.

The Office further asked for comments on clarification and simplification of certain proxy and information statement disclosure requirements of Part 11 relating to mergers, consolidations, and acquisition or sales of assets of national banks. Comments were requested on appropriate disclosure requirements where cash is the only form of consideration, and in "triangular mergers" where the consideration includes shares of a bank holding company that owns the acquiring bank. The Office also requested comments concerning the use of a shortened proxy or information statement for mergers involving national banks which do not have a class of securities registered pursuant to Section 12 of the Exchange Act.

Finally, in connection with the proposed amendments to Part 11, the Office also announced its plans to conduct an overall review of its 12 CFR Part 16 ("Part 16"), the Securities Offering Disclosure Rules. As part of that review, the Office stated that it expects to propose an integration of the Part 16 offering circular disclosure requirements with the disclosure requirements of Part 11. As previously indicated, the Office believes that centralized disclosure rules in Part 11 would offer the additional advantage of facilitating integration of Part 16 with Part 11.

In response to the proposed amendments, the Office received two comments from national banks and one comment from the SEC, which were supportive of the Office's proposed amendments to Part 11. The two bank comments provided limited specific comments on nonfinancial and financial disclosure requirements under the Office's proposed amendments, and are discussed in greater detail below. The SEC comment letter supported the Office's proposed Part 11 amendments, and contained a comprehensive comparison of existing SEC Exchange Act disclosure provisions and the Office's proposed Part 11 amendments. In those instances where the SEC identified a difference between specific SEC regulations and proposed Office Part 11 amendments, the SEC generally suggested that the OCC incorporate the existing SEC standard.

As discussed above, the Office has determined to adopt, with minor modifications, the proposed Part 11 amendments which were published in September 1984. The majority of the changes in the Office's proposed Part 11 regulations, as adopted, result from the Office's incorporation of suggested changes made by the SEC in its comment letter. In those few instances where the Office has decided not to adopt the SEC suggestion, the Office has specifically explained why it is not doing so, in compliance with the requirements of Exchange Act section 12(i). In addition, the Office has determined to adopt limited provisions (i) exempting from the registration requirements of the Exchange Act and the Office's Part 11 regulations banks with total assets not exceeding $3,000,000 at the end of the last fiscal year, and (ii) permitting banks with less than 500 shareholders and total assets not exceeding $3,000,000 at the end of each of the last three fiscal years to deregister pursuant to section 12(g)(4) of the Act. Finally, the Office is making appropriate technical amendments to its Part 11 regulations, primarily consisting of section redesignations, and is republishing here in its entirety Part 11, as amended by this rulemaking; hence, interested persons seeking to comply with Part 11, as amended, need only refer to this document for the text of Part 11 until such time as these regulations are published in permanent form in the Code of Federal Regulations.

The Office, however, is not proposing or adopting at this time any additional specific regulations concerning the application of Part 11 proxy and information statement disclosure requirements to mergers, consolidations, and acquisitions or sales of assets of national banks, other than minor changes relating to cash transactions and transactions involving holding companies, to clarify interpretation of the Rules. Similarly, the Office is not proposing or adopting at this time any revisions to its securities offering disclosure regulations at 12 CFR Part 16. These matters currently are under active consideration by the Office, and it is expected that appropriate proposals concerning these subjects will be published by the Office in the future.

II. Reformatting of Part 11

A major thrust of the Office's September 1984 proposals was to change the format of Part 11. As stated at that time, Part 11 was originally adopted in 1964, pursuant to authority in the Securities Acts Amendments of 1964, Pub. L. No. 88-467, 55 Stat. 565 (1964), which authorized the Office to administer and enforce most of the requirements of Sections 12, 13, 14, and 16 of the Exchange Act with respect to national banks. Section 12(i) was amended in 1974 to require the Office to publish regulations substantially similar to those adopted by the SEC. Since then, the SEC has expanded its regulations to the point where the present Part 11 format cannot readily accommodate comparable regulations issued by the Office. The Office thus considered it appropriate to propose to reformat its regulations, particularly in light of SEC activity.

As proposed, the reformatted regulation would be set out in a more logical fashion and contain appropriate headings and subheadings in order to make the regulation easier to read and use. As proposed, separate subparts would be created relating to (A) general provisions, (B) registration requirements and statements under Section 12 of the Exchange Act, (C) annual and other reports filed by banks pursuant to Section 13 of the Exchange Act, (D) reports filed by certain shareholders pursuant to Sections 13(d) and 16(a) of the Exchange Act, (E) proxy statement, information statement and election contest requirements pursuant to Sections 14 (a) and (c) of the Exchange Act, (F) tender offer requirements pursuant to Section 14(d) of the Exchange Act, and (G) general requirements concerning registration and reporting.

In addition, the proposal to adopt a number of disclosure items common to bank registration, reporting and proxy forms led to grouping them in appropriate subparts. One subpart (Subpart H) contained nonfinancial disclosure item requirements common to different forms and is similar to the SEC's Regulation S-K. A second subpart (Subpart I) contained disclosure item requirements common to the different financial statement formats that are included in the registration, reporting and proxy forms and would be similar to the SEC's Regulation S-X.

The reformatting of Part 11 now is being adopted in the form proposed. As reformatted, the structure of Part 11 will be similar to current SEC Exchange Act disclosure regulations and will permit

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because of later SEC action, rather than issue them as final rules at that time. These particular proposals, however, now are being adopted in this rulemaking proceeding.

the Office more easily to incorporate future SEC changes to its regulations.

III. Substantive Proposals

A. General Provisions

Certain provisions in Part 11, such as the definitions contained in 12 CFR 11.2, are of general applicability. In the proposed reformatting of Part 11, these provisions were grouped together to form a new Subpart A. In addition, the following substantive changes were proposed.

1. *Definitional amendments.* Several new terms would be added to the definitional section, 12 CFR 11.102, and several existing terms would be revised. First, the Office proposed to define the terms "related parties," and "totally held subsidiary," and to amend the definition of "significant subsidiary" to correspond with changes made by the SEC. *See* the discussion in Section I of this preamble below concerning "related parties," "significant subsidiary" and "totally held subsidiary." *See also* proposed 12 CFR 11.102 (hh), (ii), and (jj).

Second, the Office proposed to amend the definition of "immediate family," in proposed 12 CFR 11.102(k), to conform to changes made by the SEC in Exchange Act Release No. 19570, 48 FR 11104 (March 16, 1983) and to the new definition of that term in § 11.844 concerning disclosure of certain relationships and transactions involving management. *See* Exchange Act Release No. 19290, 47 FR 55661 (December 13, 1982).

Third, the definition of "officer," in proposed 12 CFR 11.102(o), was proposed to be revised to indicate that the words "officer" and "executive officer" are used interchangeably in Part 11.

Fourth, the Office also proposed to amend the definition of the term "verified," when used with respect to financial statements. *See* proposed 12 CFR 11.102(dd). As amended, the term would correspond with proposed clarifying amendments to the financial statement verification requirements reformated under Subpart I and discussed in this preamble under Section I—Financial Statement Requirements. The amendment would also clarify the extent to which banks have the option of filing either certified, or internally verified, financial statements.

2. *Safe harbor rule projections and information on the effects of changing prices.* As proposed, the current "safe harbor" for forward looking statements would be expanded to cover information concerning the effects of changing prices disclosed voluntarily by banks in annual reports and certain proxy and information statements. *See* proposed 12 CFR 11.106. This change would correspond to changes adopted by the SEC. *See* Exchange Act Release No. 17858, 46 FR 19456 (March 31, 1981).

3. *Requirement to Make and Keep Accurate Books, Records and Accounts.* The Office proposed rules prohibiting falsification of accounting records and the making of materially false and misleading statements to accountants, in connection with a national bank's disclosure requirements under the Exchange Act. *See* proposed 12 CFR 11.107 and 11.108. These rules would implement the requirements of § 13(b)(2) of the Exchange Act, and would be comparable to regulations adopted by the SEC. *See* 17 CFR 240.13b–1 and 240.13b–2.

All of the amendments falling under the new Subpart A are being adopted as proposed. In addition, in response to a comment received from the SEC, the Office is amending the definition of "material" in new § 11.102(n), formerly § 11.2(n), to conform to the standard set forth in *TSC Industries* v. *Northway, Inc.*, 426 U.S. 438, 449 (1976). Under the former definition, the term "material," when used to qualify a requirement for the furnishing of information as to any subject, limited the information required to those matters as to which an average prudent investor ought reasonably to be informed before buying or selling the security registered. The definition is being amended to provide that the term "material," when used to qualify a requirement for the furnishing of information as to any subject, includes information as to which there is a substantial likelihood that a reasonable investor would attach importance in determining whether to buy or sell the securities registered.

B. Registration

1. *Reformatted rules relating to registration of securities.* As proposed, the reformatted requirements relating to the registration of a class of bank securities pursuant to Section 12 of the Exchange Act would be found in new Subpart B of Part 11. The forms for registration of securities of a bank, or an additional class of securities, under Section 12 of the Exchange Act would be set forth in proposed 12 CFR 11.290 (Form F–1) and proposed 12 CFR 11.291 (Form F–10), respectively.

2. *Deregistration.* The Office proposed a change consistent with SEC Rule 12g–4, 17 CFR 240.12g–4, relating to termination of registration under Section 12(g) of the Exchange Act, 15 U.S.C. 78*l*(g). Proposed 12 CFR 11.207(b) would suspend a bank's obligation to file any reports required under Section 13(a) of the Exchange Act, 15 U.S.C. 78m(a), immediately upon the filing of a certification that the conditions required for deregistration are present. No specific changes were proposed to be made in the conditions required for deregistration.

3. *Exemption for small issuers.* The Office requested comments concerning (i) an exemption from the registration requirements under Section 12(g) of the Exchange Act for small publicly held banks and (ii) an authorization for small publicly held bank registrants to deregister. The registration requirements currently apply to banks having more than $1 million in assets and 500 or more shareholders. The SEC has adopted an exemption from registration for issuers having assets of less than $3 million. *See* 17 CFR 240.12g–1. In addition, under another exemption, registrants whose securities are registered with the SEC may terminate such registration if they have fewer than 500 shareholders and their assets have not exceeded $3 million as of the end of each of the last three fiscal years. *See* 17 CFR 240.12g–4. These exemptions were adopted by the SEC to reflect the effect of inflation since Congress enacted the existing statutory criteria in the Securities Acts Amendments of 1964, and thereby alleviate burdens imposed on small businesses in complying with the Exchange Act. *See* Exchange Act Release No. 18647, 47 FR 17046 (April 21, 1982).

The Office specifically requested comments on whether exemptions similar to those contained in SEC Rules 12g–1 and 12g–4 should be adopted for national banks and what asset level should form the basis for the exemption. Suggestions were also requested on criteria, other than asset levels, more particularly suited to publicly held banks, that should be considered by the Office as a basis for granting exemptions from the registration requirements of, and for permitting deregistration under Section 12(g) of the Act.

Except as described below, no comments were received concerning this subpart. All of the amendments falling under the new Subpart B are being adopted as proposed, with minor amendments as discussed below.

The SEC suggested that exemptions for small publicly held banks conforming to those contained in SEC Rules 12g–1 and 12g–4 be adopted. Upon consideration of the issue, the Office has determined to adopt new § 11.201(b) to provide an exemption from registration

for banks having assets of less than $3 million similar to Exchange Act Rule 12g–1. The Office also has determined to amend § 11.207 to conform to Exchange Act Rule 12g–4 which permits termination of registration for a company with less than 300 shareholders, or less than 500 shareholders where total assets have been under $3 million for the last three fiscal years. The Office, however, will continue to consider whether some other asset level, or other criteria, should form the basis of an exemption and, if so, propose appropriate exemptions at a later time.

The Office also is making technical changes to Form F–10, § 11.291, the form used by registrant banks to register additional classes of securities under the Exchange Act. These changes clarify the fact that Form F–10 is to be used to register additional classes of securities under either Section 12(b) or 12(g) of the Exchange Act.

C. Annual and Other Bank Reports

1. *Reformatted rules relating to annual, quarterly and current reports.* The continuing disclosure requirements of Section 13(a) of the Exchange Act concerning annual, quarterly and current reports of a national bank were proposed to be reformatted in Subpart C of Part 11. The relevant forms for such reports are set forth in proposed 12 CFR 11.390 (Form F–2 (annual report)), proposed 12 CFR 11.391 (Form F–3 (current report)) and proposed 12 CFR 11.392 (Form F–4 (quarterly report)).

2. *Substantive disclosure changes.* The Office proposed substantive amendments to the continuing disclosure requirements. These proposals and final determinations are described in this preamble under Section G—Requirements Concerning Registration and Reporting; Section H—Content of Nonfinancial Statements and Reports; and Section I—Financial Statements requirements. The proposals correspond to amendments adopted by the SEC.

3. *Interim financial statements.* The Office proposed amendments relating to the presentation of interim financial information in reports and statements required by Part 11. The requirements as to the form and content of interim financial statements would be made uniform and centralized in proposed 12 CFR 11.917. The proposed requirements included an expanded description of the basis upon which banks may determine the adequacy of interim disclosure, a change permitting the bank to state, if true that and independent accountant has reviewed the statements and, if so, requiring that the report of the accountant accompany those statements, a change in dates as of which balance sheets are required in filings on Form F–4, and a clarification of the bases to be used in applying the percentage tests for determining required balance sheet and income statement captions.

In addition, common requirements relating to management's discussion and analysis of interim financial statements were proposed to be centralized in 12 CFR 11.833. These requirements would complement those already established for discussions of annual periods by requiring interim-period discussions to focus on the same type of information as discussed for annual periods. The interim discussion would not reiterate all of the information presented in the full year discussion, but only material changes in financial condition and results of operations occurring during the periods covered by the interim financial statements. The SEC has adopted a similar requirement with respect to interim financial reporting by industrial companies. *See* Exchange Act Release No. 17524, 46 FR 12480 (February 17, 1981).

4. *Annual Report and Exhibit Requirements.* The Office proposed to amend its requirements relating to the annual report prepared by banks on Form F–2 to correspond to amendments adopted by the SEC. *See* Exchange Act Release Nos. 17095, 45 FR 58822 (September 5, 1980); 17114, 45 FR 63630 (September 25, 1980); and 17522, 46 FR 11952 (February 12, 1981). The proposed annual report form at 12 CFR 11.390 reflected efforts by the Office to simplify disclosure requirements applicable to banks and, where possible, construct common disclosure requirements for the documents which comprise the Office's disclosure program for publicly held national banks.

Reflecting changes made by the SEC for the annual report, Form F–2 would be restructured into four parts. As proposed, the first part contained disclosure requirements relating to business, properties, legal proceedings and beneficial ownership. The second part contained requirements relating to market information, selected financial data, management's discussion and analysis of financial information and results of operations, and financial statements. The third part consisted of traditional proxy disclosure information relating to directors and executive officers, beneficial ownership of the bank's securities and transactions with management and management remuneration. The fourth part consisted of financial statement schedules with amended requirements for exhibits.

5. *Current report requirements.* The Office proposed that Form F–3, the current report, be amended to correspond to amendments adopted by the SEC. No substantive changes in the events to be reported were proposed. However, because of the proposed adoption of common disclosure items for financial statements, Item 7 of Form F–3 would be reformatted to reference the pertinent financial statement requirements in new Subpart I.

With minor modifications, as discussed below, the amendments falling under Subpart C are being adopted as proposed. One commentator recommended that the Office eliminate those financial statement schedules in the proposed rules for Forms F–2 and F–4, which duplicate existing Call Report schedule requirements. The Office agrees that financial statement schedules in the proposed rule for Form F–2 which duplicate existing Call Report schedule requirements are unnecessary if a copy of the applicable Call Report schedule is provided. Accordingly, the Office is revising § 11.390 (Form F–2) to add the following statement at the end of Items 8 and 14(d): "In lieu of the financial statement schedules required by Subpart I, banks may file copies of applicable financial statement schedules submitted in accordance with the instructions for the preparation of the Consolidated Reports of Condition and Income (FFIEC 031, 032, 033 or 034 as applicable ('Call Report'))." The Office is also correcting the designation of Item 14(d) which had previously been designated 14(b). The Office has determined not to make any changes in § 11.392 (Form F–4) from the proposed rule. As proposed, § 11.392 did not require financial statement schedules. *See* § 11.392, Part I, Item 1 and § 11.917(a)(8).

The Office is also adding a new § 11.301(c) requiring a bank to file annual reports for each of its predecessors which had securities registered pursuant to Section 12 of the Exchange Act covering the last full fiscal year of the predecessor, unless the report had been filed by the predecessor. This new section is comparable to SEC Rule 13a–2, 17 CFR 240.13a–2.

D. Shareholder Transaction Reports

1. *Reformatting of requirements relating to shareholder transaction reports.* The Office proposed that the shareholder transaction reporting requirements under Sections 13(d)(1), 13(g) and 16(a) of the Exchange Act be reformatted in new Subpart D of Part 11. Relevant forms for reporting such

transactions were set forth in proposed 12 CFR 1.490 (Form F–11 (acquisition statement)), proposed 12 CFR 11.491 (Form F–11A (short form acquisition/ownership statement)), proposed 12 CFR 11.492 (Form F–7 (initial statement of beneficial ownership)), and proposed 12 CFR 11.493 (Form F–8 (statement of change in beneficial ownership)). In addition to the proposed reformatting and a reduction in the number of F–11's, F–11–A's (or amendments thereto) to be filed with the Office from four to three, the Office proposed two amendments, discussed below, to the shareholder transaction reporting requirements.

2. *Amendment to requirement for reporting beneficial ownership under Section 13(g) of the Act.* The Office proposed in 12 CFR 11.402(b) to eliminate the requirements for filing an annual amendment to Form F–11A when (i) no changes occur in the beneficial ownership information therein or (ii) when the changes relate solely to changes in the aggregate number of the bank's outstanding shares. Those changes correspond to the SEC's amendment of Rule 13d–2 under the Act, 17 CFR 240.13d–2. *See* Exchange Act Release No. 19188, 47 FR 49963 (November 4, 1982).

3. *Exemptions of small transactions from the reporting requirements of Section 16(a) of the Act.* Section 16(a) of the Act imposes reporting requirements on directors, officers and certain beneficial shareholders of companies having a class of equity securities registered under Section 12 of the Act. Under former SEC and OCC rules, those persons were exempted from the reporting requirements if their acquisitions or dispositions were less than $3,000 for any six-month period. Reflecting action taken by the SEC in amending Rule 16a–9, 17 CFR 240.16a–9, the Office proposed to increase the qualifying amount from the $3,000 to $10,000. *See* 12 CFR 11.410(g); Exchange Act Release No. 18853, 47 FR 29651 (July 8, 1982). The Office also proposed to amend § 11.410(b)(1), and (b)(1)(f) to correspond to Rules 16a–2(a) and 16a–6 of the SEC, 17 CFR 240.16a–2(a), 240.16a–6; and § 11.411(c) to correspond to Rule 16b–3, 17 CFR 240.16b–3.

No comments were received concerning those proposed changes. All of the amendments falling under new Subpart D are being adopted, as proposed, with the exception of a technical change redesignating § 11.410(h) to read § 11.410(g).

E. Shareholder Meetings

1. *Reformatting of proxy regulations.* The Office proposed that regulations relating to proxy solicitations, proxy statements and statements where management does not solicit proxies be reformatted in new Subpart E of Part 11. The related form for the proxy statement or information statement (Form F–5) and the form for statement in election contests (Form F–6), were set forth in proposed 12 CFR 11.590 and proposed 12 CFR 11.591, respectively.

2. *Pro forma financial information.* The Office proposed to revise the disclosure items and instructions in the Form F–5 concerning the presentation of pro forma financial information to correspond with changes made by the SEC in Exchange Act Release No. 18842, 47 FR 29832 (July 9, 1982). These changes were designed to promote uniformity in the presentation and preparation of *pro forma* financial information.

3. *Relationships with independent public accountants.* The Office proposed to eliminate the requirement, presently in 12 CFR 11.51, Item 8(b), that banks provide descriptions of non-audit services by independent public accountants. *See* proposed § 11.590, Item 8. This reflected comparable action taken by the SEC in rescinding Item 8(g) of Rule 14a–101 under the Exchange Act, 17 CFR 240.14a–101 Item 8(g). *See* Exchange Act Release No. 18450, 47 FR 5404 (February 5, 1982). Proposed § 11.590, Item 8, also conformed to 17 CFR 240.14a–101 by including a requirement for disclosure of disagreements between accountants and the bank where a change in accountants has taken place, and disclosure of whether or not accounts representatives are expected to be present at the stockholders' meeting.

4. *Annual Report to Security Holders.* The Office proposed to amend the disclosures required to be made in the annual report to security holders that must accompany or precede any statement furnished on behalf of the bank relating to an annual meeting of security holders at which directors are to be elected. These amendments were proposed to correspond to the proposed changes in the requirements relating to the annual report on Form F–2. *See* the discussion in Section C above concerning "annual report and exhibit requirements." The amended requirements relating to the annual report to security holders were placed in 12 CFR 11.503(a).

5. *Material required to be filed.* The Office proposed, in 12 CFR 11.506, to revise the number of copies of preliminary and definitive proxy statements and other soliciting material to be sent to this Office from six to four, and to make certain other minor amendments.

6. *Shareholder Communications.* The Office proposed to amend its proxy rules to correspond with amendments to Rule 14a–3, 17 CFR 240.14a–3, in accordance with recommendations of the SEC Advisory Committee on Shareholder Communications. *See* Exchange Act Release Nos. 19291, 47 FR 55491 (December 10, 1982), and 20021, 48 FR 35082 (August 3, 1983).

One aspect of the proposal related to the inquiry which registered banks, as issuers, must make when they know that their shares are held of record by a broker-dealer or other nominee. The proposed rule required banks to make this inquiry at least 20 days in advance of the record date of the meeting of security holders, or if inquiry at such time is impracticable, as many days before such meeting as practicable, or at such later time as the rules of a national securities exchange on which the class of securities in question is listed may permit for good cause shown. These changes were incorporated in proposed 12 CFR 11.507(b).

The other aspect of the proposal contained an exception for multiple annual report mailings to the same address. This aspect of the proposal would also relieve registered banks from the duty of delivering a proxy statement or annual report to any shareholder of record where (i) at least two consecutive annual meeting solicitations mailed to the shareholder's address of record have been returned undeliverable, or (ii) all, and at least two, checks (if sent by first class mail) in payment of dividends or interest on securities during a twelve-month period have been mailed to such security holder's address and were returned undeliverable. In addition, an express requirement that banks resume mailings of proxy statements or annual reports once they learn of a security holder's new address, would be added. These changes were incorporated in proposed 12 CFR 11.503(a). Under 12 U.S.C. 21a and 75, however, banks would still have to mail a "notice" of the meeting to each such shareholder of record.

Certain of the SEC's shareholder communications rules that apply to brokers under Exchange Act Rules 14b–1, 17 CFR 240.14b–1, were not proposed.[3]

[3] The SEC rule in question essentially requires brokers and dealers to respond to an issuer's inquiries concerning the number of customers who are beneficial owners of the issuer's securities for whom the brokers or dealers are holders of record. Further, under SEC Rule 14b–1, brokers and dealers must forward shareholder communications materials to those beneficial owners within five business days after receipt of such materials from an issuer, and assurances of reimbursement of

Continued

See Exchange Act Release No. 20021 (July 28, 1983). The Exchange Act excludes banks from the definition of "broker" and, therefore, from the coverage of Section 14(b) of the Act and Rule 14b–1 issued thereunder. Further, Exchange Act Section 12(i) does not give the Office authority to administer and enforce Section 14(b). In its September 1984 rulemaking, the Office encouraged banks to cooperate with issuers in improving communications between issuers and shareholders whose securities were held in the name of a bank or bank nominee, even though banks are not subject to SEC Rule 14b–1. The Office, however, is actively considering a rule proposal under provisions of the national banking laws which would impose on banks and their nominees shareholder communications requirements similar to those imposed on brokers and dealers by SEC Rule 14b–1.

7. *Proposals of Security Holders.* The Office also proposed to amend its proxy rules relating to proposals of security holders, to correspond to changes made by the SEC to Rule 14a–8, 17 CFR 240.14a–8. *See* Exchange Act Release No. 34–20091, 48 FR 38218 (August 23, 1983). These changes included (i) adoption of a minimum investment and holding period test for a shareholder ("proponent") to be eligible to submit a proposal; (ii) adoption of a prohibition against the submission of any security-holder proposals for inclusion in the bank's proxy soliciting material by a proponent who delivers written proxy materials to holders of more than 25% of a class of a bank's securities; and (iii) elimination of the requirement that any proponent notify the bank of his or her intention to appear personally at the meeting. The amendments would also allow any proponent to arrange, at the outset, to have any person who is permitted under applicable state law, to present the proposal for action at the meeting; extend the deadline for submitting proposals to be included in annual meeting proxy materials from 90 days to 120 days in advance of the date corresponding to the date the materials for the previous annual meeting were released; and reduce the number of proposals that a proponent may submit to a bank in any one year from two to one. Certain other amendments relating to identification, time periods, supporting statements and substantive grounds for omission of security holder proposals were also proposed. The proposed requirements were contained in 12 CFR 11.508.

8. *Pension plan transactions.* Consistent with SEC changes, the Office proposed to rescind disclosures required by Item 7(f) of Form F–5, 12 CFR 11.51, regarding transactions with pension or similar plans. *See* Exchange Act Release No. 19290, 47 FR 55661 (December 13, 1982). Such disclosures appeared unnecessary, particularly in light of the regulation of affiliated transactions under the Employee Retirement Income Security Act of 1974.

All of the amendments falling under new Subpart E are being adopted, as proposed. In addition, at the suggestion of the SEC, the Office is amending § 11.592, formerly § 11.52, the form for statement in election contests (Form F–6). The Office is adding Item 4(d) to that form, to require an election contest participant to disclose the amount contributed in furtherance of the solicitation if in excess of $500, in conformance with SEC Schedule 14B (17 CFR 240.14a–102). The Office is also correcting a technical error in the proposed table of contents by redesignating § 11.591 as § 11.592.

In addition to the above proposals, the Office announced it would review in a systematic fashion the requirements and related forms relevant to the solicitation of proxies. In this regard, the SEC previously announced the commencement of a comprehensive review of the rules, forms and schedules relating to the solicitation of proxies. *See* Exchange Act Release No. 18878, 47 FR 31394 (July 20, 1982). The SEC's review would involve an evaluation of existing substantive and procedural provisions and elimination of duplicative or outmoded requirements. Because the SEC's review is ongoing, and because of the Exchange Act Section 12(i) requirement that the Office adopt regulations substantially similar to those of the SEC, the Office is deferring action to review its proxy regulations pending the outcome of the SEC's review. Should the SEC propose or adopt new proxy regulations, however, the Office may make appropriate corresponding rule proposals in the future.

F. Tender Offer Regulations

The Office's tender offer regulations were proposed to be reformatted and set forth in a new Subpart F. The tender offer statement form (Form F–13) was located in proposed 12 CFR 11.690 and the recommendation/solicitation statement (Form F–12) was set forth in proposed 12 CFR 11.691.

In addition, the Office proposed one substantive amendment to the tender offer requirements. The Office proposed to issue a rule which corresponds to amended Exchange Act Rule 14d–8, 17 CFR 240.14d–8, relating to proration rights in tender offers for less than all of the outstanding equity securities of a class. *See* Exchange Act Release No. 19336, 47 FR 57679 (December 28, 1982). Proposed 12 CFR 11.608 would require a bidder who makes a partial tender offer to accept securities on a pro rata basis, according to the number of securities deposited by each depositor, during the period such offer remains open. The present rule does not require the tender offeror to extend the proration period beyond the tenth calender day following commencement of the tender offer or notification of an increase in the consideration offered. *See* proposed 12 CFR 11.608.

No comments specifically addressing proposed Subpart F were received. The Office now is adopting the revisions, discussed above, as proposed.

G. Requirements Concerning Registration and Reporting

The Office proposed to reformat certain general requirements relating to registration and reporting into new Subpart G. The substance of most of these requirements is currently found in 12 CFR 11.4(i)–(w).

The Office also proposed to amend its procedures concerning the timely filing of annual and quarterly reports. Heretofore, banks which sought extensions of filing deadlines were required to apply for Office approval. As proposed in new 12 CFR 11.724, a bank would provide notice to the Office of its inability to file all or any portion of a required report on a timely basis. Under the new procedures, a subsequent filing made after the prescribed due date would be presumed to be filed on a timely basis if:

(i) The reasons for the delay were set forth in the notice and (ii) the subsequent filings were made within a prescribed time period after the due date (15 days in the case of annual reports and 5 days in the case of quarterly reports). The proposed amendment is substantially similar to one adopted by the SEC. *See* Exchange Act Release No. 16718, 46 FR 23651 (April 8, 1980).

Finally, the Office proposed to add Sections 11.701, Scope of Subject; 11.703, Supplemental Information; 11.710, Requirements as to Proper Form; and

expenses. Finally, under the SEC rule, brokers and dealers must provide issuers, under certain conditions, with the names, addresses and securities positions of customers who are beneficial owners of the issuer's securities and who have not objected to such disclosure.

11.730, Other Exhibits, to conform to existing SEC regulations.

All of the amendments falling under new Subpart G are being adopted, as proposed. In addition, at the suggestion of the SEC, the Office is: amending § 11.723, formerly § 11.4((/) (1)–(3), (m), to provide broader and more specific requirements permitting incorporation by reference, in conformance with Exchange Act Rule 12b–23 (17 CFR 240.12b–23); amending § 11.732(d), formerly § 11.4(o)(4), to limit incorporation by reference of documents which have been on file for more than 5, rather than 10 years, in conformance with Exchange Act Rule 12b–23 (17 CFR 240.12b–23); and amending § 11.712(a), formerly §11.4(r)(1), to require 8–½ by 11 inch paper, rather than 8–½ by 13 inch paper, insofar as practicable, in conformance with Exchange Act Rule 12b–12 (17 CFR 240.12b–12).

The Office is also amending § 11.711 to require filing of three, rather than four copies of registration statements and reports, except where otherwise provided in a particular form.

H. Content of Nonfinancial Statements and Reports

The Office proposed that certain common substantive disclosure items pertaining to registration, periodic reporting or proxy solicitation by banks be centralized in a separate subpart of Part 11 (Subpart H). To the greatest extent possible, the various registration, periodic reporting and proxy solicitation forms would in turn refer back to the pertinent disclosure items in the centralized Subpart H.

In addition, the Office proposed several substantive amendments to the common substantive disclosure requirements of Part 11:

1. *Effects of Changing Prices.* The Office proposed to require banks subject to the reporting requirements of Statement of Financial Accounting Standards ("SFAS") No. 33, "Financial Reporting and Changing Prices" of the Financial Accounting Standards Board ("FASB"), to disclose information on the effects of changing prices. This requirement applies only to banks which have, among other things, total assets of more than $1 billion (after deducting accumulated depreciation). The requirement was contained in new 12 CFR 11.832, and will apply to annual reports and certain proxy statements prepared by such banks. As discussed above, the Office's safe harbor provisions, in new 12 CFR 11.106, will be expanded to include such disclosures.

2. *Executive Compensation.* The Office also proposed several amended and retitled disclosure requirements concerning management remuneration to conform to recent changes made by the SEC to item 402 of Regulation S–K. *See* Exchange Act Release No. 34–20220, 48 FR 44467 (September 29, 1983). The amended requirements, representing substantial changes from the existing management remuneration provisions of 12 CFR 11.51, Item 7, were contained in proposed 12 CFR 11.842, entitled "Executive Compensation." The proposed changes included limiting the individual reporting requirements to directors and executive officers with policy-making functions instead of all officers and directors and revising the table to require presentation of information only in the case of cash remuneration (salaries, commissions, fees, other cash remuneration) rather than all remuneration. Separate narrative disclosures were to be provided for compensation pursuant to plans, and other compensation such as personal benefits, securities or property paid or distributed other than pursuant to a plan (and not including cash, which is disclosed under other paragraphs of this section). Other changes included: (i) Raising the threshold for individual compensation disclosure from $50,000 to $60,000 per year; (ii) adopting a disclosure threshold for noncash compensation (i.e. personal benefits) of 10 percent of the compensation (i.e. personal benefits) of 10 percent of the compensation reported in the Cash Compensation table or $25,000, whichever is less; and (iii) adding an instruction specifying that the bank's aggregate incremental cost is the valuation to be employed in calculating such noncash compensation.

The amendments provide for separate disclosures covering plans pursuant to which the bank paid during the last fiscal year, or proposes to pay in the future, any form of remuneration, including disclosure of amounts of securities, property, cash or other remuneration paid or distributed specifically in connection with such plans. In addition, the amendments would eliminate the requirement for disclosure of amounts allocated to plans, the distribution or unconditional vesting of which is subject to future events, and eliminate disclosure of interest paid on deferred compensation and dividends awarded on restricted stock. The amendments would still require disclosure of the net value realized from the exercise of stock options and stock appreciation rights (SARs), but not of the aggregate amount of securities underlying all unexercised options or SARs and the potential (unrealized) value of such unexercised options or rights. Proposed § 11.842(b)(2) would make clear that the requirement to include a pension table only applies to defined benefit and actuarial plans under which benefits are determined primarily by final compensation (or average final compensation) and years of service. Certain other changes including disclosures concerning change of control arrangements, amendments to the general instructions of § 11.842, and conforming amendments to Items 9, 10 and 11 of § 11.590, also were proposed.

3. *Certain relationships and related transactions.* To conform with recent SEC amendments, the Office proposed a new disclosure item which would be applicable to proxy statements and periodic reports. *See* Exchange Act Release No. 19290, 47 55661 (December 13, 1982). This item, captioned "Certain relationships and related transactions," would be codified in 12 CFR 11.844, with appropriate amendments to the proxy statement, Form F–5, and the annual report, Form F–2 to reference the new item.

New § 11.844 would have four parts, requiring disclosures relating to: (1) Transactions with management and others; (2) business relationships of directors and nominees for directors; (3) indebtedness of management; and (4) transactions with promoters. The requirements of proposed § 11.844 are drawn, with certain modifications, from Items 6 and 7 of the current proxy statement, 12 CFR 11.51, Items 6 and 7. Accordingly, appropriate revisions in those items were also proposed.

4. *Selected Financial Data.* The Office proposed to eliminate the requirement of a detailed five-year Summary of Operations, replacing it with disclosure of Selected Financial Data. This would conform with action taken by the SEC in Exchange Act Release No. 17114, 45 FR 63630 (September 25, 1980). The five-year Summary of Operations is presently required by Item 4 of Form F–2, Item 4 of Form F–4 and Item 14(b) of Form F–5. The deletion of the present summary and the substitution of Selected Financial Data reflects a concern that operations summaries have duplicated information otherwise available in income statements and may have unduly emphasized income over other performance measures. The new requirement is designed to present significant five-year trend data relating to a bank's financial condition and results of continuing operations. The substance of the new Selected Financial Data requirement would be codified at 12 CFR 11.831.

5. *Management's Discussion.* In addition, the Office proposed that Forms F–1 and F–2, the annual report to

security holders, and proxy statements in which financial statements are included, incorporate a new item captioned, "Management's Discussion and Analysis of Financial Condition and Results of Operations." This would conform with action taken by the SEC in Exchange Act Release No. 17114. Major features of this item, which were cited at 12 CFR 11.833, included discussions of liquidity, capital resources and results of operations, an emphasis on favorable or unfavorable trends and upon the identification of significant events or uncertainties within each area of discussion, information concerning the effects of inflation and changing prices, and the encouragement of projections or other forward-looking information.

With minor modifications, as discussed below, the amendments falling under new Subpart H are being adopted, as proposed.

At the suggestion of the SEC, the Office is: (i) Revising § 11.813, Instruction 2, to require disclosure of adverse material proceedings affecting the bank involving beneficial owners of in excess of 5 percent, rather than 10 percent of a bank's outstanding stock, in conformance with section 103 of SEC Regulation S–K (17 CFR 229.103); (ii) revising § 11.821(a) to require quarterly high and low sales prices for the last 2 years, rather than 3 years, in conformance with section 201 of SEC Regulation S–K (17 CFR 229.201); and (iii) revising § 11.843(a)(2) to require disclosure of each director's or nominee's holdings, naming each one, in addition to the disclosures for directors and officers as a group, in conformance with section 403 of SEC Regulation S–K (17 CFR 229.403).

Another commentator suggested that the disclosure requirement for information on the effects of changing prices (in proposed § 11.832, Supplementary financial information, paragraph (d)), be eliminated. As noted above, § 11.832(d) would require that the effects of changing prices on business be presented by banks subject to the reporting provisions of SFAS No. 33, "Financial Reporting and Changing Prices," of the FASB, in accordance therewith. In the opinion of the commentator, the majority of a bank's assets and liabilities are primarily affected by changes in interest rates rather than changing prices, and the factors that most directly and immediately affect interest rates earned and paid are not addressed in SFAS No. 33.

The Office has determined not to eliminate the proposed disclosure requirement for the effects of changing prices. The Office notes that the SEC has long believed that the initiative for establishing and improving accounting standards belongs in the private sector, subject to SEC oversight. In this regard, in Accounting Series Release No. 150, the SEC endorsed the establishment of the FASB, a private sector standard setting body. The SEC further stated that the principles, standards and practices promulgated by the FASB in its Statements and Interpretations will be considered by the SEC as having substantial authoritative support. Accordingly, the SEC has incorporated the FASB's requirements for disclosure of the effect of changing prices into its own rules.

The FASB, in response to comments it has received through its own procedures, is presently assessing the usefulness of the disclosures on effects of changing prices. However, the FASB believes that continued experimentation is required on the usefulness of the information to a wide variety of public enterprises, in order to make an adequate assessment. Because the FASB is actively considering the appropriateness of these disclosures, the Office does not believe it would be appropriate to adopt different requirements at this time. Also, as noted above, this requirement applies only to banks with assets of $1 billion or more. The Office, however, will continue to monitor this issue and may propose new requirements as developments warrant.

In the preamble to the September 1984 proposed rulemaking, the Office referred to Exchange Act Release No. 19570, in which the SEC amended Regulation S–X by transferring certain disclosure requirements from that regulation to Securities Act Industry Guide 3 [Statistical Disclosure by Bank Holding Companies] ("Guide 3"), codified at 17 CFR Part 231.

In the proposed rulemaking, the Office noted that it was formulating a disclosure guide for national banks, comparable to Guide 3, which would address matters that are appropriate for disclosure in the particular context of national banks. The Office stated that it would transfer certain provisions from Subpart I to its guide when published, in accordance with the SEC's transfers from Regulation S–X to Guide 3. The Office stated that until that time, however, it would be inappropriate to remove such provisions from Subpart I.

The Office will be proposing for comment, in a separate rulemaking, disclosures comparable to the SEC's Guide 3. Those disclosures, if adopted, will be codified as a separate section of Subpart H of Part 11, at 12 CFR 11.845. The disclosures would apply to the description of business portions of reports filed on Forms F–1 and F–2, and proxy and information statements relating to mergers, consolidations, acquisitions and similar matters.

The Office will also be proposing for comment, in the separate rulemaking, amendments to § 11.813, "Pending legal proceedings," and amendments to § 11.841(e), relating to involvement of directors and officers in certain legal proceedings, intending to clarify Office policy on the disclosure of bank regulatory enforcement actions.

I. Financial Statement Requirements

In addition to the amendments to the Part 11 financial statement requirements that were included in the January 1981 proposal discussed earlier, the Office proposed rules which correspond to SEC amendments to Regulation S–X, 17 CFR Part 210, appearing in Exchange Act Release Nos. 17116, 45 FR 63660 (September 25, 1980); 17117, 45 FR 63682; (September 25, 1980), 17524, 46 FR 12480 (February 17, 1981); 18244, 46 FR 56171 (November 16, 1981); 18842, 47 FR 29832 (July 9, 1982); 19542, 48 FR 9520 (March 7, 1983); and 19570, 48 FR 11104 (March 16, 1983). Among other things, the proposed amendments stated that the balance sheet and statement of income may be prepared in accordance with the instructions to, and may conform to the respective formats of, the Consolidated Report of Condition and Consolidated Report of Income ("Call Reports"), except to the extent revised or expanded financial data are necessary to meet the disclosure standards of the Exchange Act. Banks would retain the option of conforming their financial statements to the format of Article 9 of the SEC's Regulation S–X, 17 CFR 210.9. The revised formats for the balance sheet, income statement, and related schedules, respectively, appear at proposed §§ 11.931–11.933.

The financial statement requirements would be centralized in proposed Subpart I. The proposals are described below.

1. *Subpart I.* Proposed Subpart I of 12 CFR Part 11 would contain uniform requirements as to the periods to be covered by financial statements in reports filed with the Office and furnished to shareholders under the Exchange Act. Subpart I, at § 11.911, would require that (i) statements of income and statements of changes in financial position be presented for three fiscal years and (ii) balance sheets be presented as of the end of each of the two most recent fiscal years.

In addition, an analysis of changes in equity capital would be presented for each period (including interim periods)

for which an income statement is presented. The Office proposed to eliminate the requirement that this analysis appear as a separate financial statement, if the information could be presented in a note to the financial statements.

Uniform requirements for the form and content of interim period financial statements were proposed in 12 CFR 11.917. The periods for which interim financial statements would be required were addressed in proposed 12 CFR 11.911 and 11.913.

These proposals conform to Regulation S–X amendments issued by the SEC in Exchange Act Release Nos. 17117 and 17524.

2. *Summary of operations.* As a result of action taken by the SEC in Exchange Act Release No. 17114, 45 FR 63630 (September 25, 1980), the Office proposed to eliminate the requirement of a detailed five-year summary of operations. It would be replaced by disclosure of selected financial data and management's discussion and analysis of financial condition and results of operations in proposed §§ 11.831 and 11.833, 12 CFR 11.831 and 11.833, respectively. *See* Section H—Content of Nonfinancial Statements and Reports.

3. *GAAP duplicative requirements.* The Office proposed to eliminate various financial statement rules which are duplicative of generally accepted accounting principles ("GAAP"). Among the disclosure rules to be deleted, in whole or in part, were those relating to accounting principles and practices, and changes therein; translation into U.S. dollars of items denominated in foreign currencies; lease commitments; pension and retirement plans; and capital stock optioned to officers and employees. Under present § 11.7(a) and proposed § 11.920(a), financial statements must conform to GAAP applicable to banks. The Office agreed (and continues to agree) with the views expressed by the SEC in Exchange Act Release No. 17116 regarding Regulation S–X rules which duplicate GAAP and, therefore, proposed to amend its rules accordingly. However, the Office might from time to time issue releases on accounting principles and practices to be used with respect to specific areas. *See* § 11.920(d).

4. *Related-party transactions.* Proposed § 11.928(j), would require certain note disclosures regarding material related-party transactions, including the nature of relationships, descriptions of transactions and amounts involved. This proposal would correspond to the disclosure requirement in Rule 4–08(*l*) of the SEC's Regulation S–X, 17 CFR 210.4–08(*l*). *See* Exchange Act Release No. 17116. "Related party" was defined in proposed 12 CFR 11.102(hh).

5. *Instructions for pro forma financial information.* The Office proposed to add to Part 11 uniform instructions for the presentation and preparation of pro forma financial information. The new rules would be substantially similar to Article 11 of Regulation S–X, 17 CFR 210.11, issued by the SEC in Exchange Act Release No. 18842 and appeared in proposed §§ 11.940–11.942. As is the case with Article 11 of Regulation S–X, the Office's rules would allow presentation of a financial forecast in lieu of certain required pro forma information.

6. *Acquired or to be acquired businesses.* Also in accordance with SEC rule amendments contained in Exchange Act Release No. 18842, the Office proposed amendments to the requirements for filing financial statements of businesses acquired or to be acquired. *See* proposed § 11.915, 12 CFR 11.915. As is the case with Rule 3–05 of Regulation S–X, 17 CFR 210.3–05, the Office would base the disclosure requirements on the conditions specified in the definition of "significant subsidiary." *See* proposed § 11.102(ii). In applying the "significant subsidiary" test, both Rule 3–05 and the Office's proposed rule use a sliding scale, to determine the requirements for filing, and to determine periods for which financial statements of the business acquired, or to be acquired, must be presented. Historically, the Office has used certain 5 percent tests in determining such requirements whereas the SEC uses 10 percent tests. *Compare* 12 CFR 11.2(z) *with* 17 CFR 210.1–02(v). The Office believed, however, that the 5 percent test is unnecessarily restrictive and proposed that the 10 percent test, incorporating a sliding scale, be used to determine such requirements.

7. *Independence and verification requirements.* To conform to SEC amendments to Rule 2–01 of Regulation S–X, 17 CFR 210.2–01, the Office proposed amendments to the standards for evaluating an account's independence. The amendments would redefine the term "member" as used with respect to an accounting firm and clarify the regulation's intent in certain minor respects. *See* proposed 12 CFR 11.903(a)(2).

The Office also proposed clarifying amendments to the rules governing financial statement verification by independent accountants. Part 11 permits the use of a certified public accountant or a "public accountant" who is "in good standing and entitled to practice as such under the laws of the place of his residence or principal office." *See* 12 CFR 11.7(b)(3)(i)(A). The independence requirement applies to both classes of accountants. *See* 12 CFR 11.7(b)(3)(i)(B). In the proposed reformatting of Part 11, the verification requirements relating to independent accountants are set forth in § 11.903. Minor language changes proposed therein would clarify the fact that when an independent accountant is used for verification purposes, such accountant may be a "public accountant" or "certified public accountant."

The Office also proposed to clarify the definition of "verified," when used with respect to financial statements. This proposal was in response to a number of misinterpretations by banks of the extent to which they have the option of filing either certified, or internally verified, financial statements. The proposal sought to clarify the Office's long-standing position that if a bank files certified statements with this Office pursuant to Part 11, all other Part 11 financial statement filings relating to that same reported period must also be certified. *See* proposed § 11.102(dd) (12 CFR 11.102(dd)). Banks would retain the option of filing internally verified financial statements covering any periods for which certified statements had not previously been filed.

8. *Definitions.* The Office proposed to add a new definitional section to Subpart I at 12 CFR 11.901. Included in this section was a definition of "associate" for financial reporting purposes which differs from the definition of "associate" for other purposes in § 11.102(d). This proposed change was made in response to a concern that the use of the broader definition in § 11.102(d), when applied to the financial disclosure requirements, would greatly expand the scope of required disclosure concerning associates, without providing meaningful informaiton to financial statement users. The term "ordinary course of business" was defined to be consistent with the use of that term in § 11.844 concerning disclosure of certain relationships and transactions involving management. These changes would conform to certain changes made by the SEC in Exchange Act Release No. 19570.

9. *Foreign Activities.* The Office proposed to add a new section requiring separate disclosure concerning foreign activities for each period in which either assets, revenue, income (loss) before income tax expense, or net income (loss), associated with foreign activities, exceeded ten percent of the corresponding amount in the related financial statements, in conformance

with Rule 9-04 of Regulation S-X, 17 CFR 210.9-04. *See* proposed § 11.926.

10. *Other amendments.* In addition to the amendments discussed above, the SEC made certain changes in Regulation S-X to clarify and modify requirements which are presently subject to differing interpretations. *See* Exchange Act Release No. 17116. The Office proposed to define the term "totally held subsidiary" to conform with the definition of that term in Article 1 of Regulation S-X. *See* proposed 12 CFR 11.102(jj).

With minor modifications, discussed below, the amendments falling under new Subpart I are being adopted as proposed.

In accordance with the suggestion of one commentator, the Office has determined to revise Item 13(b) of § 11.931 (the format/instructions for the Balance Sheet) to read: "State in a note the aggregate amount of (1) time certificates of deposit in denominations of $100,000 or more and (2) other time deposits of $100,000 or more. . . ." The purpose of this change is to clarify that, with respect to time certificates of deposit, the item is referring to such instruments in denominations of $100,000 or more. The same commentator also questioned whether the distinction between "time certificates of deposit" and "other time deposits" in the item is meaningful, and claimed that the instructions contain inadequate definitions to allow banks to make the required distinction. The Office has determined not to revise the format/instructions to further distinguish between "time certificates of deposit" and "other time deposits." The use of the category "other time deposits" is intended to ensure that the requirement will be applicable to all time deposits of $100,000 or more, regardless of the name by which they are called and regardless of future innovation.

Another commentator recommended that the Office modify its rules to permit an SEC registered bank holding company that has a national bank as its principal operating unit to file certain consolidated bank holding company financial information in lieu of "bank only" data. That commentator recommended that this option be available only where there is no material difference between the financial results of the consolidated holding company and those of the bank only. The commentator believed that such an alternative reporting method would result in cost savings to affected national banks and that formal incorporation of this option into Office rules would promote uniformity of practice within the banking industry.

The Office has determined not to modify its rules to incorporate this proposal. Because the situation in question is so infrequent—i.e., an SEC registered bank holding company which has a national bank subsidiary subject to Part 11—the Office does not have enough experience upon which to evaluate the advisability of a general rule permitting such banks to comply with Part 11 by filing their holding companies' financial information. The Office, however, will consider on a case-by-case basis requests by such banks for the Office to accept holding company financial information in satisfying certain Part 11 filings.

For reasons similar to those stated under Subpart H above in connection with the effects of changing prices, the Office has determined not to follow a commentator's suggestion that the requirement for a Statement of Changes in Financial Position (in § 11.911(a)(2)) be eliminated. The commentator argued that the Statement of Changes in Financial Position is merely a quantitative grouping of certain transactions for purposes of assessing various economic and financial aspects of an entity's financial statements (e.g., liquidity, financing and investing strategies) developed primarily for industrial companies. The commentator also argued that because money is the "raw material" of a bank, cash flow provided from operations is far less significant as a source of funds when compared with other fund-raising activities. The Office does not believe it would be appropriate to adopt different standards at this time, or to eliminate the requirement for the statement for the following reasons. The FASB, through its own procedures, is actively considering the kinds of information appropriate to enable the Statement of Changes in Financial Position to reflect better the cash flow of an enterprise. The SEC has endorsed FASB accounting standards for purposes of compliance with SEC financial disclosure rules, and the Office has a statutory obligation under Exchange Act Section 12(i) to conform its rules to SEC rules unless it specifically states why it is not doing so.

The September 1984 rulemaking proposal also identified amendments to the SEC's financial information disclosure requirements contained in its Regulation S-X, discussed below, which were not incorporated into the Office's Part 11 proposals. The Office finds that these SEC amendments are not necessary or appropriate in the public interest and for the protection of investors, and therefore is not adopting the amendments at this time, for the following reasons.

First, in Exchange Act Releases Nos. 18244 and 19570, the SEC amended Regulation S-X with respect to the requirements for separate financial statements and other financial information of registrants' subsidiaries and "50 percent or less owned persons" ("other persons"). The SEC rules contain detailed criteria for determining whether such information must be presented and detailed specifications regarding the type of information to be disclosed. The Office's present regulations instruct banks to provide, with respect to unconsolidated subsidiaries and other persons, whatever financial information is material to a proper understanding of the financial position and results of operations of the total enterprise. *See, e.g.,* 12 CFR 11.42, Instruction 3 as to Financial Statements. The present regulations also prescribe a tabular presentation of investments in, income from dividends of, and equity in earnings or losses of, subsidiaries and other related parties. *See* 12 CFR 11.71, Schedule V.

The Office is not proposing to conform its regulations to those of the SEC in this area at this time. There are few instances where activities of a bank's unconsolidated subsidiaries or other persons would be of such significance as to require separate disclosure under Regulation S-X standards. Where separate disclosure would be significant to investors, new 12 CFR 11.916 and 11.932 will require such disclosure. The Office believes, however, that adding detailed regulations to Part 11 to cover conditions which rarely exist would make Part 11 unnecessarily complex. For banks seeking guidance in assessing the need for this type of disclosure, the Office recommends that the pertinent provisions of Regulation S-X be used as a guide.

Second, SEC amendments in Exchange Act Release Nos. 18244 and 19570 prescribe separate parent company disclosure by bank holding companies which file consolidated financial statements. *See* 17 CFR 210.9-06 and 210.12-04. Such disclosure is required when dividend payments, loans and advances to the holding company by its bank subsidiaries are subject to substantial restrictions imposed by third parties such as regulatory authorities.

The Office is not adopting conforming amendments for two reasons. As previously noted, activities of unconsolidated subsidiaries generally are not so significant as to require disclosures about the separate entities.

Moreover, since national banks do not own bank subsidiaries, the regulatory and other third party restrictions addressed by the SEC rules will seldom apply. The Office therefore believes that the general disclosure requirements of Part 11 described above, regarding the separate components of a consolidated enterprise, are adequate for bank registrants.

As stated earlier under "H. Content of Nonfinancial Statements and Reports" proposed § 11.931, Item 14(b) is being transferred to new § 11.845(b)(7).

IV. Disclosure Requirements for Mergers and Similar Transactions

The Office requested comments relating to proxy and information statement disclosure requirements for mergers involving national banks. Items 14 and 15 of the present 12 CFR 11.51 ("Items 14 and 15") contain certain proxy and information statement disclosure requirements in connection with mergers, consolidations, and acquisitions or sales of assets (hereinafter collectively referred to as "merger transactions"). The rules are structured to require certain disclosures regarding all banks that are parties to the merger transactions. Under the Office's merger instructions and procedures for applicants, merger transactions involving nonregistered banks, i.e., banks not registered under Exchange Act Section 12(i), also are subject to the proxy disclosure requirements of Part 11.[4]

As stated before, the Office's experience has been that banks which are the subject of proposed acquisitions ("target banks") make most use of the proxy statement filings for merger transactions. In most of the cases, target bank shareholders are offered either cash or securities of a bank holding company ("BHC") that owns the acquiring bank which is a party to the merger transaction. Such a merger is often referred to as a "triangular merger."

Where target-bank stockholders would receive cash in return for their entire investment, detailed disclosures regarding the acquiring entity are not useful. Item 14, by its terms, would nevertheless call for such disclosure.[5] If a BHC will issue securities to the target bank shareholders, such shareholders would need information about the BHC. Items 14 and 15, however, would only require disclosure relating to the BHC's subsidiary bank that is a party to the merger transaction.

A literal reading of Items 14 and 15 in the above-described merger transactions would, therefore, result in disclosures which are unnecessary and possibly confusing for target bank shareholders or omission of information that is essential for such shareholders. In order to prevent those results, the Office has interpreted Items 14 and 15 in the following manner:

(A) Where target-bank stockholders will receive only cash in the merger transaction, they need not receive the specified disclosures relating to the acquiring entity; and

(B) Where target-bank stockholders will receive securities from a BHC, Item 14 and 15 disclosures should relate to the BHC, rather than its banking subsidiary which is a party to the merger transaction.

The Office's experience has been that bankers and other members of the public generally interpret Items 14 and 15 in the same manner. Consequently, the Office is adding specific language to these Items to clarify the disclosures required in such instances, consistent with these interpretations.

In its September 1984 rulemaking proposal, the Office requested additional comments on the appropriate coverage of its Part 11 disclosure requirements in "triangular merger" and other merger transactions involving national banks. No comments, however, were received. Nevertheless, the Office will continue to evaluate this issue and will consider appropriate rulemaking proposals or interpretive rulings as circumstances warrant.

V. Special Studies

A. Competition

As required by section 23(a)(2) of the Exchange Act, 15 U.S.C. 78w(a)(2), the SEC has specifically considered the impact which the proposed amendments would have on competition and concluded that they impose no significant burden on competition. In any event, the SEC has determined that any possible burden would be outweighed by the benefits of the amendments to investors and registrants. In its September 1984 rulemaking, the Office requested comments concerning any impact these amendments may have upon competition, and none were received. The Office believes the amendments adopted will have no effect upon competition.

B. Alternatives Considered

Section 12(i) of the Act requires the Office to issue regulations substantially similar to those of the SEC or publish its reasons for not doing so. Except as previously indicated, the Office has no reason to believe the these proposed regulations should not be applicable to banks. Therefore, it is adopting the amendments as proposed.

C. Regulatory Impact Analysis

Pursuant to Executive Order 12291, the Office has determined that these amendments do not constitute a major rule. Therefore, a regulatory impact analysis is not required. The overall impact of the changes being proposed clearly is burden reducing rather than burden imposing. As noted above, the Office has adopted a flexible regulatory approach which would exempt certain small publicly-held banks with total assets of not exceeding $3,000,000 from the registration requirements of the Act or permit such banks to deregister, as the case may be. In addition, the Office is continuing to consider other approaches which would reduce burdens on small banks. However, the Office also recognizes that investors in small banks generally have the need for the same quality information provided for investors in large banks. Therefore, the Office deems it appropriate to study this issue before proposing further rule amendments. The Office also is studying a more flexible regulatory approach to proxy and information disclosure requirements relating to merger transactions involving national banks. The Office believes, however, that any increased costs or other burdens imposed by the rules adopted today are outweighed by the benefits provided to the banks, investors and the public.

D. Regulatory Flexibility Act

For the reasons cited above, the Comptroller of the Currency has certified that these rules would not have a significant economic impact on a substantial number of small banks or other entities.

E. Paperwork Reduction Act

Pursuant to the Paperwork Reduction Act of 1980, the reporting and recordkeeping requirements of 12 CFR Part 11 were submitted to and approved by the Office of Management and Budget and assigned control number 1557-0106. *See* § 11.101(b).

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[4] *See* Form CC-7023-01, *(General Instructions and Procedures for the Preparation of an Application for Merger, Consolidation, or Purchase of Assets and Assumption of Liabilities (All Hereinafter Referred to as "Mergers" Unless Otherwise Specifically Designated) Pursuant to 12 U.S.C. 215a, 12 U.S.C. 1828(c), and U.S.C. 181).*

[5] Paragraph (b) of Item 15 also calls for financial statements of the acquiring entity. However, paragraph (c) would allow omission of such information.

VI. New Format

Set forth below is a table which cross references all sections of Part 11 with the old sections. Minor modifications have been made from the table which accompanied the proposed amendments.

Dated: October 22, 1985.

H. Joe Selby,

Acting Comptroller of the Currency.

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	Old section Nos.	New section Nos.
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List of Subjects in 12 CFR Part 11

National banks, Securities disclosures rules.

For the reasons set out in the preamble, Part 11 of Title 12 is revised to read as set forth below:

PART 11—SECURITIES EXCHANGE ACT DISCLOSURE RULES

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Authority: 15 U.S.C. 78l, 78m, 78n, 78p, 78w.

Subpart A—General Provisions

§ 11.101 Scope of part.

(a) This part is issued by the Comptroller of the Currency pursuant to section 12(i) of the Securities Exchange Act of 1934 (15 U.S.C. 78) (the "Act") and applies to all securities subject to registration pursuant to section 12(b) or section 12(g) of the Act by a national bank or a bank operating under the Code of Law for the District of Columbia ("bank"). The effective date of this part shall be September 30, 1975.

(b) The collection of information requirements in this part have been approved by the Office of Management and Budget and given OMB No. 1557-0106.

§ 11.102 Definitions.

For the purposes of this part, including all forms and instructions promulgated for use in connection herewith, unless the context otherwise requires:

(a) The terms "exchange," "director," "person," "security," and "equity security" have the meanings given them in section 3(a) of the Act.

(b) The term "affiliate" (whether referred to as an "affiliate" of, or a person "affiliated" with, a specified person) means a person that directly, or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, the person specified.

(c) The term "amount," when used with respect to securities, means the principal amount if relating to evidences of indebtedness, the number of shares if relating to shares, and the number of units if relating to any other kind of security.

(d) The term "associate," when used to indicate a relationship with any person, means (1) any corporation or organization (other than the bank or a majority-owned subsidiary of the bank) of which such person is an officer or partner or is, directly or indirectly, either alone or together with one or more members of his immediate family, the beneficial owner of 10 percent or more of any class of equity securities, (2) any trust or other estate in which such person has a substantial beneficial interest or as to which such person serves as trustee or in a similar fiduciary capacity, and (3) any relative or spouse of such person, or any relative of such spouse, who has the same home as such person or who is a director or officer of the bank or any of its parents or subsidiaries.

(e) The term "charter" includes articles of incorporation, declarations of trust, articles of association or partnership, or any similar instrument as amended, effecting (either with or without filing with any governmental agency) the organization or creation of an incorporated or unincorporated person.

(f) The term "control" (including the terms "controlling", "controlled by", and "under common control with") means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract, or otherwise.

(g) The term "employee" does not include a director, trustee, or officer.

(h) The term "equity capital accounts" means capital stock, surplus, undivided profits, and reserve for contingencies and other capital reserves.

(i) The term "fiscal year" means the annual accounting period or, if no closing date has been adopted, the calendar year ending on December 31.

(j)(1) For the purpose of determining whether the registration requirements of section 12(g)(1) of the Act are applicable, securities shall be deemed to be "held of record" by each person who is identified the owner of such securities on records of security holders maintained by or on behalf of the bank, subject to the following:

(i) In any case where the records of security holders have not been maintained in accordance with accepted practice, any additional person who would be identified as such an owner on such records if they had been maintained in accordance with accepted practice shall be included as a holder of record.

(ii) Securities identified as held of record by a corporation, a partnership, a trust whether or not the trustees are named, or other organization shall be included as so held by one person.

(iii) Securities identified as held of record by one or more persons as trustees, executors, guardians, custodians, or in other fiduciary capacities with respect to a single trust, estate, or account shall be included as held of record by one person.

(iv) Securities held by two or more persons as co-owners shall be included as held by one person.

(v) Each outstanding unregistered or bearer certificate shall be included as held of record by a separate person, except to the extent that the bank can establish that, if such securities were registered, they would be held of record, under the provisions of this paragraph, by a lesser number of persons.

(vi) Securities registered in substantially similar names, where the bank has reason to believe because of the address or other indications that such names represent the same person, may be included as held of record by one person.

(2) Notwithstanding paragraph (j)(1) of this section:

(i) Securities held subject to a voting trust, deposit agreement, or similar arrangement shall be included as held of record by the holders of the voting trust certificates, certificates of deposit, receipts, or similar evidences of interest in such securities: *Provided, however,* That the bank may rely in good faith on such information as is received in response to its request from a nonaffiliated issuer of the certificates or interests.

(ii) If the bank knows or has reason to know that the form of holding securities of record is used principally to circumvent the provisions of section 12 (g)(1) of the Act, the beneficial owners of such securities shall be deemed to be record owners thereof.

(k) *Immediate family.* The term "immediate family" means a person's spouse; parents; children; siblings; mothers and fathers-in-law; sons- and daughters-in-law; and brothers- and sisters-in-law.

(l) The term "listed" means admitted to full trading privileges upon application by the bank and includes securities for which authority to add to the list on official notice of issuance has been granted.

(m) The term "majority-owned subsidiary" means a subsidiary more than fifty percent of whose outstanding securities representing the right, other than as affected by events of default, to vote for the election of directors, is owned by the subsidiary's parent and/or one or more of the parent's other majority-owned subsidiaries.

(n) The term "material", when used to qualify a requirement for the furnishing of information as to any subject, limits the information required to those matters as to which there is a substantial likelihood that a reasonable investor would attach importance in determining whether to buy or sell the securities registered.

(o) *Officer or executive officer.* The term "officer" or "executive officer" means a Chairman of the Board of Directors, Vice Chairman of the Board, Chairman of the Executive Committee, President, Vice President (except as indicated in the next sentence), Cashier, Treasurer, Secretary, Comptroller, and any other person who participates in major policymaking functions of the bank. In some banks (particularly banks with officers bearing titles such as Executive Vice President, Senior Vice President, or First Vice President as well as a number of "Vice Presidents"), some or all "Vice Presidents" do not participate in major policymaking functions, and such persons are not officers for the purpose of this part.

(p) The term "option" means any option, warrant, or right other than those issued to security holders on a pro rata basis.

(q) The term "parent" of a specified person is a person controlling such person directly, or indirectly through one or more intermediaries.

(r) The term "plan" includes all plans, contracts, authorizations, or arrangements, whether or not set forth in any formal document.

(s) The term "predecessor" means a person the major portion of the business and assets of which another person acquired in a single succession or in a series of related successions.

(t) The terms "previously filed" and "previously reported" means previously filed with, or reported in, a registration statement under section 12, a report under section 13, or a definitive proxy statement or statement where management does not solicit proxies under section 14 of the Act, which statement or report has been filed with the Comptroller of the Currency, except that information contained in any such document shall be deemed to have been previously filed with or reported to an

exchange only if such document is filed with such exchange.

(u) The term "principal underwriter" means an underwriter in privity of contract with the issuer of the securities as to which he is underwriter.

(v) The term "promoter" includes: (1) Any person who, acting alone or in conjunction with one or more other persons, directly or indirectly takes initiative in founding and organizing the bank; (2) any person who, in connection with the founding and organizing of the bank, directly or indirectly receives in consideration of services or property or both services and property 10 percent or more of any class of securities of the bank or 10 percent or more of the proceeds from the sale of any class of such securities. A person who receives such securities or proceeds either solely as underwriting commissions or solely in consideration of property shall not, however, be deemed a promoter if such person does not otherwise take part in founding and organizing the bank.

(w) The term "proxy" includes every proxy, consent, or authorization within the meaning of section 14(a) of the Act. The consent or authorization may take the form of failure to object or to dissent.

(x) The terms "qualified stock option", "restricted stock option", and "employee stock purchase plan" have the meanings given them in sections 422 through 424 of the Internal Revenue Code of 1954.

(y) The term "share" means a share of stock in a corporation or unit of interest in an unincorporated person.

(z) (Reserved)

(aa) The terms "solicit" and "solicitation" mean (1) any request for a proxy whether or not accompanied by or included in a form of proxy; (2) any request to execute or not to execute, or to revoke, a proxy; or (3) the furnishing of a form of proxy or other communication to security holders under circumstances reasonably calculated to result in the procurement, withholding, or revocation of a proxy. The terms do not apply, however, to the furnishing of a form of proxy to a security holder upon the unsolicited request of such security holder, the performance by the bank of acts required by § 11.507, or the performance by any person of ministerial acts on behalf of a person soliciting a proxy.

(bb) A "subsidiary" of a bank is (1) an affiliate controlled by the bank, directly or indirectly through one or more intermediaries, except where the control (i) exists by reason of ownership or control of voting securities by the bank in a fiduciary capacity or (ii) was obtained by the bank in the course of securing or collecting a debt previously contracted in good faith, where ownership of the affiliate will be temporary, and no substantive continuing involvement occurs e.g., major development funds are advanced which expose the bank to further risk; or (2) a person a majority of whose voting securities are held in trust for the benefit of the holders of a class of stock of the bank pro rata.

(cc) The term "succession" means the direct acquisition of the assets comprising a going business, whether by merger, consolidation, purchase or other direct transfer. The term does not include the acquisition of control of a business unless followed by the direct acquisition of its assets. The terms "succeed" and "successor" have meanings correlative to the foregoing.

(dd) *Verified.* The term "verified," when used with respect to financial statements, means either (1) certified by an independent public accountant or an independent certified public accountant, or (2) signed in accordance with § 11.603 by the person principally responsible for the accounting records of the bank (the "principal accounting officer") and by the person principally responsible for the audit procedures of the bank (the "auditor"); except that the term "verified" shall mean certified by an independent public accountant or independent certified public accountant in any case in which the Comptroller of the Currency so informs the bank concerned, in writing, at least 90 days prior to the end of the fiscal year to which the financial statements will relate, or if financial statements for the most recent fiscal year have been examined and reported on by an independent accountant.

(ee) The term "voting securities" means securities the holders of which are presently entitled to vote for the election of directors.

(ff) The terms "beneficial ownership," "beneficially owned," and the like, when used with respect to the reporting of ownership of the bank's equity securities in any statement or report required by this part, shall include, in addition to direct and indirect beneficial ownership by the reporting person, ownership of such securities (1) by the spouse (except where legally separated) and minor children of such reporting person, and (2) by any other relative of the reporting person who has the same home as such person.

(gg) The term "associated company" means a company in which the bank either directly or indirectly owns 20 to 50 percent of the outstanding voting stock, unless the bank can refute the presumption of exercising significant influence. An investment of less than 20 percent of the voting stock may be carried on the equity method if the ability to exercise significant influence over the company can be demonstrated.

(hh) *Related parties.* The term "related parties" means the bank; its affiliates; principal owners, management, and members of their immediate families; and any other party with which the reporting entity may deal when one party has the ability to prevent the other from fully pursuing its own separate management or operating policies. Related parties also exist when another entity has the ability to prevent transacting parties from fully pursuing their own separate management or operating policies or when another entity has an ownership interest in one of the transacting parties and the ability to prevent one or more of the transacting parties from fully pursuing its own separate interests. For purposes of this definition, the term—

(1) "Principal owner" means either owner(s) of record or known beneficial owner(s) of more than 10% of the voting interests of the reporting entity, and

(2) "Management" means any person(s) having responsibility for achieving the objectives of the organization and the concomitant authority to establish the policies and to make the decisions by which such objectives are to be pursued.

(ii) *Significant subsidiary.* The term "significant subsidiary" means a subsidiary meeting any of the following conditions:

(1) The investments in the subsidiary by the bank plus the bank's proportion of the investments in such subsidiary by the bank's other subsidiaries, if any, exceed 10 percent of the equity capital accounts of the bank. "Investments" refers to the amount carried on the books of the bank and other subsidiaries or the amount equivalent to the bank's proportionate share in the equity capital accounts of the subsidiary, whichever is greater. For purposes of determining whether financial statements of a business acquired or to be acquired in a business combination accounted for as a pooling of interests are required pursuant to § 11.915, this condition is also met when the number of common shares exchanged by the bank exceeds 10 percent of its total common shares outstanding at the date the combination is initiated;

(2) The parent's and its other subsidiaries' proportionate share of the total assets (after intercompany eliminations) of the subsidiary exceeds 10 percent of the total assets of the parent and its subsidiaries consolidated

as of the end of the most recently completed fiscal year;

(3) The parent's and its other subsidiaries' equity in the income of the subsidiary before income taxes exceeds 10 percent of the income before taxes of the parent and its consolidated subsidiaries; or

(4) The subsidiary is the parent of one or more subsidiaries and, together with such subsidiaries, when considered in the aggregate, constitutes a significant subsidiary.

Computational Note

For purposes of making the prescribed income test the following guidance should be applied:

1. When a loss has been incurred by either the parent and its subsidiaries consolidated or the tested subsidiary, but not both, the equity in the income or loss of the tested subsidiary should be excluded from the income of the parent and its subsidiaries consolidated for purposes of the computation.

2. If income of the parent and its subsidiaries consolidated for the most recent fiscal year is at least 10 percent lower than the average of the income for the last five fiscal years, such average income should be substituted for purposes of the computation. Any loss years should be omitted for purposes of computing average income.

* * * * *

(jj) *Totally-held subsidiary.* The term "totally-held subsidiary" means a subsidiary (1) substantially all of whose outstanding equity securities are owned by its parent and/or the parent's other totally-held subsidiaries; and (2) which is not indebted to any person other than its parent and/or the parent's other totally-held subsidiaries, in an amount which is material in relation to the particular subsidiary, excepting indebtedness incurred in the ordinary course of business which is not overdue and which matures within one year from the date of its creation, whether evidenced by securities or not, provided that indebtedness of a subsidiary which is secured by its parent by guarantee, pledge, assignment or otherwise is to be excluded.

§ 11.103 Filing of material with the Comptroller of the Currency.

All papers required to be filed with the Comptroller of the Currency pursuant to the Act or regulations thereunder shall be filed at his office in Washington, D.C. Material may be filed by delivery to the Comptroller of the Currency, through the mails, or otherwise. The date on which papers are actually received by the Comptroller of the Currency shall be the date of filing thereof if all of the requirements with respect to the filing have been complied with.

11.104 Inspection.

Except as provided in § 11.105, all information filed regarding a security registered with the Comptroller will be available for inspection at its office in Washington, D.C. In addition, copies of the registration statement and reports required by Subparts B and C of this part (exclusive of exhibits), the statements required by § 11.501, and the annual reports to security holders required by § 11.503, will be available for inspection at the District Office in the district in which the bank filing the statements or reports is located.

§ 11.105 Nondisclosure of certain information filed.

Any person filing any statement, report, or document (herein referred to as the material filed) under the Act may make written objection to the public disclosure of any information contained therein in accordance with the procedure set forth below. The procedure provided in this rule shall be the exclusive means of requesting confidential treatment of information required to be filed under the Act.

(a) The person shall omit from the material filed the portion thereof that it desires to keep undisclosed (herein called the confidential portion), and shall indicate at the appropriate place in the material filed that the confidential portion has been so omitted and filed separately with the Comptroller of the Currency.

(b) The person shall file with the copies of the material filed with the Comptroller of the Currency:

(i) As many copies of the confidential portion, each clearly marked "Confidential Treatment," as there are copies of the material filed with the Comptroller of the Currency and with any exchange where such material is required to be filed. Each copy shall contain the complete text of the item and the entire answer thereto, even though the confidential portion does not constitute the whole of the answer; except that where the confidential portion is part of a financial statement or schedule, only the particular financial statement or schedule need be included. All copies of the confidential portion shall be in the same form as the remainder of the material filed.

(ii) An application making objection to the disclosure of the confidential portion. Such application shall be on a sheet or sheets separate from the confidential portion, and shall contain (A) an identification of the portion; (B) a statement of the grounds for objection, referring to and containing an analysis of the applicable exemption(s) from disclosure under the Comptroller of the Currency's rules and regulations adopted under the Freedom of Information Act (12 CFR 4.16, 4.17 and 4.17a), and a justification of the period of time for which confidential treatment is sought; (C) a written consent to the furnishing of the confidential portion to other government agencies, offices or bodies and to the Congress; and (D) the name of each exchange, if any, with which the material is filed. The copies of the confidential portion and the application filed in accordance with this subparagraph shall be enclosed in a separate envelope marked "CONFIDENTIAL TREATMENT" and addressed to the Comptroller of the Currency, Washington, D.C. 20219.

(c) Pending the determination by the Comptroller of the Currency as to the objection filed in accordance with paragraph (c)(2) of this section, the confidential portion will not be disclosed by the Comptroller of the Currency.

(d) If the Comptroller of the Currency determines that the objection shall be sustained, a notation to that effect will be made at the appropriate place in the material filed. Such a determination will not preclude reconsideration whenever appropriate, such as upon receipt of any subsequent request under the Freedom of Information Act and, if appropriate, revocation of the confidential status of all or a portion of the information in question. Where confidential treatment is granted under this section, the Comptroller of the Currency will attempt, whenever possible, to give to the person who requested confidential treatment advance notice if the confidential treatment is to be revoked.

(e) In any case where request for confidential treatment has been denied or where a prior grant of confidential treatment has been revoked, a finding and determination to that effect will be entered and notice of the finding and determination will be sent by registered or certified mail to the person or his agent for service.

(f) The confidential portion shall be made available to the public:

(1) Upon the lapse of 15 days after the dispatch of the notice by registered or certified mail of the finding and determination of the Comptroller of the Currency described in paragraph (e) of this section, if prior to the lapse of such 15 days the person shall not have filed a written statement that he intends in good faith to seek judicial review of the finding and determination;

(2) Upon the lapse of 30 days after the dispatch of notice by registered or certified mail of the finding and determination of the Comptroller of the

Currency, if the statement described in paragraph (f)(1) of this section shall have been filed and if a petition for judicial review shall not have been filed within such 30 days;

(3) If timely notice of intent to seek judicial review shall have been filed and if a petition for judicial review has been filed within 30 days, upon final disposition of such judicial proceedings adverse to such person.

(g) If the confidential portion is made available to the public, a copy thereof shall be attached to each copy of the statement, report, or document filed with the Comptroller of the Currency and with each exchange concerned.

§ 11.106 Liability for forward-looking statements.

(a) A statement within the coverage of paragraph (b) of this section which is made by or on behalf of a bank, or by an outside reviewer retained by the bank, shall be deemed not to be a fraudulent statement (as defined in paragraph (d) of this section), unless it is shown that such statement was made or reaffirmed without a reasonable basis or was disclosed other than in good faith.

(b) This section applies to—

(1) A forward-looking statement (as defined in paragraph (c) of this section) made in a document filed with the Comptroller, in Part I of a quarterly report on Form F–4, or in an annual report to shareholders meeting the requirements of § 11.501,

(2)(i) A statement reaffirming the forward-looking statement referred to in paragraph (b)(1) of this section subsequent to the date the document was filed or the annual report was made publicly available, or

(ii) A forward-looking statement made prior to the date the document was filed or the date the annual report was made publicly available within a reasonable time after the making of such forward-looking statement, or

(iii) Information relating to the effects of "changing prices" on the bank presented voluntarily or pursuant to § 11.833, "Management's discussion and analysis of financial condition and results of operations," or § 1.832, "Supplemental financial information," if disclosed in a document filed with the Comptroller or in an annual report to shareholders meeting the requirements of § 11.501.

(c) For the purpose of this section the term "forward-looking statement" shall mean and shall be limited to:

(1) A statement containing a projection of revenues, income (loss), earnings (loss) per share, capital expenditures, dividends, capital structure or other financial items;

(2) A statement of management's plans and objectives for future operations;

(3) A statement of future economic performance contained in management's discussion and analysis of the summary of earnings; or

(4) Disclosed statements of the assumptions underlying or relating to any of the statements described in § 11.106(c) (1), (2), or (3).

(d) For the purpose of this section the term "fraudulent statement" shall mean a statement which is an untrue statement of a material fact, a statement false or misleading with respect to any material fact, an omission to state a material fact necessary to make a statement not misleading, or which constitutes the employment of a manipulative, deceptive, or fraudulent device, contrivance, scheme, transaction, act, practice, course or business, or an artifice to defraud, as those terms are used in the Act or the regulations issued thereunder.

(e) Notwithstanding any of the provisions of § 11.106(a)–(d), this section shall apply only to forward-looking statements made by or on behalf of a bank if, at the time such statements are made or reaffirmed, the bank is subject to the reporting requirements of the Act and has filed its most recent annual report on Form F–2.

§ 11.107 Falsification of accounting records.

No person shall, directly or indirectly, falsify or cause to be falsified, any book, record or account subject to section 13(b)(2)(A) of the Securities Exchange Act of 1934.

§ 11.108 Bank's representations in connection with the preparation of required reports and documents.

No director or officer of a bank shall directly or indirectly make or cause to be made a materially false or misleading statement to an accountant, or omit to state or cause another person to omit from such statement, any material fact needed to make statements made, in light of the circumstances under which they were made, not misleading, in connection with—

(a) Any audit or examination of the financial statements of the bank required to be made under this part or

(b) The preparation or filing of any document or report required to be filed with the Comptroller of the Currency under this part.

§ 11.109 Notice of adjudication.

In every case of adjudication (as defined in section 551 of Title 5, United States Code) pursuant to the Act which is not required by the Act to be determined on the record after notice and opportunity for hearing, the Comptroller of the Currency shall (a) give prompt notice of any adverse action or final disposition to any person who has requested the Comptroller of the Currency to make or not to make any such adjudication, and (b) furnish any such person a statement of the written reasons for such action or disposition.

Subpart B—Registration

§ 11.201 Requirement of registration statement under Section 12 of the Exchange Act; exemption from registration.

(a) Securities of a bank shall be registered under the provisions of either section 12(b) or section 12(g) of the Act by filing a statement in conformity with the requirements of Form F–1 (or Form F–10, in the case of registration of an additional class of securities) within the period of time specified in the Act. No registration shall be required under the provisions of section 12(b) or section 12(g) of the Act of any warrant or certificate evidencing a right to subscribe to or otherwise acquire a security of a bank if such warrant or certificate by its terms expires within 90 days after the issuance thereof.

(b) A bank shall be exempt from the requirement to register any class of securities pursuant to Section 12(g) of the Act if on the last day of its most recent fiscal year the bank had total assets not exceeding $3,000,000.

§ 11.202 Registration of securities of successor bank.

As to successor banks,

(a) Where in connection with a succession by merger, consolidation, exchange of securities or acquisition of assets, equity securities of a bank, not previously registered pursuant to section 12 of the Act, are issued to the holders of any class of equity securities of another bank which is registered pursuant to section 12(g), the class of securities so issued shall be deemed to be registered pursuant to section 12(g) of the Act unless upon consummation of the succession such class is exempt from such registration or all securities of such class are held of record by less than 300 persons;

(b) Where in connection with a succession by merger, consolidation, exchange of securities or acquisition of assets, equity securities of a bank, which are not registered pursuant to section 12 of the Act, are issued to the holders of any class of equity securities of another bank which is required to file a registration statement or report pursuant to § 11.201 but has not yet

done so, the duty to file such statement or report, shall be deemed to have been assumed by the bank whose class of securities is so issued and such bank shall file a registration statement or report within the period of time the predecessor bank would have been required to file such a statement or report, or within such extended period of time as the Comptroller of the Currency may authorize upon application pursuant to paragraph (p) of this section, unless upon consummation of the succession such class is exempt from registration or all securities of the class are held of record by less than 300 persons.

§ 11.203 Registration effective as to class or series.

Depending upon whether the security is to be listed on an exchange, registration shall become effective as provided in section 12(d) or section 12(g)(1) of the Act as to the entire class of such security, then or thereafter authorized. If, however, a class of security is issuable in two or more series with different terms, each such series shall be deemed a separate class for the purposes of this paragraph.

§ 11.204 Acceleration of effectiveness of registration.

A request for acceleration of the effective date of registration shall be made in writing by either the bank, an exchange, or both and shall briefly describe the reasons therefor.

§ 11.205 Exchange certification.

(a) Certification that a security has been approved by a national securities exchange for listing and registration pursuant to section 12(d) of the Act shall be made by the governing committee or other corresponding authority of the exchange.

(b) The certification shall specify (1) the approval of the exchange for listing and registration; (2) the title of the security so approved; (3) the date of filing with the exchange of the registration statement and of any amendments thereto; and (4) any conditions imposed on such certification. The exchange shall promptly notify the Comptroller of the Currency of the partial or complete satisfaction of any such conditions.

(c) The certification may be made by telegram but in such case shall be confirmed in writing. All certifications in writing and all amendments thereto shall be filed with the Comptroller of the Currency in duplicate and at least one copy shall be manually signed by the appropriate exchange authority.

(d) The date of receipt by the Comptroller of the Currency of the certification approving a security for listing and registration shall be the date on which the certification is actually received by the Comptroller of the Currency or the date on which the registration statement to which the certification relates is actually received by the Comptroller of the Currency, whichever date is later.

(e) If an amendment to the registration statement is filed with the exchange and with the Comptroller of the Currency after the receipt by the Comptroller of the Currency of the Certification of the exchange approving the security for listing and registration, the certification, unless withdrawn, shall be deemed made with reference to the statement as amended.

(f) An exchange may, by notice to the Comptroller of the Currency, withdraw its certification prior to the time that the registration to which it relates first becomes effective pursuant to § 11.203.

(g) An exchange may suspend from trading a security listed and registered thereon in accordance with its rules. Suspension of trading shall not terminate the registration of any security.

§ 11.206 When securities are deemed to be registered.

A class of securities with respect to which a registration statement has been filed pursuant to section 12 of the Act shall be deemed to be registered for the purposes of sections 13, 14 and 16 of the Act and the regulations in this part only when such registration statement has become effective as provided in section 12, and securities of said class shall not be subject to sections 13, 14, and 16 of the Act until such registration statement has become effective as provided in section 12.

§ 11.207 Deregistration.

(a) Any class of security of a registrant bank which is registered on a national securities exchange pursuant to section 12(b) of the Act may be withdrawn or stricken from listing and registration on such exchange in accordance with the provisions of section 12(d) of the Act and the rules of such exchange.

(b) The registration of any class of security of a registrant bank which is registered pursuant to section 12(g) of the Act shall be terminated in accordance with the provisions of section 12(g)(4) of the Act, upon certification by the bank to the Comptroller that such class of securities is held of record by (1) less than 300 persons, or (2) less than 500 persons where the total assets of the bank have not exceeded $3,000,000 on the last day of each of the bank's most recent three fiscal years. Termination of registration shall take effect ninety days, or such shorter period as the Comptroller may determine, after the filing of the certification. The bank's duty to file any report required under Section 13(a) shall be suspended immediately upon such certification; provided further, that if the certification is subsequently withdrawn or denied, the bank shall, within 60 days after the date of such withdrawal or denial, file with the Comptroller all reports which would have been required to be filed had the certification not been filed. If the bank has merged into or consolidated with another bank or banks, such certification shall be filed by the successor bank.

Forms

§ 11.290 Form for registration of securities of a bank pursuant to section 12(b) or section 12(g) of the Securities Exchange Act of 1934 (Form F-1).

Form F-1: Form for Registration of Securities of a Bank

Pursuant to Section 12 (b) or (g) of The Securities Exchange Act of 1934

_____

(Exact name of bank as specified in its charter)

_____

(Address of principal office including Zip Code)

_____

(I.R.S. Employer Identification No.)

Bank's telephone number, including area code_____

Securities to be registered pursuant to Section 12(b) of the Act:

Title of each class to be so registered	Name of each exchange on which each class is to be registered

Securities to be registered pursuant to Section 12(g) of the Act:

_____

(Title of class)

_____

(Title of class)

General Instructions

A. Rule as to use of Form F-1.

Form F-1 shall be used for registration pursuant to Section 12 (b) or (g) of the Securities Exchange Act of 1934 of classes of securities of banks for which no other form is prescribed.

B. Application of Subparts A and G.

(a) Subparts A and G of Part 11 contain general requirements which are applicable to registration on any form. These general requirements should be carefully read and observed in the preparation and filing of registration statements on this form.

(b) Particular attention is directed to the formal requirements in Subpart G regarding matters such as the kind and size of paper to be used, the legibility of the registration statement, the information to be given whenever the title of securities is required to be stated, and the filing of the registration statement. The definitions contained in § 11.102 should be especially noted.

C. Preparation of Registration Statement.

(a) This form is not to be used as a blank form to be filled in, but only as a guide in the preparation of the registration statement in accordance with the requirements of §§ 11.711 and 11.712. The registration statement shall contain the item numbers and captions, but the text of the items may be omitted. The answers to the items shall be prepared in the manner specified in § 11.713.

(b) Unless otherwise stated, the information required shall be given as of a date reasonably close to the date of filing the registration statement.

(c) In addition to the information expressly required to be included in a statement or report, there shall be added such further material information, if any, as may be necessary to make the required statements, in light of the circumstances under which they are made, not misleading.

D. Signature and Filing of Registration Statement.

Three complete copies of the registration statement, including financial statements, exhibits and all other papers and documents filed as a part thereof, shall be filed with the Comptroller. At least one complete copy of the registration statement, including financial statements, exhibits and all other papers and documents filed as a part thereof, shall be filed with each exchange on which any class of securities is to be registered. At least one complete copy of the registration statement filed with the Comptroller and one such copy filed with each exchange shall be manually signed. Copies not manually signed shall bear typed or printed signatures.

The report shall be signed by the bank, and on behalf of the bank by its principal executive officer or officers, its principal financial officer, its controller or principal accounting officer, and by at least the majority of the board of directors. The name of each person who signs the report shall be typed or printed beneath his or her signature. Any person who occupies more than one of the specified positions shall indicate each capacity in which that person signs the report. Attention is directed to § 11.711 concerning manual signatures and signatures pursuant to powers of attorney.

E. Incorporation by Reference.

Attention is directed to § 11.723 which provides for the incorporation by reference of information contained in certain documents in answer or partial answer to any item of a registration statement.

Information Required in Registration Statement

Item 1. Business.

Furnish the information required by § 11.811.

Item 2. Financial Information.

Furnish the information required by §§ 11.831 and 11.833.

Item 3. Properties.

Furnish the information required by § 11.812.

Item 4. Security Ownership of Certain Beneficial Owners and Management.

Furnish the information required by § 11.843.

Item 5. Directors and Executive Officers.

Furnish the information required by § 11.841.

Item 6. Executive Compensation.

Furnish the information required by § 11.842.

Item 7. Legal Proceedings.

Furnish the information required by § 11.813.

Item 8. Market Price of and Dividends on the Registrant's Common Equity and Related Stockholder Matters.

Furnish the information required by § 11.821.

Item 9. Recent Sales of Securities.

Furnish the information required by § 11.871.

Item 10. Description of Registrant's Securities to be Registered.

Furnish the information required by § 11.822.

Item 11. Indemnification of Directors and Officers.

Furnish the information required by § 11.872.

Item 12. Financial Statements and Supplementary Data.

Furnish all financial statements required by Subpart I and the supplementary financial information required by § 11.832.

Item 13. Disagreements With Accountants on Accounting and Financial Disclosure.

Furnish the information required by § 11.834.

Item 14. Certain Relationships and Related Transactions.

Furnish the information required by § 11.844.

Item 15. Financial Statements and Exhibits.

(a) List separately all financial statements and schedules filed as part of the registration statement.

(b) Furnish the exhibits required by § 11.861.

Signatures

Pursuant to the requirements of Section 12 of the Securities Exchange Act of 1934, the bank has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized.

(Bank) _____
Date _____
By _____
(Signature)* _____

§ 11.291 Form for registration of additional class of securities of a bank under to section 12 (b) or (g) of the Securities Exchange Act of 1934 (Form F-10).

Form F-10: For Registration of Additional Classes of Securities Pursuant to Section 12 (b) or (g) of the Securities Exchange Act of 1934

_____

(Exact name of bank as specified in its charter)

_____

(Address of principal offices, including Zip Code)

Securities to be registered pursuant to Section 12(b) of the Act:

Title of each class to be so registered	Name of each exchange on which each class is to be registered

Securities to be registered pursuant to Section 12(g) of the Act:

_____

(Title of class)

_____

(Title of class)

General Instructions

A. Rule as to Use of Form F-10

This form may be used for registration of the following securities pursuant to the Securities Exchange Act of 1934:

(a) For the registration pursuant to section 12 (b) or (g) of the Act of any class of equity securities of a bank which has one or more other classes of securities registered pursuant to either section 12 (b) or (g) of the Act.

(b) For registration on a national securities exchange pursuant to section 12(b) of the Act of any class of securities of a bank which has one or more other classes of securities so registered on the same securities exchange.

B. Application of Subparts A and G

(a) Subparts A and G of Part 11 contain certain general requirements which are applicable to registration on any form. These general requirements should be carefully read and observed in the preparation and filing of registration statements on this form.

(b) Particular attention is directed to the formal requirements of Subpart G regarding matters such as the kind and size of paper to be used, legibility, information to be given whenever the title of securities is required to be stated, incorporation by reference and the

*Print the name and title of the signing officer under his or her signature.

filing of the registration statement. The definitions contained in § 11.102 should be especially noted.

C. Preparation of Registration Statement.

The format of Form F-10 is not to be used as a blank form to be filled in, but only as a guide in the preparation of the registration statement in accordance with the requirements of §§ 11.711 and 11.712. The registration statement shall contain the item numbers and captions, followed by the applicable disclosures. The answers to the items shall be prepared in the manner specified in § 11.713.

D. Signature and Filing of Registration Statement.

Three complete copies of the registration statement, including all papers and documents filed as a part thereof (other than exhibits) shall be filed with the Comptroller and at least one such copy shall be filed with each exchange on which the securities are to be registered. Exhibits shall be filed with the Comptroller and with any exchange in accordance with the Instructions as to Exhibits. At least one copy of the registration statement filed with the Comptroller and one filed with each exchange shall be manually signed. Unsigned copies shall bear printed or typed signatures.

The report shall be signed by the bank, and on behalf of the bank by its principal executive officer or officers, its principal financial officer, its controller or principal account officer, and by at least the majority of the board of directors. The name of each person who signs the report shall be typed or printed beneath his signature. Any person who occupies more than one of the specified positions shall indicate each capacity in which that person signs the report. Attention is directed to § 11.711 concerning manual signatures and signatures pursuant to powers of attorney.

Information Required in Registration Statement

Item 1. Description of Registrant's Securities to be Registered.

Furnish the information required by § 11.822.

Instruction. If a description of the securities comparable to that required here is contained in any other filing with the Comptroller, such description may be incorporated by reference to such other filing in answer to this item. If the securities are to be registered on a national securities exchange, and the description has not previously been filed with such exchange, copies of the description shall be filed with copies of the application filed with the exchange.

Item 2. Exhibits.

Furnish the exhibits required by § 11.861.

Signature

Pursuant to the requirements of Section 12 of the Securities Exchange Act of 1934, the bank has duly caused this registration statement to be signed on its behalf by the undersigned, thereto duly authorized.

(Bank)

Date _____

By _____

(Signature) *

§ 11.292 Form for amendment to registration statement or periodic report of bank (Form F-20).

Form F-20

amendment to registration statement or periodic report of bank

General Instructions

A. The form set forth hereinafter is not to be used as a blank form to be filled in but is intended solely as a guide in the preparation of an amendment to a previously filed registration statement or report. Attention should be given to the general requirements governing amendments, which are prescribed in § 11.715.

B. The amendment shall contain the number and caption of each item being amended and each such item shall be restated, as amended, in its entirety. Where a financial statement, or a note or schedule related thereto, is being amended, such statement, note, or schedule likewise shall be restated in its entirety.

the comptroller of the currency washington, d.c. 20219

Amendment Number _____ to _____[1] on Form F _____[2]

Pursuant to Section 12 or 13 of the Securities Exchange Act of 1934 _____

(exact name of bank as specified in charter)

_____ (address of principal office).

The undersigned bank hereby amends the following items, financial statements or exhibits, constituting part of the aforesaid statement or report, as set forth in the pages attached hereto:

(List all such items, financial statements, exhibits, or other portions amended.)

Pursuant to the requirements of the Securities Exchange Act of 1934, the bank has duly caused this amendment to be signed on its behalf by the undersigned, thereunto duly authorized.

(Name of bank)

By: _____

(Print name and title of signing officer under signature)

Date: _____

Subpart C—Annual and Other Bank Reports

§ 11.301 Requirement of annual reports and annual reports of predecessors.

(a) Every registrant bank shall file an annual report for each fiscal year after the last full fiscal year for which financial statements were filed with the registration statement (Form F-1). The report, which shall conform to the requirements of Form F-2, shall be filed within the time periods specified in that form.

(b) Every bank which changes its fiscal closing date after the last fiscal year for which financial statements were filed on a Form F-1 or Form F-2 shall file a report on Form F-2 covering the resulting interim period not more than 120 days after the close of the interim period or after the date of the determination to change the fiscal closing date, whichever is later. A separate report, however, need not be filed for any period of less than 3 months if the Form F-2 filed for the succeeding full fiscal year covers the interim period as well as the fiscal year. In such case, balance sheets need be furnished only as of the close of the entire period but all other financial statements and schedules shall be filed separately for both periods.

(c) Every bank shall file an annual report for each of its predecessors which had securities registered pursuant to Section 12 of the Exchange Act covering the last full fiscal year of the predecessor prior to the bank's succession, unless such report has been filed by the predecessor. Such annual report shall contain the information that would be required if filed by the predecessor.

§ 11.302 Exception from requirement for annual report.

Notwithstanding §11.301, any bank that has filed, within the period prescribed for filing an annual report pursuant to that paragraph, a registration statement that has become effective and is not subject to any proceeding under section 15(c) or section 19(a) of the Act, or to an order thereunder, need not file an annual report if such statement covers the fiscal period that would be covered by such annual report and contains all of the information, including financial statements and exhibits, required for annual reports.

§ 11.303 Current reports.

Every registrant bank shall file a current report in conformity with the requirements of Form F-3 within 15 days after the occurrence of the earliest event required to be reported, unless substantially the same information as required by that form has been previously reported by the bank.

§ 11.304 Quarterly reports.

(a) Every registrant bank shall file a quarterly report in conformity with the

* Print the name and title of the signing officer under his or her signature.

[1] Indicate appropriate designation of statement or report being amended, such as "Registration Statement" or "Annual Report for year ended December 31, 19—."

[2] Indicate the number of the form on which the statement or report was filed, such as "Form F-1."

requirements of Form F–4 for each fiscal quarter ending after the close of the latest fiscal year for which financial statements were filed in a Form F–1 registration statement, except that no report need be filed for the fiscal quarter which coincides with the end of the fiscal year of the bank. Such reports shall be filed not later than 45 days after the end of such quarterly period, except that the report for any period ending prior to the date on which a class of securities of the bank first becomes effectively registered may be filed not later than 45 days after the effective date of such registration.

(b) Notwithstanding the foregoing provisions of this section, the financial information required by Part I of Form F–4 shall not be deemed to be "filed" for the purpose of Section 18 of the Exchange Act or otherwise subject to the liabilities of that Section of the Act, but shall be subject to all other provisions of the Act.

Forms

§ 11.390 Form for annual report of a bank (Form F–2).

Form F–2: Annual Report Under Section 13 of the Securities Exchange Act of 1934

For the fiscal year ended

_____

(Exact name of bank as specified in its charter)

_____

(Address of principal office including Zip Code)

_____

(I.R.S. Employer Identification No.)

Bank's telephone number, including area code

_____

_____

Securities registered under section 12(b) of the Act:

Title of each class

(1) _____
(2) _____

Name of each exchange on which registered

(1) _____
(2) _____

Securities registered under section 12(g) of the Act:

_____

(Title of class)

_____

(Title of class)

_____

Indicate by check mark whether the bank (1) has filed all reports required to be filed by Section 13 of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the bank was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes —— No ——

State the aggregate market value of the voting stock held by the non-affiliates of the bank. The aggregate market value shall be computed by reference to the price at which the stock was sold, or the average bid and asked prices of such stock, as of a specified date within 60 days prior to the date of filing. (See definition of affiliate in § 11.102(b)).

Note.—If a determination as to whether a particular person or entity is an affiliate cannot be made without involving unreasonable effort and expense, the aggregate market value of the common stock held by non-affiliates may be calculated on the basis of assumptions reasonable under the circumstances, provided that the assumptions are set forth in this form.

Documents Incorporated by Reference

List hereunder the folowing documents if incorporated by reference and the Part of the Form F–2 (e.g., Part I, Part II, etc.) into which the document is incorporated: (1) Any annual report to security holders; and (2) Any proxy or information statement. The listed documents should be clearly described for identification purposes (e.g., annual report to security holders for fiscal year ended December 31, 1960).

General Instructions

A. Rule as to Use of Form F–2.

The format form shall be used for annual reports pursuant to Section 13 of the Exchange Act for which no other form is prescribed. Reports on this form shall be filed within 90 days after the end of the fiscal year covered by the report. However, all schedules required by Subpart I may, at the option of the bank be filed as an amendment to the report not later than 120 days after the end of the fiscal year covered by the report. Such amendment shall be filed under cover of Form F–20.

B. Application of General Rules and Regulations.

(1) Subparts A and G of Part 11 contain certain general requirements which are applicable to reports on any form. These general requirements should be carefully read and observed in the preparation and filing of reports on this form.

(2) Particular attention is directed to Subpart G which contains general requirements regarding matters such as the kind and size of paper to be used, the legibility of the report, the information to be given whenever the title of securities is required to be stated, and the filing of the report. The definitions contained in § 11.102 should be expecially noted.

C. Preparation of Report.

(1) This form is not to be used as a blank form to be filled in, but only as a guide in the preparation of the report on paper meeting the requirements of § 11.712. Except as provided in General Instruction E, the answers to the items shall be prepared in the manner specified in § 11.713.

(2) Except where information is required to be given for the fiscal year or as of a specified date, it shall be given as of the latest practicable date.

(3) In addition to the information expressly required to be included in a statement or report, there shall be added such further material information, if any, as may be necessary to make the required statements, in light of the circumstances under which they are made, not misleading.

D. Signature and Filing of Report.

Three complete copies of the report, including financial statements, financial statement schedules, exhibits, and all other papers and documents filed as a part thereof, shall be filed with the Comptroller. At least one complete copy of the report, including financial statements, financial statement schedules, exhibits, and all other papers and documents filed as a part thereof, shall be filed with each exchange on which any class of securities of the registrant is registered. At least one complete copy of the report filed with the Comptroller and one such copy filed with each exchange shall be manually signed. Copies not manually signed shall bear typed or printed signatures.

The report shall be signed by the bank and on behalf of the bank by its principal executive officer or officers, its principal financial officer, its controller or principal accounting officer, and by at least the majority of the board of directors. The name of each person who signs the report shall be typed or printed beneath his or her signature. Any person who occupies more than one of the specified positions shall indicate each capacity in which that person signs the report. Attention is directed to § 11.711 concerning manual signatures and signatures pursuant to powers of attorney.

E. Information to be Incorporated by Reference.

(1) Attention is directed to § 11.723 which provides for the incorporation by reference of information contained in certain documents in answer or partial answer to any item of a report.

(2) The information called for by Parts I and II of this form (Items 1 through 9 or any portion thereof) may, at the bank's option, be incorporated by reference from the bank's annual report to security holders furnished to the Comptroller pursuant to § 11.503, or from the bank's annual report to security holders, even if not furnished to the Comptroller pursuant to § 11.503, provided such annual report contains the information required by § 11.503.

Note.—In order to fulfill the requirements of Part I of Form F–2, the incorporated portion of the annual report to security holders must contain the information required by Items 1–3 of Form, F–2, to the extent applicable.

(3) The information required by Part III (Items 10, 11 and 12) shall be incorporated by reference from the bank's definitive proxy statement or definitive information statement (filed or to be filed pursuant to § 11.501) which involves the election of directors, if such definitive proxy statement or information statement is filed with the Comptroller not later than 120-days after the end of the fiscal year covered by the Form F–2. However, if such definitive proxy or information statement is not filed with the Comptroller in the 120-day period, the items comprising the Part III information must be filed as part of the Form F–2, or as an amendment to the Form F–2 under cover of

Form F–20, not later than the end of the 120–day period. It should be noted that the information regarding executive officers required by § 11.841 may be included in Part I of Form F–2 under an appropriate caption. See Instruction 4 to § 11.841(b).

(4) When the bank combines all of the information in Parts I and II of this form (Items 1 through 9) by incorporation by reference from the bank's annual report to security holders and all of the information in Part III of this form (Items 10, 11 and 12) by incorporation by reference from a definitive proxy statement or information statement involving the election of directors, then, notwithstanding General Instruction C(1), this form shall consist of the facing or cover page, those sections incorporated from the annual report to security to security holders, the proxy or information statement, and the information, if any, required by Part IV of this form, signatures, and a cross reference sheet setting forth the item numbers and captions in Parts I, II and III of this form and the page and/or pages in the referenced materials where the corresponding information appears.

F. Integrated Reports to Security Holders.

Annual reports to security holders may be combined with the required information of Form F–2 and will be suitable for filing with the Comptroller, if the following conditions are satisfied:

(1) The combined report contains full and complete answers to all items required by Form F–2. When responses to a certain item of required disclosure are separated within the combined report, an appropriate cross-reference should be made. If the information required by Part III of Form F–2 is omitted by virtue of General Instruction E, a definitive proxy or information statement shall be filed.

(2) The cover page and the required signatures are included. As appropriate, a cross-reference sheet should be filed indicating the location of information required by the items of the form.

Part I

See General Instruction E(2)

Item 1. Business.

Furnish the information required by § 11.811 except that the discussion of the development of the bank's business need only include developments since the beginning of the fiscal year for which this report is filed.

Item 2. Properties.

Furnish the information required by § 11.812.

Item 3. Legal Proceedings.

(a) Furnish the information required by § 11.813.

(b) As to any proceeding that was terminated during the fourth quarter of the fiscal year covered by this report, furnish information similar to that required by § 11.813, including the date of termination and a description of the disposition thereof with respect to the bank and its subsidiaries.

Item 4. Submission of Matters to a Vote of Security Holders.

If any matter was submitted during the fourth quarter of the fiscal year covered by this report to a vote of security holders, through the solicitation of proxies or otherwise, furnish the following information:

(a) The date of the meeting and whether it was an annual or special meeting.

(b) If the meeting involved the election of directors, the name of each director elected at the meeting and the name of each other director whose term of office as a director continued after the meeting.

(c) A brief description of each other matter voted upon at the meeting and the number of affirmative votes and the number of negative votes cast with respect to each such matter.

(d) A description of the terms of any settlement between the registrant and any other participant (as defined in § 11.511) terminating any solicitation subject to § 11.511, including the cost or anticipated cost to the registrant.

Instructions:

1. If any matter has been submitted to a vote of security holders other than at a meeting of such security holders, corresponding information with respect to such submission shall be furnised. The solicitation of any authorization or consent (other than a proxy to vote at a stockhloders' meeting) with respect to any matter shall be deemed a submission of such matter to a vote of security holders within the meaning of this item.

2. Paragraph (a) need be answered only if paragraph (b) or (c) is required to be answered.

3. Paragraph (b) need not be answered if (i) proxies for the meeting were solicited pursuant to Subpart E of Part 11, (ii) there was no solicitation in opposition to the management's nominees as listed in the proxy statement, and (iii) all of such nominees were elected. If the bank did not solicit proxies and the board of directors as previously reported to the Comptroller was reelected in its entirety, a statement to that effect in answer to paragraph (b) will suffice as an answer thereto.

4. Paragraph (c) need not be answered as to procedural matters or as to the selection or approval of auditors.

5. If the bank has furnished to its security holders proxy soliciting material containing the information called for by paragraph (d), the paragraph may be anawered by reference to the information contained in such material.

6. If the bank has published a report containing all of the information called for by this item, the item may be answered by a reference to the information contained in such report.

Part II

See General Instruction E(2)

Item 5. Market for the Bank's Common Stock and Related Security Holder Matters.

Furnish the information required by § 11.821.

Item 6. Selected Financial Data.

Furnish the information required by § 11.831.

Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations.

Furnish the information required by § 11.833.

Item 8. Financial Statements and Supplementary Data.

Furnish financial statements meeting the requirements of Subpart I (excluding separate financial statements of businesses acquired or to be acquired (§ 11.915) and pro forma information (§ 11.940)), and the supplementary financial information required by § 11.832. Financial statements of the bank and its subsidiaries consolidated (as required by § 11.503) shall be filed under this item. Other financial statements and schedules required under Subpart I may be filed as "Financial Statement Schedules" pursuant to Item 14—Exhibits, Financial Statement Schedules, and Reports on Form F–3—of this form. In lieu of the financial statement schedules required by Subpart I, banks may file copies of applicable financial statement schedules submitted in accordance with the instructions for preparation of the Consolidated Reports of Condition and Income (FFIEC 031, 032, 033 or 034 as applicable ("Call Report")).

Item 9. Disagreements on Accounting and Financial Disclosure.

Furnish the information required by § 11.834.

Part III

See General Instruction E(3)

Item 10. Directors and Executive Officers of the Bank.

Furnish the information required by § 11.841.

Item 11. Executive Compensation.

Furnish the information required by § 11.842.

Item 12. Security Ownership of Certain Beneficial Owners and Management.

Furnish the information required by § 11.843.

Item 13. Certain Relationships and Related Transactions.

Furnish the information required by § 11.844.

Part IV

Item 14. Exhibits, Financial Statement Schedules, and Reports on Form F–3.

(a) List the following documents filed as a part of the report:

1. All financial statements.

2. Those financial statement schedules required to be filed by Item 8 of this form, and by paragraph (d) below.

3. Those exhibits required to be filed by § 11.861 and by paragraph (c) below. Where any financial statement, financial statement schedule, or exhibit is incorporated by reference, the incorporation by reference shall be set forth in the list required by this item. For purposes of all rules concerning incorporation by reference, a financial statement schedule shall constitute an "exhibit."

(b) Reports on Form F-3. State whether any reports on Form F-3 have been filed during the last quarter of the period covered by this report, listing the items reported, any financial statements filed and the dates of any such reports.

(c) Banks shall file, as exhibits to this form, the exhibits required by § 11.861.

(b) Banks shall file, as financial statement schedules to this form, the financial statements required by Subpart I which are excluded from the annual report to shareholders by § 11.503. These are: (1) If material to a proper understanding of the financial position and results of operations of the total enterprise, separate financial statements of subsidiaries and consolidated and fifty percent or less owned persons; and (2) schedules. In lieu of the financial statement schedules required by Subpart I, banks may file copies of applicable financial statement schedules submitted in accordance with the instructions for preparation of the Consolidated Reports of Condition and Income (FFIEC 031, 032, 033 or 034 as applicable ("Call Report")).

Signatures

See General Instruction D

Pursuant to the requirements of Section 13 of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

(Bank)

By _____

(Signature and Title) *

Date _____

Pursuant to the requirements of the Securities Exchange Act of 1934, this report has been signed below by the following persons on behalf of the registrant and in the capacities and on the dates indicated.

(Signature and Title) *

(Date)

(Signature and Title) *

(Date)

§ 11.391 Form for current report of a bank (Form F-3).

Form F-3

Current Report Pursuant to Section 13 of the Securities Exchange Act of 1934

For the month of _____, 19—

(Exact name of bank as specified in charter)

(Address of principal office)

General Instructions

A—Preparation of Report

This form is not to be used as a blank form to be filled in but only as a guide in the preparation of the report. The report shall contain the numbers and captions of all applicable items, but the text of such items may be omitted if the answers with respect thereto are prepared in the manner specified in § 11.713. All items which are not required to be answered in a particular report may be omitted and no reference thereto need be made in the report. Particular attention should be given to the definitions in § 11.102 and the general requirements in Subpart B.

B—Events To Be Reported

A report on this form is required to be filed upon the occurrence of any one or more of the events specified in the items of this form. Reports are to be filed within 15 days after the occurrence of the earliest event required to be reported. However, reports which disclose events pursuant to Item 5 may be filed within 10 days after the close of the month during which the event occurred. If the letter from the independent accountant to be furnished pursuant to Item 4(d) is unavailable at the time of filing, it shall be filed within thirty days thereafter. However, if substantially the same information as that required by this form has been previously reported by the bank, an additional report of the information on this form need not be made.

C—Incorporation by Reference To Proxy Statement, Statement Where Management Does Not Solicit Proxies, or Annual Report to Security Holders

Information contained in any statement previously filed with the Comptroller of the Currency pursuant to § 11.501 or in an annual report to security holders furnished to the Comptroller of the Currency pursuant to § 11.503 may be incorporated by reference in answer or partial answer to any item or items of this form. In addition, any financial statements contained in any such statement or annual report may be incorporated by reference provided such financial statements substantially meet the requirements of this form.

Information To Be Included in Report

Item 1—Changes in Control of Bank

(a) If to the knowledge of management, a change in control of the bank has occurred, state the name of the person(s) who acquired such control; the amount and the source of the consideration used by such person(s); the basis of the control; the date and a description of the transaction(s) which resulted in the change in control; the percentage of voting securities of the bank now beneficially owned directly or indirectly by the person(s) who acquired control; and the identity of the person(s) from whom control was assumed. If the source of all or any part of the consideration used is a loan made in the ordinary course of business by a bank as defined by section 3(a)(6) of the Act, the identity of such bank shall be omitted provided (1) a letter is furnished to the Comptroller of the Currency identifying the bank and requesting confidential treatment of the information and (2) the material shall indicate that disclosure of the identity of the bank has been so omitted and filed separately with the Comptroller of the Currency.

Instructions. 1. State the terms of any loans or pledges obtained by the new control group for the purpose of acquiring control and the names of the lenders or pledgees. 2. Any arrangements or understandings among members of both the former and new control groups and their associates with respect to election of directors or other matters should be described.

(b) Describe any contractual arrangements, including any pledge of securities of the bank, or any of its parents, known to management, the operation of the terms of which may at subsequent date result in a change in control of the bank.

Instruction. Paragraph (b) does not require a description of ordinary default provisions contained in the charter, trust indentures or other governing instruments relating to securities of the bank.

Item 2—Acquisition or Disposition of Assets

If the bank or any of its majority-owned subsidiaries has acquired or disposed of a significant amount of assets, otherwise than in the ordinary course of business, furnish the following information:

(a) The date and manner of the acquisition or disposition and a brief description of the assets involved, the nature and amount of consideration given or received therefor, the principle followed in determining the amount of such consideration, the identity of the person(s) from whom the assets were acquired or to whom they were sold and the nature of any material relationship between such person(s) and the bank or any of its affiliates, any director or officer of the bank, or any associate of any such director or officer. If the transaction being reported is an acquisition, identify the source(s) of the funds used unless all or any part of the consideration used is a loan made in the ordinary course of business by a bank as defined by section 3(a)(6) of the Act in which case the identity of such bank shall be omitted provided: (1) A letter is furnished to the Comptroller of the Currency identifying the bank and requesting confidential treatment of the information and (2) the material shall indicate that disclosure of the identity of the bank has been so omitted and filed separately with the Comptroller of the Currency.

(b) If any assets so acquired by the bank or its subsidiaries constituted plant, equipment or other physical property, state the nature of the business in which the assets were used by the person from whom acquired and whether the bank intends to continue such use or intends to devote the assets to other purposes, indicating such other purposes.

Instructions. 1. No information need be given as to (i) any transaction between any person and any wholly-owned subsidiary of such person; (ii) any transaction between two or more wholly-owned subsidiaries of any person; or (iii) the redemption or other acquisition of securities from the public, or the sale or other disposition of securities to the public, by the issuer of such securities.

2. The term "acquisition" includes every purchase, acquisition by lease, exchange,

* Print the name and title of each signing officer under his or her signature.

merger, consolidation, succession or other acquisition: *Provided*, That such term does not include the construction or development of property by or for the bank or its subsidiaries or the acquisition of materials for such purpose. The term "disposition" includes every sale, disposition by lease, exchange, merger, consolidation, mortgage, or hypothecation of assets, assignment, whether for the benefit of creditors or otherwise, abandonment, destruction, or other disposition.

3. The information called for by this item is to be given as to each transaction or series of related transactions of the size indicated. The acquisition or disposition of securities shall be deemed the indirect acquisition or disposition of the assets represented by such securities if it results in the acquisition or disposition of control of such assets.

4. An acquisition or disposition shall be deemed to involve a significant amount of assets (i) if the bank's and its other subsidiaries' equity in the net book value of such assets or the amount paid or received therefor upon such acquisition or disposition exceeded 10 percent of the total assets of the bank and its consolidated subsidiaries, (ii) if it involved the succession to or disposition of a business which would meet the test of a significant subsidiary, or (iii) if it involved the acquisition or disposition of an interest in a business which would meet the test of a significant subsidiary and would be required to be accounted for by the equity method.

5. Where assets are acquired or disposed of through the acquisition or disposition of control of a person, the person from whom such control was acquired or to whom it was disposed of shall be deemed the person from whom the assets were acquired or to whom they were disposed of, for the purposes of this item. Where such control was acquired from or disposed of not more than five persons, their names shall be given; otherwise it will suffice to identify in an appropriate manner the class of such person.

6. Attention is directed to the requirements in Item 7 of the form with respect to the filing of financial statements for businesses acquired and to the filing of copies of the plans of acquisition or disposition as exhibits to the report.

Item 3—Bankruptcy or Receivership

If a receiver, conservator, fiscal agent or similar officer has been appointed for a bank or its parent, in a proceeding under the Bankruptcy Act or in any other proceeding under state or Federal law in which a court or governmental agency has assumed jurisdiction over substantially all of the assets or business of the bank or its parent, or if such jurisdiction has been assumed by leaving the existing directors and officers in possession but subject to supervision and orders of a court or governmental body, identify the proceeding, the court or governmental body, the date jurisdiction was assumed, the identity of the receiver, conservator, fiscal agent or similar officer and the date of his appointment.

Item 4—Changes In Bank's Certifying Accountant

If an independent accountant who was previously engaged as the principal accountant to audit the bank's financial statements resigns (or indicates he declines to stand for re-election after the completion of the current audit) or is dismissed as the bank's principal accountant, or another independent accountant is engaged as principal accountant, or if an independent accountant on whom the principal accountant expressed reliance in his report regarding a significant subsidiary resigns (or formally indicates he declines to stand for re-election after the completion of the current audit) or is dismissed or another independent accountant is engaged to audit that subsidiary,

(a) State the date of such resignation (or declination to stand for re-election) dismissal or engagement.

(b) State whether in connection with the audits of the two most recent fiscal years and any subsequent interim period preceding such resignation, dismissal or engagement there were any disagreements with the former accountant or any matter of accounting principles or practices, financial statement disclosure, or auditing scope or procedure, which disagreements if not resolved to the satisfaction of the former accountant would have caused him to make reference in connection with his report to the subject matter of the disagreement)s); also, describe each such disagreement. The disagreements required to be reported in response to the preceding sentence include both those resolved to the former accountant's satisfaction and those not resolved to the former accountant's satisfaction. Disagreements contemplated by this rule are those which occur at the decision-making level; i.e., between personnel of the bank responsible for presentation of its financial statements and personnel of the accounting firm responsible for rendering its report.

(c) State whether the principle accountant's report on the financial statements for any of the past two years contained an adverse opinion or a disclaimer of opinion or was qualified as to the uncertainty, audit scope, or accounting principles; also describe the nature of each adverse opinion, disclaimer of opinion or qualification.

(d) The bank shall request the former accountant to furnish the bank with a letter addressed to the Comptroller of the Currency stating whether he agrees with the statements made by the bank in response to this item and, if not, stating the respects in which he does not agree. The bank shall file a copy of the former accountant's letter as an exhibit with all copies of the Form F-3 required to be filed pursuant to 12 CFR 11.711.

(e) State whether the decision to change accountants was recommended or approved by:

(1) Any audit or similar committee of the Board of Directors, if the bank has such a committee; or

(2) The Board of Directors, if the bank has no such committee.

Item 5—Resignations of Bank's Directors

(a) If a director has resigned or declined to stand for re-election to the Board of Directors since the date of the last annual meeting of shareholders because of a disagreement with the bank on any matter relating to the bank's operations, policies, or practices, and if the director has furnished the bank with a letter describing such disagreement and requesting that the matter be disclosed, the bank shall state the date of such resignation or declination to stand for re-election and summarize the director's description of the disagreement.

(b) If the bank believes that the description provided by the director is incorrect or incomplete, it may include a brief statement presenting its views of the disagreement.

(c) The bank shall file a copy of the director's letter as an exhibit with all copies of this Form F-3.

Item 6—Other Materially Important Events

The Bank may, at its option, report under this item any events, with respect to which information is not otherwise called for by this form, which the bank deems of material importance to security holders.

Item 7. Financial Statements, Pro Forma Financial Information and Exhibits.

List below the financial statements, pro forma financial information and exhibits, if any, filed as a part of this report.

Financial Statements of Businesses Acquired

(1) For any business acquisition required to be described in answer to Item 2 above, financial statements of the business acquired shall be filed for the periods specified in § 11.915.

(2) The financial statements shall be prepared pursuant to Subpart I, except that supporting schedules need not be filed. A manually signed verification or accountant's report should be provided pursuant to § 11.902 or § 11.903, as applicable.

Pro Forma Financial Information

(1) For any transaction required to be described in answer to Item 2 above, furnish any pro forma financial information that would be required pursuant to Subpart I.

Exhibits

The exhibits shall be furnished in accordance with the provisions of § 11.861.

Signatures

Pursuant to the requirements of the Securities Exchange Act of 1934, the bank has duly caused this report to be signed on its behalf by the undersigned thereunto duly authorized.

(Bank)

Date _____

By _____

(Signature)*

Financial Statements of Business Acquired

1—Business for Which Statements are Required

The financial statements specified below shall be filed for any business the acquisition

* Print name and title of the signing officer under his or her signature.

of which by the bank or any of its majority-owned subsidiaries is required to be described in answer to Item 2 above.

2—Statements Required

(a) There shall be filed a balance sheet of the business as of a date reasonably close to the date of acquisition. The balance sheet need not be verified, but if it is not verified there shall also be filed a verified balance sheet as of the close of the preceding fiscal year.

(b) Statements of income, statements of changes in capital accounts, and statements of changes in financial position of the bank shall be filed for each of the last 3 full fiscal years and for the period, if any, between the close of the latest of such fiscal years and date of the latest balance sheet filed. These statements of income, changes in capital accounts and changes in financial position shall be verified up to the date of the verified balance sheet.

(c) If the business was in insolvency proceedings immediately prior to its acquisition, the balance sheets required above need not be verified. In such case, the statements of income required shall be verified to the close of the latest full fiscal year.

(d) No supporting schedules need be filed.

(e) Except as otherwise provided in this instruction, the principles applicable to a bank and its subsidiaries with respect to the filing of individual, consolidated and group statements in an original application or annual report shall be applicable to the statements required by this instruction.

3—Filing of Other Statements in Certain Cases

The Comptroller of the Currency may, upon the informal written request of the bank, and where consistent with the protection of investors, permit the omission of one or more of the statements herein required or the filing in substitution therefor of appropriate statements of comparable character. The Comptroller of the Currency may also by informal written notice require the filing of other statements in addition to, or in substitution for, the statements herein required in any case where such statements are necessary or appropriate for an adequate presentation of the financial condition of any person for which financial statements are required, or whose statements are otherwise necessary for the protection of investors.

Exhibits

Subject to the rules as to incorporation by reference, the following documents shall be filed as exhibits to this report.

1. Copies of any contract, plan, or arrangement for any acquisition or disposition described in answer to Item 2, including any plan of reorganization, readjustment, exchange, merger, consolidation, or succession in connection therewith.

2. Letters from directors furnished pursuant to Item 5.

3. Copies of the amendments to all constituent instruments and other documents described in answer to Item 4.

4. Copies of all constituent instruments defining the rights of the holders of any new class of securities referred to in answer to Item 6.

5. Copies of the plan pursuant to which the options referred to in answer to Item 8 were granted, or if there is no such plan, specimen copies of the options.

6. Copies of any material amendments to the bank's charter or bylaws not otherwise required to be filed.

7. Copies of any letters or reports required by Items 9 or 11.

§ 11.392 Form for quarterly report of a bank (Form F–4).

Form F–4: Quarterly Report Under Section 13 of the Securities Exchange Act of 1934 for Quarter Ended ——————

_____

(Exact name of bank as specified in its charter)

_____

(I.R.S. Employer Identification No.)

_____

(Address of principal executive offices)

_____

(Zip Code)

Bank's telephone number, including area code ——————

_____

(Former name, former address and former fiscal year, if changed since last report)

Indicate by check mark whether the bank (1) has filed all reports required to be filed by section 13 of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the bank was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days.

Yes —— No ——

General Instructions

A. Rule for Use of Form F–4.

(1) The format Form F–4 as printed in this regulation shall be used for quarterly reports under Section 13 of the Securities Exchange Act of 1934 filed pursuant to Section 11.304.

(2) A report in this format shall be filed within 45 days after the end of each of the first three fiscal quarters of each fiscal year. No report need be filed for the fourth quarter of any fiscal year.

B. Application of Subparts A and G.

(1) Subparts A and G of Part 11 contain certain general requirements which are applicable to reports on any form. These general requirements should be carefully read and observed in the preparation and filing of reports on this form.

(2) Particular attention is directed to the requirements of Subpart G regarding matters such as the kind and size of paper to be used, the legibility of the report, the information to be given whenever the title of securities is required to be stated, and the filing of the report. The definitions contained in § 11.102 should be especially noted.

C. Preparation of Report.

(1) The format of Form F–4, as used in this regulation, is not a blank form to be filled in. It is a guide copy to be used in preparing the report in accordance with §§ 11.711 and 11.712. Except as provided in General Instruction D, the answers to the items shall be prepared in the manner specified in § 11.713.

D. Incorporation by Reference.

(1) If the bank makes available to its stockholders or otherwise publishes, within the period prescribed for filing the report, a document or statement containing information meeting some or all of the requirements of Part I of this form, the information called for may be incorporated by reference to such published document or statement, in answer or partial answer to any item or items of Part I of this form, provided copies thereof are filed as an exhibit to Part I of the report on this form.

(2) Other information may be incorporated by reference in answer or partial answer to any item or items of Part II of this form in accordance with the provisions of § 11.723.

E. Integrated Reports to Security Holders.

Quarterly reports to security holders may be combined with the required information of Form F–4 and will be suitable for filing with the Comptroller if the following conditions are satisfied:

1. The combined report contains full and complete answers to all items required by Part I of this form. When responses to a certain item of required disclosure are separated within the combined report, an appropriate cross-reference should be made.

2. If not included in the combined report, the cover page, appropriate responses to Part II, and the required signatures shall be included in the Form F–4. Additionally, as appropriate, a cross-reference sheet should be filed indicating the location of information required by the items of the form.

F. Filed Status of Information Presented.

(1) Pursuant to § 11.304(b), the information presented in satisfaction of the requirements of Items (1) and (2) of Part I of this form, whether included directly in a report on this form, incorporated therein by reference from a report, document or statement filed as an exhibit to Part I of this form pursuant to Instruction D(1) above, included in an integrated report pursuant to Instruction E above, or contained in a statement regarding computation of per share earnings or a letter regarding a change in accounting principles filed as an exhibit to Part I pursuant to § 11.861, except as provided by Instruction F(2) below, shall not be deemed filed for the purpose of Section 18 of the Act or otherwise subject to the liabilities of that section of the Act but shall be subject to the other provisions of the Act.

(2) Information presented in satisfaction of the requirements of this form other than those of Items (1) and (2) of Part I shall be deemed filed for the purpose of Section 18 of the Act; except that, where information presented in response to Item (1) or (2) of Part I (or an exhibit thereto) is also used to satisfy Part II requirements through incorporation by reference, only that portion of Part I (or exhibit thereto) consisting of the information required by Part II shall be deemed so filed.

G. Signature and Filing of Report.

Three complete copies of the report, including any financial statements, exhibits or other papers or documents filed as a part thereof, which need not include exhibits, shall be filed with the Comptroller. At least one complete copy of the report, including any financial statements, exhibits or other papers or documents filed as a part thereof, shall be filed with each exchange on which any class of securities of the bank is registered. At least one complete copy of the report filed with the Comptroller and one such copy filed with each exchange shall be manually signed on the bank's behalf by a duly authorized officer of the bank and by the principal financial or chief accounting officer of the bank. Copies not manually signed shall bear typed or printed signatures. In the case where the principal financial officer or chief accounting officer is also duly authorized to sign on behalf of the bank, one signature is acceptable, provided that the bank clearly indicates the dual responsibilities of the signatory.

The report shall be signed by the bank, and on behalf of the bank by its principal executive officer or officers, its principal financial officer, its controller or principal accounting officer, and by at least the majority of the board of directors. The name of each person who signs the report shall be typed or printed beneath his or her signature. Any person who occupies more than one of the specified positions shall indicate each capacity in which that person signs the report. Attention is directed to § 11.711 concerning manual signatures and signatures pursuant to powers of attorneys.

Part I—Financial Information

Item 1. Financial Statements.

Provide the information required by § 11.917.

Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations.

Furnish the information required by § 11.833.

Part II Other Information

Instruction. The report shall contain the item numbers and captions of all applicable items of Part II, but the text of such items may be omitted, provided the responses clearly indicate the coverage of the item. Any item which is inapplicable or to which the answer is negative may be omitted and no reference thereto need be made in the report. If substantially the same information has been previously reported by the bank, an additional report of the information on this form need not be made. The term "previously reported" is defined in § 11.102. A separate response need not be presented in Part II where the required information is already disclosed in Part I and is incorporated by reference into Part II by means of a statement to that effect.

Item 1. Legal Proceedings.

Furnish the information required by § 11.813. As to such proceedings which have been terminated during the period covered by the report, provided similar information, including the date of termination and a description of the disposition thereof with respect to the bank and its subsidiaries.

Instruction. A legal proceeding need only be reported in the F-4 filed for the quarter in which it first become a reportable event and in subsequent quarters in which there have been material developments. Subsequent Form F-4 filings in the same fiscal year in which a legal proceeding or a material development is reported should reference any previous report in that year.

Item 2. Changes in Securities.

(a) If the constituent instruments defining the rights of the holders of any class of registered securities have been materially modified, give the title of the class of securities involved and state briefly the general effect of such modification upon the rights of holders of such securities.

(b) If the rights evidenced by any class of registered securities have been materially limited or qualified by the issuance or modification of any other class of securities, state briefly the general effect of the issuance or modification of such other class of securities upon the rights of the holders of the registered securities.

Instruction. Working capital restrictions and other limitations upon the payment of dividends are to be reported hereunder.

Item 3. Defaults Upon Senior Securities.

(a) If there has been any material default in the payment of principal, interest, a sinking or purchase fund installment, or any other material default not cured within 30 days, with respect to any bank or any of its significant subsidiaries, the assets of which exceed 10 percent of the total assets of the registrant and its consolidated subsidiaries, identify the indebtedness and state the nature of the default. In the case of such a default in the payment of principal, interest, or a sinking or purchase fund installment, state the amount of the default and the total arrearage on the date of filing this report.

Instruction. This paragraph refers only to events which have become defaults under the governing instruments, i.e., after the expiration of any period of grace and compliance with any notice requirements.

(b) If any material arrearage in the payment of dividends has occurred or if there has been any other material delinquency not cured within 30 days with respect to any class of preferred stock of the bank which is registered or which ranks prior to any class of registered securities, or with respect to any class of preferred stock of any significant subsidiary of the registrant, give the title of the class and state the nature of the arrearage or delinquency. In the case of an arrearage in the payment of dividends, state the amount and the total arrearage on the date of filing this report.

Instruction. Item 3 does not apply to default or arrearage on any class of securities held exclusively by, or for the account of, the bank or its totally held subsidiaries.

Item 4. Submission of Matters to a Vote of Security Holders.

If any matter has been submitted to a vote of security holders, through the solicitation of proxies or otherwise, furnish the following information:

(a) The date of the meeting and whether it was an annual or special meeting.

(b) The results of any election of directors, including the name of each director elected at the meeting and the name of each other director whose term of office as a director continued after the meeting.

(c) A brief description of each other matter voted upon at the meeting, including the number of affirmative votes and the number of negative votes cast.

(b) A description of the terms of any settlement between the bank and any other participant (as defined in § 11.102) terminating any solicitation subject to § 11.511, including the cost or anticipated cost to the bank.

Instructions

1. Furnish corresponding information for other votes by security holders that were not conducted at the meeting. A solicitation of any authorization or consent (other than a proxy to vote at a stockholders' meeting) submitted to Security holders is covered by this item.

2. Paragraph (a) need be answered only if paragraph (b) or (c) is required to be answered.

3. Paragraph (b) need not be answered if (i) proxies for the meeting were solicited pursuant to Subpart E of Part 11, (ii) there was no solicitation in opposition to the management's nominees as listed in the proxy statement, and (iii) all of such nominees were elected. If the registrant did not solicit proxies and the Board of Directors as previously reported to the Comptroller was re-elected in its entirety, a statement to that effect in answer to paragraph (b) will suffice as an answer thereto.

4. Paragraph (c) need not be answered as to procedural matters or as to the selection or approval of auditors.

5. If the bank has furnished to its security holders proxy soliciting material containing the information called for by paragraph (d), the paragraph may be answered by reference to the information contained in such material.

6. If the bank has published a report containing all the information called for by this item, the item may be answered by a reference to the information contained in such report.

Item 5. Other Information.

The bank may, at its option, report under this item any information, not previously reported in a report on Form F-3, or required by this form. If disclosure of such information is made under this item, it need not be repeated in a report on Form F-3 or in a subsequent report on Form F-4.

Item 6. Exhibits and Reports on Form F-3.

(a) Furnish the exhibits required by § 11.861.

(b) Reports on Form F-3. State whether any reports on Form F-3 have been filed during the quarter for which this report is filed, and list the items reported, financial statements filed, and the dates of any such reports.

Signatures *

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned thereunto duly authorized.

Date _____

(Bank)

(Signature) **

Date _____

(Signature) **

Subpart D—Transactions by Certain Shareholders

§ 11.401 Requirement of acquisition statements purusant to section 13(d) or section 13(g) of the Exchange Act.

(a) Any person who, after acquiring directly or indirectly the beneficial ownership of any equity security of a national or District bank of a class which is registered pursuant to section 12 of the Act, *Provided,* such term shall not include securities of a class of nonvoting securities, is directly or indirectly the beneficial owner of more than five percent of such class shall, within 10 days after such acquisition, send to the bank at its principal executive office, by registered or certified mail, and to each exchange where the security is traded, and file with the Comptroller of the Currency, a statement containing the information required by Form F–11. Three copies of the statement, including all exhibits, shall be filed with the Comptroller.

(b)(1) A person who would otherwise be obligated under paragraph (a) of this section to file a statement on Form F–11 may, in lieu thereof, file with the Comptroller of the Currency within 45 days after the end of the calendar year in which such person became so obligated three copies, including all exhibits, of a short form statement on Form F–11A and send one copy of each such form to the bank at its principal executive office by registered or certified mail and to the principal national securities exchange where the security is traded, *Provided,* That it shall not be necessary to file a Form F–11A unless the percentage of the class of equity security specified in paragraph (i) of this section beneficially owned as of the end of the calendar year is more than five percent; And *provided further,* That:

(i) Such person has acquired such securities in the ordinary course of his business and not with the purpose nor with the effect of changing or influencing the control of the bank, nor in connection with or as a participant in any transaction having such purpose or effect, including any transaction subject to § 11.403(b); and

(ii) Such person is:

(A) A broker or dealer registered under section 15 of the Exchange Act:

(B) A bank as defined in section 3(a)(6) of the Exchange Act:

(C) An insurance company as defined in section 3(a)(19) of the Exchange Act;

(D) An investment company registered under section 8 of the Investment Company Act of 1940;

(E) An investment adviser registered under section 203 of the Investment Advisers Act of 1940;

(F) An employee benefit plan, or pension fund which is subject to the provisions of the Employee Retirement Income Security Act of 1974 ("ERISA") or an endowment fund;

(G) A parent holding company, provided the aggregate amount held directly by the parent, and directly and indirectly by its subsidiaries which are not persons specified in §§ 11.401(b)(1)(ii)(A)–(F) does not exceed one percent of the securities of the subject class;

(H) A group, provided that all the members are persons specified in §§ 11.401(b)(1)(ii)(A)–(G); and

(iii) Such person has promptly notified any other person (or group within the meaning of section 13(d)(3) of the Exchange Act) on whose behalf it holds on a discretionary basis securities exceeding five percent of the class of any acquisition or transaction on behalf of such other person which might be reportable by that person under section 13(d) of the Act. This paragraph only requires notice to the account owner of information which the filing person reasonably should be expected to know and which would advise the account owner of an obligation he may have to file a statement pursuant to section 13(d) of the Act or an amendment thereto.

(2) Any person relying on § 11.401(b)(1) and § 11.402(b) shall, in addition to filing any statements required thereunder, file a statement on Form F–11A, within ten days after the end of the first month in which such person's direct or indirect beneficial ownership exceeds ten percent of a class of equity securities specified in § 11.401(a) computed as of the last day of the month, and thereafter within ten days after the end of any month in which such person's beneficial ownership of securities of such class, computed as of the last day of the month, increases or decreases by more than five percent of such class of equity securities. Four copies of such statement, including all exhibits, shall be filed with the Comptroller of the Currency and one each sent by registered or certified mail, to the bank at its principal executive office and to the principal national securities exchange where the security is traded. Once an amendment has been filed reflecting beneficial ownership of five percent or less of the class of securities, no additional filings are required by this paragraph (b)(2) unless the person thereafter becomes the beneficial owner of more than ten percent of the class and is required to file pursuant to this provision.

(3)(*i*) Notwithstanding paragraphs (b)(1) and b(2) and § 11.402(b), a person shall immediately become subject to § 11.401(a) and § 11.402(a) and shall promptly, but not more than 10 days later, file a statement on Form F–11 if such person:

(A) Has reported that it is the beneficial owner of more than five percent of a class of equity securities in a statement on Form F–11A pursuant to § 11.401(b)(1)(i) or (ii), or is required to report such acquisition but has not yet filed the form:

(B) Determines that it no longer has acquired or holds such securities in the ordinary course of business or not with the purpose nor with the effect of changing or influencing the control of the bank, nor in connection with or as a participant in any transaction having such purpose or effect including any transaction subject to § 11.403(b); and

(C) Is at that time the beneficial owner of more than five percent of a class of equity securities described in § 11.401(a).

(ii) For the ten day period immediately following the date of the filing of a Form F–11 pursuant to this paragraph (b)(3) of this section, such person shall not vote or direct the voting of the securities described in paragraph (b)(3)(i)(A) of this section, nor acquire an additional beneficial ownership interest in any equity securities of the bank of such securities, nor of any person controlling the bank.

(4) Any person who has reported an acquisition of securities in a statement on Form F–11A pursuant to paragraph (b)(1) or (2) of this section, and thereafter ceases to be a person specified in paragraph (b)(1)(ii)of this section, shall immediately become subject to § 11.401(a) and § 11.402(a) and shall file, within ten days thereafter, a statement on Form F–11 in the event such person is a beneficial owner at that time of more than five percent of the class of equity securities.

* See General Instruction G.

** Print name and title of the signing officer under his or her signature.

(c) Any person who, as of December 31, 1979, or as of the end of any calendar year thereafter, is directly or indirectly the beneficial owner of more than five percent of any equity security of a class specified in paragraph (a) of this section, and who is not required to file a statement under paragraph (a) of this section, by virtue of the exemption provided by section 13(d)(6)(A) or (B) of the Exchange Act, or because such beneficial ownership was acquired prior to December 22, 1970, or because such person otherwise (except for the exemption provided by section 13(d)(6)(C) of the Act) is not required to file such statement, shall, within 45 days after the end of the calendar year in which such person became obligated to report under this paragraph, send to the bank at its principal executive office, by registered or certified mail, and file with the Comptroller of the Currency, a statement containing the information required by Form F-11A. Four copies of the statement, including all exhibits, shall be filed with the Comptroller of the Currency.

(d) For the purposes of sections 13(d) and 13(g), any person, in determining the amount of outstanding securities of a class of equity securities, may rely upon information set forth in the bank's most recent quarterly or annual report, and any current report subsequent thereto, filed with the Comptroller of the Currency pursuant to this Act, unless he knows or has reason to believe that the information contained therein is inaccurate.

(e)(1) Whenever two or more persons are required to file a statement containing the information required by Form F-11 or Form F-11A with respect to the same securities, only one statement need be filed, provided that:

(A) Each person on whose behalf the statement is filed is individually eligible to use the Form on which the information is filed;

(B) Each person on whose behalf the statement is filed is responsible for the timely filing of such statement and any amendments thereto, and for the completeness and accuracy of the information concerning such person contained therein; such person is not responsible for the completeness or accuracy of the information concerning the other persons making the filing, unless such person knows or has reason to believe that such information is inaccurate; and

(C) Such statement identifies all such persons, contains the required information with regard to each such person, indicates that such statement is filed on behalf of all such persons, and includes, as an exhibit, their agreement in writing that such a statement is filed on behalf of each of them.

(2) A group's filing obligations may be satisfied either by a single joint filing or by each of the group's members making an individual filing. If the group's members elect to make their own filings each such filing should identify all members of the group but the information provided concerning the other persons making the filing need only reflect information which the filing person knows or has reason to know.

§ 11.402 Amendments to acquisition statements.

(a) *Form F-11.* If any material change occurs in the facts set forth in the statement required by § 11.401(a) including, but not limited to, any material increase or decrease in the percentage of the class beneficially owned, the person or persons who were required to file such statement shall promptly file with the Comptroller and send to the bank at its principal executive office, by registered or certified mail, and to each exchange on which the security is traded, an amendment disclosing such change. An acquisition or disposition of beneficial ownership of securities in an amount equal to one percent or more of the class of securities shall be deemed "material" for purposes of this section. Acquisitions or dispositions of less than such amounts may be material, depending upon the facts and circumstances. Three copies of each amendment shall be filed with the Comptroller.

(b) *Form F-11A.* Notwithstanding § 11.402(a) and provided that the person or persons filing a statement under § 11.401(b) continue to meet the requirements set forth therein, any person who has filed a short form statement on Form F-11A shall amend such statement within 45 days after the end of each calendar year if, as of the end of such calendar year, there are any changes in the information reported in the previous filing on that form, *Provided, however,* That such amendment need not be filed with respect to a change in the percent of class outstanding previously reported if such change results solely from a change in the aggregate number of securities outstanding. Three copies of the amendment, including all exhibits, shall be filed with the Comptroller and one each sent, by registered or certified mail, to the bank at its principal office and to the principal national securities exchange where the security is traded. Once an amendment has been filed reflecting beneficial ownership of five percent or less of the class of securities, no additional filings are required, unless the person thereafter becomes the beneficial owner of more than five percent of the class and is required to file under § 11.401.

Note.—For persons filing a short form statement pursuant to § 11.401(b), see also § 11.401(b) (2), (3), and (4).

§ 11.403 Determination of beneficial ownership.

(a) For the purposes of sections 13(d), 13(g) and 14(d) of the Exchange Act, a beneficial owner of a security includes any person who, directly or indirectly, through any contract, arrangement, understanding, relationship, or otherwise has or shares:

(1) Voting power which includes the power to vote, or to direct the voting of, such security; and/or

(2) Investment power which includes the power to dispose, or to direct the disposition of, such security.

(b) Any person who, directly or indirectly, creates or uses a trust, proxy, power of attorney, pooling arrangement, or any other contract, arrangement, or device with the purpose or effect of divesting such person of beneficial ownership of a security or preventing the vesting of such beneficial ownership as part of a plan or scheme to evade the reporting requirements of sections 13(d), 13(g) and 14(d) of the Act shall be deemed for purposes of such sections to be the beneficial owner of such security.

(c) All securities of the same class beneficially owned by a person, regardless of the form which such beneficial ownership takes, shall be aggregated in calculating the number of shares beneficially owned by such person.

(d) Notwithstanding the provisions of paragraphs (a) and (c) of this section:

(1)(i) A person shall be deemed to be the beneficial owner of a security, subject to the provisions of paragraph (ii) of this section, if that person has the right to acquire beneficial ownership of such security, as defined in § 11.403(a) within sixty days, including but not limited to any right to acquire: (A) through the exercise of any option, warrant, or right; (B) through the conversion of a security; (C) pursuant to the power to revoke a trust, discretionary account, or similar arrangement; or (D) pursuant to the automatic termination of a trust, discretionary account or similar arrangement; *Provided, however,* That any person who acquires a security or power specified in paragraph (d)(1)(i) (A), (B) or (C) of this section with the purpose or effecting of changing or influencing the control of the bank, or in connection with or as a participant in

any transaction having such purpose or effect, immediately upon such acquisition shall be deemed to be the beneficial owner of the securities which may be acquired through the exercise or conversion of such security or power. Any securities not outstanding which are subject to such options, warrants, rights or conversion privileges shall be deemed to be outstanding securities of the class owned by such person but shall not be deemed to be outstanding for the purpose of computing the percentage of the class owned by any other person.

(ii) Paragraph (1)(i) remains applicable for the purpose of determining the obligation to file with respect to the underlying security even though the option, warrant, right or convertible security is of a class of equity security, as defined in § 11.401(a) and may therefore give rise to a separate obligation to file.

(2) A member of a national securities exchange shall not be deemed to be a beneficial owner of securities held directly or indirectly by it on behalf of another person solely because such member is the record holder of such securities and pursuant to the rules of such exchange may direct the vote of such securities, without instruction, on other than contested matters or matters that may affect substantially the rights or privileges of the holders of the securities to be voted, but is otherwise precluded by the rules of such exchange from voting without instruction.

(3) A person who in the ordinary course of business is a pledgee of securities under a written pledge agreement shall not be deemed to be the beneficial owner of such pledged securities until the pledgee has taken all formal steps necessary which are required to declare a default and determines that the power to vote or to direct the vote or to dispose or to direct the disposition of such pledged securities will be exercised provided that:

(i) The pledge agreement is bona fide and was not entered into with the purpose nor with the effect of changing or influencing the control of the bank, nor in connection with any transaction having such purpose or effect, including any transaction subject to § 11.403(b);

(ii) The pledgee is a person specified in § 11.401(b)(1)(ii), including persons meeting the conditions set forth in § 11.401; and

(iii) The pledge agreement, prior to default, does not grant to the pledgee:

(A) The power to vote or to direct the vote of the pledged securities; or

(B) The power to dispose or direct the disposition of the pledged securities other than the grant of such power(s) pursuant to Regulation T (12 CFR 201.1 to 220.81) and in which the pledgee is a broker or dealer registered under section 15 of the Act.

(4) A person engaged in business as an underwriter of securities who acquires securities through his participation in good faith in a firm commitment underwriting through the use of an offering circular filed pursuant to 12 CFR Part 16 shall not be deemed to be the beneficial owner of such securities until the expiration of forty days after the date of such acquisition.

§ 11.404 Disclaimer of beneficial ownership.

Any person may expressly declare in any statement filed that the filing of such statement shall not be construed as an admission that such person is for the purposes of sections 13(d), 13(g) or 14(d) of the Act, the beneficial owner of any securities covered by the statement.

§ 11.405 Acquisition of securities.

(a) A person who becomes a beneficial owner of securities shall be deemed to have acquired such securities for purposes of section 13(d)(1) of the Act, whether such acquisition was through purchases or otherwise. However, executors or administrators of a decedent's estate generally will be presumed not to have acquired beneficial ownership of the securities in the decedent's estate until such time as such executors or administrators are qualified under local law to perform their duties.

(b)(1) When two or more persons agree to act together for the purpose of acquiring, holding, voting or disposing of equity securities of a bank, the group formed thereby shall be deemed to have acquired beneficial ownership, for purposes of sections 13(d), 13(g) and 14(d) of the Act, as of the date of such agreement, of all equity securities of that bank beneficially owned by any such persons.

(2) Notwithstanding the previous paragraph, a group shall be deemed not to have acquired any equity securities beneficially owned by the other members of the group solely by virtue of their concerted actions relating to the purchase of equity securities directly from a bank in a transaction not involving a public offering; provided that:

(i) All the members of the group are persons specified in § 11.401(b)(1)(ii);

(ii) The purchase is in the ordinary course of each member's business and not with the purpose nor with the effect of changing or influencing control of the bank, nor in connection with or as a participant in any transaction having such purpose or effect, including any transaction subject to § 11.403(b);

(iii) There is no agreement among or between any members of the group to act together with respect to the bank or its securities except for the purpose of facilitating the specific purpose involved; and

(iv) The only actions among or between any members of the group with respect to the bank or its securities subsequent to the closing date of the non-public offering are those which are necessary to conclude ministerial matters directly related to the completion of the offer or sale of the securities.

§ 11.406 Exemption of certain acquisitions.

The acquisition of securities of a bank by a person who, prior to such acquisition, was a beneficial owner of more than five percent of the outstanding securities of the same class as those acquired shall be exempt from section 13(d) of the Act, *Provided*, That:

(a) The acquisition is made pursuant to preemptive subscription rights in an offering made to all holders of securities of the class to which the preemptive subscription rights pertain;

(b) Such person does not acquire additional securities except through the exercise of his pro rata share of the preemptive subscription rights; and

(c) The acquisition is duly reported, if required, pursuant to section 16(a) of the Act and the rules and regulations thereunder.

§ 11.410 Reports of directors, officers and principal stockholders pursuant to Section 16(a) of the Exchange Act.

(a) *Filing of statements by directors, officers and principal stockholders.* (1) Initial statements of beneficial ownership of equity securities of a bank required by section 16(a) of the Act, and statements of changes in such beneficial ownership, shall be prepared and filed in accordance with the requirements of Form F-7 and Form F-8, respectively.

(2) A person who is already filing statements with the Comptroller of the Currency pursuant to section 16(a) of the Act need not file an additional statement on Form F-7 when an additional class of equity securities of the same bank becomes registered or when he assumes another or an additional relationship to the bank; for example, when an officer becomes a director.

(3) Any bank that has equity securities listed on more than one national securities exchange may

designate one of them as the only exchange with which reports pursuant to section 16(a) need be filed. Such designation shall be filed with the Comptroller of the Currency and with each national securities exchange on which any equity security of the bank is listed. After the filing of such designation the securities of such bank shall be exempted with respect to the filing of statements pursuant to section 16(a) with any exchange other than the designated exchange.

(4) Any director or officer who is required to file a statement on Form F-8 with respect to any change in his beneficial ownership of equity securities which occurs within 6 months after he became a director or officer of the bank issuing such securities, or within 6 months after equity securities of such bank first became registered pursuant to section 12 of the Act, shall include in the first such statement the information called for by Form F-8 with respect to all changes in his beneficial ownership of equity securities of such bank which occurred within 6 months prior to the date of the changes which require the filing of such statement.

(5) Any person who has ceased to be a director or officer of a bank which has equity securities registered pursuant to section 12 of the Act, or who is a director or officer of a bank at the time it ceased to have any equity securities so registered, shall file a statement on Form F-8 with respect to any change in his beneficial ownership of equity securities of such bank which shall occur on or after the date on which he ceased to be such director or officer, or the date on which the bank ceased to have any equity securities so registered, as the case may be, if such change shall occur within 6 months after any change in his beneficial ownership of such securities, prior to such date. The statement on Form F-8 shall be filed within 10 days after the end of the month in which the reported change in beneficial ownership occurs.

(b) *Ownership of more than 10 percent of a class of equity securities.* (1) In determining, for the purpose of section 16(a) of the Act, whether a person is the beneficial owner, directly or indirectly, of more than 10 percent of any class of equity securities, such class shall be deemed to consist of the total amount of such class outstanding, exclusive of any securities of such class held by or for the account of the issuer or a subsidiary of the issuer. However, for the purpose of determining percentage ownership of voting trust certificates or certificates of deposit for equity securities, the class of voting trust certificates or certificates of deposit shall be deemed to consist of the amount of voting trust certificates or certificates of deposit issuable with respect to the total amount of outstanding equity securities of the class which may be deposited under the voting trust agreement or deposit agreement in question, whether or not all of such outstanding securities have been so deposited. For the purpose of this section, a person acting in good faith may rely on the information contained in the latest consolidated financial statement in a registration statement or annual report filed with the Comptroller under the Act with respect to the amount of securities of the class outstanding or in the case of voting trust certificates or certificates of deposit the amount thereof issuable.

(c) *Disclaimer of beneficial ownership.* Any person filing a statement may expressly declare therein that the filing of such statement shall not be construed as an admission that such person is, for the purpose of section 16, the beneficial owner of any equity securities covered by the statement.

(d) *Ownership of securities held in trust.* (1) Beneficial ownership of a bank's securities for the purpose of section 16(a) shall include:

(i) The ownership of such securities as a trustee where either the trustee or members of his immediate family have a vested interest in the income or corpus of the trust;

(ii) The ownership of a vested beneficial interest in a trust; and

(iii) The ownership of such securities as a settlor of a trust in which the settlor has the power to revoke the trust without obtaining the consent of all beneficiaries.

(2) Except as provided in paragraph (d)(3) of this section, beneficial ownership of securities of registrant banks solely as a settlor or beneficiary of a trust shall be exempt from the provisions of section 16(a) where less than 20 percent in market value of the securities having a readily ascertainable market value held by such trust (determined as of the end of the preceding fiscal year of the trust) consists of equity securities with respect to which reports are required by section 16(a) of the Act or would be required but for an exemption by the Securities and Exchange Commission, the Board of Governors of the Federal Reserve System, or the Federal Deposit Insurance Corporation similar to the exemption provided for by this sentence. Exemption from section 16(a) is likewise accorded with respect to any obligation that would otherwise be imposed solely by reason of ownership as settlor or beneficiary of a bank's securities held in trust, where the ownership, acquisition, or disposition of such securities by the trust is made without prior approval by the settlor or beneficiary. No exemption pursuant to this paragraph (d)(2) shall, however, be acquired or lost solely as a result of changes in the value of the trust assets during any fiscal year or during any time when there is no transaction by the trust in the securities otherwise subject to the reporting requirements of section 16(a).

(3) In the event that 10 percent of any class of any equity security of a bank is held in a trust, that trust and the trustees thereof as such shall be deemed a person required to file the reports specified in section 16(a) of the Act.

(4) Not more than one report need be filed to report any holdings of a bank's securities or with respect to any transaction in such securities held by a trust, regardless of the number of officers, directors, or 10 percent stockholders who are either trustees, settlors, or beneficiaries of a trust, if the report filed discloses the names of all trustees, settlors, or beneficiaries who are officers, directors, or 10 percent stockholders. A person having an interest only as a beneficiary of a trust shall not be required to file any such report so long as he relies in good faith upon an understanding that the trustee of such trust will file whatever reports might otherwise be required of such beneficiary.

(5) In determining, for the purposes of paragraph (b) of this section, whether a person is the beneficial owner, directly or indirectly, of more than 10 percent of any class of equity security of a bank, the interest of such person in the remainder of a trust shall be excluded.

(6) No report shall be required by any person, whether or not otherwise subject to the requirement of filing reports under section 16(a) of the Act, with respect to his indirect interest in portfolio securities held by (i) any holding company registered under the Public Utility Holding Company Act, (ii) any investment company registered under the Investment Company Act, (iii) a pension or retirement plan holding securities of a bank whose employees generally are the beneficiaries of the plan, or (iv) a business trust with over 25 beneficiaries.

(e) *Certain transactions subject to section 16(a).* (1) The granting, acquisition or disposition of any presently exercisable put, call, option, or other right or obligation to buy securities from, or to sell securities to, another person, or any expiration or cancellation

thereof, shall be deemed to effect such a change in the beneficial ownership of the bank's security to which the right or obligation relates as to require the filing of a statement pursuant to section 16(a) of the Act reflecting such change in beneficial ownership. Nothing in this paragraph (e), however, shall exempt any person from the duty to file the statements required upon the exercise of such put, call, option or other right or obligation to buy or sell securities.

(i) If any such right or obligation is not initially exercisable, the granting and acquisition thereof shall be reported in a statement filed for the month in which it became exercisable, unless the filing of such statement is otherwise not required;

(ii) The right of a pledgee or borrower of securities to sell the pledged or borrowed securities is not an option or right to sell securities within the meaning of this paragraph. However, the sale of the pledged or borrowed securities by the pledgee or borrower shall be reported by the pledgor or lender;

(iii) The right to acquire or the obligation to dispose of securities, in connection with a merger or consolidation involving the bank issuing the securities, is not a right or obligation to buy or sell securities within the meaning of this paragraph.

(2) For the purpose of section 16(a) of the Act both the grantor and the holder of any presently exercisable put, call, option or other right or obligation to buy or sell securities subject to such right or obligation until it is exercised or cancelled or expires.

(3) Notwithstanding the foregoing, a statement need not be filed pursuant to section 16(a) of the Act (i) By any person with respect to the acquisition, expiration or cancellation of any nontransferable qualified, restricted or other stock option granted by the bank with respect to securities to which the option relates pursuant to a plan provided for the benefit of its employees or the employees of the bank's affiliates if such plan meets the condition specified in §11.411(b), or (ii) by any bank with respect to any put, call, option or other right or obligation to buy or sell securities of which it is the issuer.

Note.—An option, otherwise non-transferable, is deemed to be non-transferable even though it may be disposed of by will or by descent and distribution upon the death of the holder.

(f) *Puts, calls, options, and other rights or obligations subject to section 16(a) of the Act.* (1) The granting, acquisition or disposition of any presently exercisable put, call, option, or other right or obligation to buy securities from, or sell securities to, another person, or any expiration or cancellation thereof, shall be deemed to effect such a change in the beneficial ownership of the securities to which the right or obligation relates as to require the filing of a statement under section 16(a) of the Act.

Notes.—1. If such right or obligation is not initially exercisable, the granting and acquisition thereof shall be reported in a statement filed for the month in which it became exercisable, unless the filing of such statement is otherwise not required.

2. The right of a pledgee or borrower of securities to sell the pledged or borrowed securities is not an option or right to sell securities within the meaning of this section. However, the sale of the pledged or borrowed securities by the pledgee or borrower shall be reported by the pledgor or lender.

3. The right to acquire securities, or the obligation to dispose of securities, in connection with a merger or consolidation involving the issue of the securities is not a right or obligation to buy or sell securities within the meaning of this section.

(2) For the purpose of section 16(a) of the Act both the grantor and the holder of any presently exercisable put, call, option or other right or obligation to buy or sell securities shall be deemed to be beneficial owners of the securities subject to such right or obligation until it is exercised or cancelled or expires.

(3) Notwithstanding the foregoing, a statement need not be filed under section 16(a) of the Act: (i) By any person with respect to the acquisition, expiration or cancellation of any nontransferable, qualified, restricted or other stock option granted by the bank, if securities to which the option relates are govered by a plan provided for the benefit of its employees or the employees of its affiliates, and if such plan meets the conditions specified in § 11.411(c) of this chapter or (ii) by any bank with respect to any put, call, option or other right or obligation to buy or sell securities of which it is the issuer.

Note.—An option, otherwise nontransferable, is deemed to be nontransferable even though it may be disposed of by will or by descent and distribution upon the death of the holder.

(4) Nothing in this section shall be deemed to exempt any person from the duty to file the statements required upon the exercise of any put, call, option, or other right or obligation to buy or sell securities

(g) *Exemption of small transactions from section 16(a) of the Act.* (1) Any acquisition of a bank's securities shall be exempt from section 16(a) of the Act where:

(i) The person effecting the acquisition does not within six months thereafter effect any disposition, otherwise than by way of gift, of securities of the same class, and

(ii) The person effecting such acquisition does not participate in acquisitions or in dispositions of securities of the same class having a total market value in excess of $10,000 for any six-month period during which the acquisition occurs.

(2) Any acquisition or disposition of a bank's securities by way of gift, where the total amount of such gifts does not exceed $10,000 in market value for any six-month period, shall be exempt from section 16(a) of the Act and may be excluded from the computations prescribed in § 11.410(h)(1)(ii).

(3) All persons exempted by § 11.410(h) (1) or (2) shall include in the first report filed by him or her after a transaction within the exemption, a statement showing his or her acquisitions and dispositions for each six-month period or portion thereof that has elapsed since the last filing.

(h) *Temporary exemption of certain persons from sections 16 (a) and (b).* During the period of 12 months following their appointment and qualification, a bank's securities held by the following persons shall be exempt from sections 16(a) and 16(b) of the Act:

(1) Executors or administrators of the estate of a decedent;

(2) Guardians or committees for an incompetent; and

(3) Receivers, trustees in bankruptcy, assignees for the benefit of creditors, conservators, liquidating agents, and similar persons duly authorized by law to administer the estate or assets of other persons. After the 12-month period following their appointment and qualification the foregoing persons shall be required to file reports under section 16(a) with respect to a bank's securities held by the estates that they administer and shall be liable for profits realized from trading in such securities pursuant to section 16(b) only when the estate being administered is a beneficial owner of more than 10 percent of any class of equity security of the bank.

(i) *Exemption from section 16(b) of transactions that need not be reported under section 16(a).* Any transaction that has been or shall be exempted by the Comptroller of the Currency from the requirements of section 16(a) of the Act shall, insofar as it is otherwise subject to the provisions of section 16(b), be likewise exempted from section 16(b) of the Act.

(j) *Exemption for acquisitions under dividend reinvestment plans.* Any acquisition of securities resulting from reinvestment of dividends or interest shall be exempt from section 16 if it is made pursuant to a plan providing for the regular reinvestment in such securities of dividends payable thereon or of dividends or interest payable on other securities of the same issue. *Provided,* That the plan is made available on the same terms to all holders of securities of the class on which the reinvestment dividends or interest are being paid.

§ 11.411 Exemption from Section 16(b) of the Exchange Act.

(a) *Exemption of certain transactions by registered investment companies.* Any transaction of purchase and sale, or sale and purchase, of any equity security of a bank shall be exempt from the operation of section 16(b) of the Act as not comprehended within the purpose of that section, if the transaction is effected by an investment company registered under the Investment Company Act of 1940 and both the purchase and sale of such security have been exempted from the provisions of section 17(a) of the Investment Company Act of 1940 by an order of the Securities and Exchange Commission entered pursuant to section 17(b) of that Act.

(b) *Exemption from section 16(b) of certain transactions effected in connection with a distribution.* (1) Any transaction of purchase and sale, or sale and purchase, of an equity security of a bank that is effected in connection with the distribution of a substantial block of such securities shall be exempt from the provisions of section 16(b) of the Act, to the extent specified in this paragraph (k), as not comprehended within the purpose of said section, upon the following conditions:

(i) The person effecting the transaction is engaged in the business of distributing securities and is participating in good faith, in the ordinary course of such business, in the distribution of such block of securities;

(ii) The security involved in the transaction is (A) a part of such block of securities and is acquired by the person effecting the transaction, with a view to the distribution thereof, from the bank or other person on whose behalf such securities are being distributed or from a person who is participating in good faith in the distribution of such block of securities, or (B) a security purchased in good faith by or for the account of the person effecting the transaction for the purpose of stabilizing the market price of securities of the class being distributed or to cover an over-allotment or other short position created in connection with such distribution; and

(iii) Other persons not within the purview of section 16(b) of the Act are participating in the distribution of such block of securities on terms at least as favorable as those on which such person is participating and to an extent at least equal to the aggregate participation of all persons exempted from the provisions of section 16(b) by this paragraph (b). However, the performance of the functions of manager of a distributing group and the receipt of a bona fide payment for performing such functions shall not preclude an exemption that would otherwise be available under this paragraph.

(2) The exemption of a transaction pursuant to this paragraph (b) with respect to the participation therein of one party thereto shall not render such transaction exempt with respect to participation of any other party therein unless such other party also meets the conditions of this paragraph.

(c) Exemption from section 16(b) of the acquisitions of shares of stock and stock options and stock appreciation rights under certain stock incentive, stock option or similar plans. The following transactions by a director or officer shall be exempt from the operation of section 16(b) of the Act if they occur pursuant to a plan which satisfies the conditions of this subsection: the acquisition of shares of stock, except that stock acquired upon the exercise of an option, warrant or right, shall be exempt only to the extent indicated in the final clause of this sentence; the acquisition, expiration, cancellation or surrender to the bank of a stock option or stock appreciation right; the surrender or delivery to the bank of shares of its stock as payment for the exercise of a stock option for shares of the same class; and the acquisition, upon the exercise of a stock option, of shares of stock equal to the number of shares of the same class surrendered or delivered to the issuer as payment for the exercise of the option. The conditions of this rule that a plan must satisfy in order for the above transactions to be exempt are as follows:

(1) *Approval by security holders.* The plan must be approved, directly or indirectly,

(i) By the affirmative votes of the holders of a majority of the securities of the bank present, or represented, and entitled to vote at a meeting duly held in accordance with the applicable laws of the State or other jurisdiction in which the bank is incorporated or

(ii) By the written consent of the holders of a majority of the securities of the bank entitled to vote: *Provided, however,* That if such vote or written consent was not solicited substantially in accordance with the rules and regulations, if any, in effect under section 14(a) of the Act at the time of such vote or written consent, the bank shall furnish in writing to the holders of record of the securities entitled to vote for the plan substantially the same information concerning the plan which would be required by the rules and regulations in effect under section 14(a) of the Act at the time such information is furnished, if proxies to be voted with respect to the approval or disapproval of the plan were then being solicited, on or prior to the date of the first annual meeting of security holders held subsequent to the later of the first registration by the bank of an equity security under section 12 of the Act, or the acquisition by the director or officer of the equity security or securities for which exemption is claimed.

Such written information may be furnished by mail to the last known address of the security holders of record within 30 days prior to the date of the mailing. Three copies of such written information shall be filed with, or mailed for filing to, the Comptroller not later than the date on which it is first sent or given to security holders of the bank. For the purposes of this paragraph, the term "bank" includes a predecessor corporation if the plan or obligations to participate thereunder were assumed by the bank in connection with the succession. In addition, any amendment to the plan shall be similarly approved if the amendment would materially increase the benefits accruing to participants under the plan, materially increase the number of securities which may be issued under the plan, or materially modify the requirements as to eligibility for participation in the plan.

(2) *Disinterested administrator.* If the selection of any director or officer of the bank to whom stock may be allocated or to whom stock options or stock appreciation rights may be granted under the plan, or if the determination of the number or maximum number of shares of stock which may be allocated to any such director or officer or which may be covered by stock option or stock appreciation rights granted to any such director or officer under the plan is subject to the discretion of any person, then such discretion shall be exercised only as follows:

(i) With respect to the participation of directors—

(A) By the board of directors of the bank, if a majority of the board and a majority of the directors acting in the matter are disinterested persons;

(B) By, or only in accordance with the recommendation of, a committee of three or more persons having full authority to act in the matter, if all of its members are disinterested persons; or

(C) Otherwise in accordance with the plan, if the plan:

(*1*) Specifies the number or maximum number of shares of stock which directors may acquire or which may be subject to stock options or stock appreciation rights granted to directors pursuant to the plan and specifies the terms upon which and the times at which, or the periods within which, such stock may be acquired or such options or rights may be acquired and exercised; or

(*2*) Sets forth, by formula or otherwise, effective and determinable limitations with respect to the foregoing based upon earnings of the bank, dividends paid, compensation received by participants, options prices, market value of shares, outstanding shares or percentages thereof outstanding from time to time or similar factors.

(ii) With respect to the participation of officers who are not directors—

(A) By the board of directors of the bank or a committee of three or more directors;

(B) By, or only in accordance with the recommendations of, a committee of three or more persons having full authority to act in the matter, if all of its members are disinterested persons; or

(C) Otherwise in accordance with the plan, if the plan:

(*1*) Specifies the number or maximum number of shares of stock which officers may acquire or which may be subject to stock options or stock appreciation rights granted to the officers pursuant to the plan and the terms upon which, and the times at which, or the period within which, such stock may be acquired or such options or rights may be acquired and exercised; or

(*2*) Sets forth, by formula or otherwise, effective and determinable limitations with respect to the foregoing based upon earnings of the bank, dividends paid, compensation received by participants, option prices, market value of shares, outstanding shares or percentages thereof outstanding from time to time or similar factors.

(iii) The provisions of this paragraph shall not apply with respect to any option or right granted, or other equity security acquired, prior to the date of the first registration of an equity security under section 12 of the Act.

(3) *Plan limitations.* The plan effectively limits, as to each participant or as to all participants, the aggregate dollar amount of stock or the aggregate number of shares of stock which may be allocated, or which may be subject to stock options or stock appreciation rights issued pursuant to the plan. The limitations may be established on an annual basis or for the duration of the plan—whether or not the plan has a fixed termination date—and may be determined by: fixed or maximum dollar amounts; fixed or maximum number of shares; or by formulas based upon earnings of the bank, dividends paid, compensation received by participants, option prices, market value of shares, outstanding shares or percentages thereof outstanding from time to time, or similar factors which will result in an effective and determinable limitation. Such limitations may be subject to any provision for adjustment of the plan, of stock allocable, or options outstanding thereunder to prevent dilution or enlargement of rights.

(4) *Definitions.* Unless the context otherwise requires, all terms used in § 11.411(c) shall have the same meaning as in the Act or elsewhere in Part 11. In addition, the following definitions apply:

(i) The term "plan" shall mean an option, bonus, appreciation, profit sharing, retirement, incentive, thrift, savings, or similar plan which meets the following conditions:

(A) The plan must be set forth in a written document describing the means or basis for determining the eligibility of individuals to participate and either the price at which the securities shall be offered or the method by which the price or the amount of the award is to be determined; and

(B) The plan must provide with respect to any option or similar right (including a stock appreciation right) offered pursuant to the plan that such option or right is not transferable other than by will or the laws of descent and distribution and that it is exercisable during the employee's lifetime only by the employee or by the employee's guardian or legal representative.

(ii) The term "exercise of an option, warrant or right" contained in the parenthetical clause of the first paragraph of this § 11.411(c) shall not include:

(A) The election to receive under any plan, compensation in the form of stock or credits therefor: *Provided,* That such election is made either prior to the making of the award or prior to the fulfillment of all conditions to the receipt of the compensation and provided further, that such election is irrevocable until at least six months after termination of employment;

(B) The subsequent crediting of such stock;

(C) Any election as to the time for delivery of such stock after termination of employment, provided that such election is made at least six months prior to any such delivery;

(D) The fulfillment of any condition to the absolute right to receive such stock; or

(E) The acceptance of certificates for shares of such stock

(iii) The term "disinterested person" used in § 11.411(c)(2) and (5) shall mean an administrator of a plan who, upon exercising discretion in administering the plan is not eligible for selection as a person to whom stock may be allocated or to whom stock options or stock appreciation rights may be granted pursuant to the plan or any other plan of the bank or any of its affiliates that entitle the participants therein to acquire stock, stock options or stock appreciation rights of the bank or any of its affiliates.

(5) *Cash settlements of stock appreciation rights.* Any transaction involving the exercise and cancellation of a stock appreciation right issued pursuant to a plan (whether or not the transaction also involves the related surrender and cancellation of a stock option), and the receipt of cash in complete or partial settlement of that right, shall be exempt from the operation of section 16(b) of the Act, if all the following conditions are met:

(i) *Information about the bank.*

(A) The issuer of the stock appreciation right has been subject to the reporting requirements of section 13 of the Act for at least a year prior to the transaction and has filed all reports and statements required to be filed under that section during that year.

(B) The issuer of the stock appreciation right on a regular basis releases for publication quarterly and annual summary statements of operations. This condition shall be deemed satisfied if the specified financial data appears:

(*1*) On a wire service,

(*2*) In a financial news service,

(*3*) In a newspaper of general circulation, or

(*4*) Is otherwise made publicly available.

(ii) *Limitation on the right and any related option.* Neither the stock appreciation right nor any related stock option shall have been exercised during the first six months of their respective terms, except that this limitation shall not apply in the event death or disability

of the grantee occurs prior to the expiration of the six-month period.

(iii) *Administration of the plan.* (A) The plan shall be administered by either the board of directors, a majority of which are disinterested persons and a majority of the directors acting on plan matters are disinterested persons, or by a committee of three or more persons, all of whom are disinterested persons;

(B) The board or committee shall have sole discretion either:

(*1*) To determine the form in which payment of the right will be made (i.e., cash, securities, or any combination thereof), or

(*2*) To consent to or disapprove the election of the participant to receive cash in full or partial settlement of the right. Such consent or disapproval may be given at any time after the election to which it relates;

(C) Any election by the participant to receive cash in full or partial settlement of the stock appreciation right, as well as any exercise by the participant of a stock appreciation right for such cash, shall be made during the period beginning on the third business day following the date of release of the financial data specified in § 11.411(c)(5)(i)(B) and ending on the twelfth business day following such date. Section 11.411(c)(5)(iii)(C), however, shall not apply to any exercise by the participant of a stock appreciation right for cash where the date of exercise:

(*1*) Is automatic or fixed in advance under the plan;

(*2*) Is at least six months beyond the date of grant of the stock appreciation right; and

(*3*) Is outside the control of the participant.

(iv) *Compliance with other conditions of § 11.411(c).* The plan under which the stock appreciation rights and any related options are granted shall meet the conditions specified above in § 11.411(c) (1), (2), (3), and (4).

(v) *Limit of the exemption.* Nothing in this § 11.411(c)(5) provides an exemption from section 16(d) for the acquisition of stock upon the exercise of stock appreciation right or a stock option.

(d) *Exemption from section 16(b) of long-term profits incident to sales within six months of the exercise of an option.* (1) To the extent specified in paragraph (m)(2) of this section, transactions involving the purchase and sale, or sale and purchase, of any equity security of a bank shall be exempt from the operation of section 16(b) of the Act, as not comprehended within the purpose of that section, if such purchase is pursuant to the exercise of an option, warrant, or right either (i) acquired more than six months before its exercise, or (ii) acquired pursuant to the terms of an employment contract entered into more than six months before its exercise.

(2) With respect to transactions specified in paragraph (m)(1) of this section, the profits inuring to the bank pursuant to section 16(b) of the Act shall not exceed the difference between the proceeds of sale and the lowest market price of any security of the same class within six months before or after the date of sale. Nothing in this paragraph (m) shall be deemed to enlarge the amount of profit that would inure to the bank in the absence of this paragraph.

(3) The disposition of any equity security of a bank shall also be exempt from the operation of section 16(b) of the Act, as not comprehended within the purpose of that section, if purchased in a transaction specified in paragraph (c)(1) of this section pursuant to a plan or agreement for merger or consolidation, or reclassification of the bank's securities, or for the exchange of its securities for the securities of another person that has acquired its assets, where the terms of such plan or agreement are binding upon all stockholders of the bank except to the extent that dissenting stockholders may be entitled, under statutory provisions or provisions contained in the bank's charter, to receive the appraised or fair value of their holdings.

(4) The exemptions provided by this paragraph (c) shall not apply to any transaction made unlawful by section 16(c) of the Act or by any regulations thereunder.

(5) The burden of establishing the market price of a security for the purpose of this paragraph (c) shall rest upon the person claiming the exemption.

(e) *Exemption from section 16(b) of dispositions of equity securities pursuant to certain mergers or consolidations incident to formation of a bank holding company.* (1) There shall be exempt from the provisions of section 16(b) of the Act, as not comprehended within the purpose of that section, the disposition of any equity security, pursuant to a merger or consolidation, of a bank which, prior to said merger or consolidation, held over 85 percent of the combined assets of all the companies undergoing merger or consolidation, computed according to their book values, as determined by reference to their most recent available financial statements for a 12-month period prior to the merger or consolidation, if, in such merger or consolidation, there are issued, in exchange for such equity securities of such bank, equity securities of a bank holding company as defined in the Bank Holding Company Act of 1956, as amended, 12 U.S.C. 1841.

(2) Notwithstanding the foregoing, if an officer, director, or stockholder shall make any purchase (other than a purchase exempted by this paragraph or any other paragraph under section 16(b) of the Act) of an equity security of any company involved in the merger or consolidation and any sale (other than a sale exempted by this paragraph or any other paragraph under section 16(b) of the Act) of an equity security in any other company involved in the merger or consolidation within any period of less than 6 months during which the merger or consolidation took place, the exemption provided by this paragraph shall be unavailable to such officer, director, or stockholder to the extent of such purchase and sale.

(f) *Exemption from section 16(b) of transactions involving the deposit or withdrawal of equity securities under a voting trust or deposit agreement.* Any acquisition or disposition of an equity security involved in the deposit of such security under, or the withdrawal of such security from, a voting trust or deposit agreement, and the acquisition or disposition in connection therewith of the certificate representing such security, shall be exempt from the operation of section 16(b) of the Act if substantially all of the assets held under the voting trust or deposit agreement immediately after the deposit or immediately prior to the withdrawal, as the case may be, consisted of equity securities of the same class as the security deposited or withdrawn: *Provided, however,* That this paragraph shall not apply to the extent that there shall have been either (1) a purchase of an equity security of the class deposited and a sale of any certificate representing an equity security of such class, or (2) a sale of an equity security of the class deposited and a purchase of any certificate representing an equity security of such class (otherwise than in a transaction involved in such deposit or withdrawal or in a transaction exempted by any other paragraph under section 16(b) of the Act) within a period of less than 6 months which includes the date of the deposit or withdrawal.

(g) *Exemption from section 16(b) of transactions involving the conversion of equity securities.* (1) Any acquisition or disposition of an equity security involved in the conversion of an equity security which, by its terms or pursuant to the terms of the bank's corporate charter or other governing instruments, is convertible immediately or after a stated period of time into another equity

security of the same bank, shall be exempt from the operation of section 16(b) of the Act: *Provided, however,* That this paragraph shall not apply to the extent that there shall have been either (i) a purchase of any equity security of the class convertible (including any acquisition of or change in a conversion privilege) and a sale of any equity security of the class issuable upon conversion, or (ii) a sale of any equity security of the class convertible and any purchase of any equity security issuable upon conversion (otherwise than in a transaction involved in such conversion or in a transaction exempted by any paragraph under section 16(b) of the Act) within a period of less than six months which includes the date of conversion.

(2) For the purpose of this paragraph, an equity security shall not be deemed to be acquired or disposed of upon conversion of an equity security if the terms of the equity security converted require the payment or entail the receipt, in connection with such conversion, of cash or other property (other than equity securities involved in the conversion) equal in value at the time of conversion to more than 15 percent of the value of the equity security issued upon conversion.

(3) For the purpose of this paragraph, an equity security shall be deemed convertible if it is convertible at the option of the holder or of some other person or by operation of the terms of the security or of the governing instruments.

(b) *Exemption from section 16(b) of certain transactions involving the sale of subscription rights.* (1) Any sale of a subscription right to acquire any subject security of the same bank shall be exempt from the provisions of section 16(b) of the Act, to the extent prescribed in this paragraph, as not comprehended within the purpose of said section, if:

(i) Such subscription right is acquired, directly or indirectly, from the bank without the payment of consideration;

(ii) Such subscription right by its terms expires within 45 days after the issuance thereof; and

(iii) Such subscription right by its terms is issued on a pro rata basis to all holders of the beneficiary security of the bank.

(2) When used within this paragraph the following terms shall have the meaning indicated:

(i) The term "subscription right" means any warrant or certificate evidencing a right to subscribe to or otherwise acquire an equity security of the bank;

(ii) The term "beneficiary security" means a security registered pursuant to section 12 of the Act, to the holders of which a subscription right is granted;

(iii) The term "subject security" means a security which is the subject of a subscription right.

(3) Notwithstanding anything contained herein to the contrary, if a person purchases subscription rights for cash or other consideration, then a sale by such person of subscription rights otherwise exempted by this paragraph will not be so exempted to the extent of such purchases within the 6-month period preceding or following such sale.

(i) *Exemption of certain securities from section 16(c).* Any equity security of a bank shall be exempt from the operation of section 16(c) of the Act to the extent necessary to render lawful under such section the execution by a broker of an order for an account in which he has no direct or indirect interest.

§ 11.412 Exemption of certain securities from section 16(c) of the Exchange Act.

(a) Exemption of certain transactions effected in connection with a distribution. Any equity security of a bank shall be exempt from the operation of section 16(c) of the Act to the extent necessary to render lawful under such section any sale made by or on behalf of a dealer in connection with a distribution of a substantial block of the bank's securities, upon the following conditions:

(1) The sale is made with respect to an overallotment in which the dealer is participating as a member of an underwriting group, or the dealer or a person acting on his behalf intends in good faith to offset such sale with a security to be acquired by or on behalf of the dealer as a participant in an underwriting, selling, or soliciting-dealer group of which the dealer is a member at the time of the sale, whether or not the security to be so acquired is subject to a prior offering to existing security holders or some other class of persons; and

(2) Other persons not within the purview of section 16(c) of the Act are participating in the distribution of such block of securities on terms at least as favorable as those on which such dealer is participating and to an extent at least equal to the aggregate participation of all persons exempted from the provisions of section 16(c) of the Act by § 11.412(a). The performance of the functions of manager of a distributing group and the receipt of a bona fide payment for performing such functions shall not, however, preclude an exemption that would otherwise be available under this paragraph.

(b) *Exemption of sales of securities to be acquired.* (1) Whenever any person is entitled, as an incident to his ownership of an issued equity security of a bank and without the payment of consideration, to receive another security of the bank "when issued" or "when distributed", the security to be acquired shall be exempt from the operation of section 16(c) of the Act if (1) the sale is made subject to the same conditions as those attaching to the right of acquisition, (2) such person exercises reasonable diligence to deliver such security to the purchaser promptly after his right of acquisition matures, and (iii) such person reports the sale on the appropriate form for reporting transactions by persons subject to section 16(a) of the Act.

(2) This section 412(b) shall not be construed as exempting transactions involving both a sale of a security "when issued" or "when distributed" and a sale of the security by virtue of which the seller expects to receive the "when-issued" or "when-distributed" security, if the two transactions combined result in a sale of more units than the aggregate of those owned by the seller plus those to be received by him pursuant to his right of acquisition.

(c) *Arbitrage transactions under section 16.* It shall be unlawful for any director or officer of a bank to effect any foreign or domestic arbitrage transaction in any equity security of the bank unless he shall include such transaction in the statements required by section 16(a) of the Act and §11.410(a) and shall account to such bank for the profits arising from such transaction, as provided in section 16(b) of the Act. The provisions of section 16(c) of the Act shall not apply to such arbitrage transactions. The provisions of § 11.410(a) and of section 16 of the Act shall not apply to any bona fide foreign or domestic arbitrage transaction insofar as it is effected by any person other than such director or officer of the bank issuing such security.

Forms

§ 11.490 Acquisition statement to be filed under Section 13(d) of the Exchange Act (Form F-11).

Comptroller of the Currency Form F-11

Acquisition Statement To Be Filed Pursuant to Section 13(d) of the Securities Exchange Act of 1934 and § 11.401 (Amendment No. ——)

(Name of Bank)

(Title of Class of Securities)

(CUSIP No.)

(Name, Address and Telephone Number of Person Authorized to Receive Notices and Communications)

(Date of Event which Requires Filing of this Statement)

If the filing person has previously filed a statement on Form F-11A to report the acquisition which is the subject of this Form F-11, and is filing this form because of § 11.401(b) (3) or (4) (C) or (D), check the following box [ ].

Note: Four copies of this form, including all exhibits, should be filed with the Comptroller of the Currency. See § 11.401(a) for other parties to whom copies are to be sent.

The information required in the remainder of this cover page shall not be deemed to be "filed" for the purpose of section 18 of the Securities Exchange Act of 1934 ("Act") or otherwise subject to the liabilities of that section of the Act but shall be subject to all other provisions of the Act (however, see the Note).

CUSIP No.

(1) Name of Reporting Person: S.S. or I.R.S. Identification Nos. of Above Person

(2) Check the Appropriate Box if a Member of a Group (See Instructions)
(a) ——
(b) ——

(3) Source of Funds (see Instructions)

(4) Check if disclosure of Legal Proceedings is Required Pursuant to Item 2(e)

(5) Citizenship or Place of Organization

Number of shares beneficially owned by each reporting person with:
(6) Sole Voting Power ——
(7) Shared Voting Power ——
(8) Sole Dispositive Power ——
(9) Shared Dispositive Power ——

(10) Aggregate Amount Beneficially Owned by Each Reporting Person ——

(11) If the Aggregate Amount in Row 10 Excludes Certain Shares List the Number of Excluded Shares ——

(12) Percent of Class Represented by Amount in Row 10 ——

(13) Type of Reporting Person (See Instructions) ——

Instructions for Cover Page

(1) Names and Social Security Numbers of Reporting Persons. Furnish the full legal name of each person for whom the report is filed—*i.e.*, such person required to sign the form itself—including each member of a group.

Do not include the name of a person required to be identified in the report but who is not a reporting person. Reporting persons are also requested to furnish their Social Security or I.R.S. identification numbers, although disclosure of such numbers is voluntary, not mandatory (see "Special Instructions for Complying with Form F-11" below).

(2) If any of the shares beneficially owned by a reporting person are held as a member of a group and such membership is expressly affirmed, please check row 2(a). If the membership in a group is disclaimed to the extent that the reporting person describes a relationship with other persons but does not affirm the existence of a group, please check row 2(b) (unless a joint filing pursuant to § 11.401(e) in which case it may not be necessary to check row 2(b)).

(3) Classify the source of funds or other consideration used or to be used in making the purchases as required to be disclosed pursuant to Item 3 of Form F-11 and insert the appropriate symbol (or symbols if more than one is necessary in row (3)):

Category of source	Symbol
Subject Bank (Bank whose securities are being acquired)	SB
Another Bank	BK
Affiliate (of reporting person)	AF
Working Capital (of reporting person)	WC
Personal Funds (of reporting person)	PF
Other	OO

(4) If disclosure of legal proceedings or actions is required pursuant to Item 2(e) of Form F-11 row 4 should be checked.

(5) *Citizenship or Place of Organization*—Furnish citizenship if the named reporting person is a natural person. Otherwise, furnish its place of organization. (See Item 2 of Form F-11).

(6)–(10), (12) *Aggregate Amount Beneficially Owned by Each Reporting Person, etc.*—Rows (6) through (10), inclusive, and (12) are to be completed in accordance with the provisions of Item 5 of Form F-11. All percentages are to be rounded off to nearest tenth (one place after decimal point).

(13) *Type of Reporting Person*—Please classify each "reporting person" according to the following breakdown and place the appropriate symbol (or symbols, *i.e.*, if more than one is applicable, insert all applicable symbols) on the form:

Category	Symbol
Broker Dealer	BK
Insurance Company	IC
Investment Company	IV
Investment Adviser	IA
Employee Benefit Plan, Pension Fund, or Endowment Fund	EP
Parent Holding Company	HC
Corporation	CO
Partnership	PN
Individual	IN
Other	OO

Note.—Filing persons may, in order to avoid unnecessary duplication, answer items on the form by appropriate cross references to an item or items on the cover page(s). This approach may only be used where the cover page item or items provide all the disclosure required by the form item. Moreover, such a use of a cover page item will result in the item becoming a part of the form and accordingly being considered as "filed" for purposes of section 18 of the Securities Exchange Act or otherwise subject to the liabilities of that section of the Act.

Special Instructions for Complying With Form F-11

Under sections 13(d) and 23 of the Securities Exchange Act of 1934 and the rules and regulations thereunder, the Comptroller of the Currency is authorized to solicit the information required to be supplied by this schedule by certain security holders of certain banks.

Disclosure of the information specified in this schedule is mandatory, except for Social Security or I.R.S. identification numbers, disclosure of which is voluntary. The information will be used for the primary purpose of determining and disclosing the holdings of certain beneficial owners of certain equity securities. This statement will be made a matter of public record. Therefore, any information given will be available for inspection by any member of the public.

Failure to disclose the information requested by this schedule, except for Social Security or I.R.S. identification numbers, may result in civil or criminal action against the persons involved for violation of the Federal securities laws and rules promulgated thereunder.

General Instructions

The item numbers and captions of the items shall be included but the text of the items may be omitted. The answers to the items shall be so prepared as to indicate clearly the coverage of the items without referring to the text of the items. Answer every item. If an item is inapplicable or the answer is in the negative, so state.

If the statement is filed by a partnership, limited partnership, syndicate, or other group, the information called for by Items 2 to 6, inclusive, shall be given with respect to (1) each partner or any partnership or limited partnership, (2) each member of such syndicate or group and (3) each person controlling such partner or member. If a person referred to in (1), (2), or (3) is a corporation, the information called for by the above mentioned items shall be given with respect to each principal officer and director of such corporation and each person controlling such corporation.

Item 1—Security and Bank

State the title of the class of equity securities to which this statement relates and the name and address of the bank which issued such securities.

Item 2—Identity and Background

State the following with respect to the person filing this statement:

(a) Name and business address;

(b) Residence or business address;

(c) Present principal occupation or employment and the name, principal business and address of any corporation or other organization in which such employment is carried on;

(d) Whether or not, during the last five years, such person has been convicted in a criminal proceeding (excluding traffic violations or similar misdemeanors) and, if so, give the dates, nature of conviction, name and location of court, any penalty imposed, or other disposition of the case;

(e) Whether or not, during the last full five years, such person was a party to a civil proceeding of a judicial body of competent jurisdiction and as a result of such proceeding was or is subject to a judgment, decree or final order enjoining future violations of, or prohibiting or mandating activities subject to Federal or State securities laws, or finding any violation with respect to such laws; and if so, identify and describe such proceedings and summarize the terms of such judgment, decree or final order, and

(f) Citizenship.

Item 3—Source and Amount of Funds or Other Consideration

State the source and amount of funds or other consideration used or to be used in making the purchases, and if any part of the purchase price or, if this form is filed pursuant to § 11.603 relating to tender offers, the proposed purchase price is represented or is to be represented by funds or other consideration borrowed or otherwise obtained for the purpose of acquiring, holding, or trading the securities, provide a description of the transaction and the names of the parties thereto.

Instruction. If the source of funds is a loan made in the ordinary course of business by a bank, the person filing the statement may, at his option, omit the name of the bank, provided it is furnished to the Comptroller of the Currency in a letter requesting confidential treatment as to such information. Pursuant to section 13(d)(1)(B) of the Act, such information shall not be made available to the public.

Item 4—Purpose of Transaction

State the purpose or purposes of the purchase or, if this form is filed pursuant to § 11.603 relating to tender offers, the proposed purchase of the securities. If the purpose of such purchases or proposed purchases is to acquire control of the bank, describe any plans or proposals which such person may have to liquidate such bank, to sell its assets to or merge it with any other person, or to make any other major change in its business or corporate structure.

Item 5—Interest in Securities of the Bank

(a) State the aggregate number and percentage of the class of securities identified pursuant to Item 1 (which may be based on the number of securities outstanding as contained in the most recently available filing with the Comptroller of the Currency by the bank unless the filing person has reason to believe such information is not current) beneficially owned (identifying those shares which there is a right to acquire) by each person named in Item 2. The above mentioned information should also be furnished with respect to persons who, together with any of the persons named in Item 2, comprise a group within the meaning of section 13(d)(3) of the Act;

(b) For each person named in response to paragraph (a), indicate the number of shares as to which there is sole power to vote or to direct the vote, shared power to vote or to direct the vote, sole power to dispose or to direct the disposition, or shared power to dispose or to direct the disposition. Provide the applicable information required by Item 2 with respect to each person with whom the power to vote or to direct the vote or to dispose or direct the disposition is shared;

(c) Describe any transactions in the class of securities reported on that were effected during the past sixty days or since the most recent filing on Form F-11, whichever is less, by the persons named in response to paragraph (a).

Instruction. The description of a transaction required by Item 5(c) shall include, but not necessarily be limited to: (1) The identity of the person covered by Item 5(c) who effected the transaction; (2) the date of the transaction; (3) the amount of securities involved; (4) the price per share or unit; and (5) where and how the transaction was effected.

(d) If any other person is known to have the right to receive or the power to direct the receipt of dividends from, or the proceeds from the sale of, such securities, a statement to that effect should be included in response to this item and, if such interest relates to more than five percent of the class, such person should be identified.

(e) If applicable, state the date on which the reporting person ceased to be the beneficial owner of more than five percent of the class of securities.

Instruction. For computations regarding securities which represent a right to acquire an underlying security, see § 11.403(d) and the note thereto.

Item 6—Contracts, Arrangements, or Understandings With Respect to Securities of the Bank

Furnish information as to any contracts, arrangements, or understandings with any person with respect to any securities of the bank, including but not limited to transfer of any of the securities, joint ventures, loan or option arrangements, puts or calls, guaranties of loans, guaranties against loss or guaranties of profits, division of losses or profits, or the giving or withholding of proxies, naming any person with whom such contracts, arrangements, or understandings have been entered into, and giving the details thereof.

Item 7—Material To Be Filed as Exhibits

Copies of all requests or invitations for tenders or advertisements making a tender offer or requesting or inviting tenders, additional material soliciting or requesting such tender offers, solicitations or recommendations to the holders of the security to accept or reject a tender offer or request or invitation for tenders shall be filed as an exhibit.

Signature

I certify that to the best of my knowledge and belief the information set forth in this statement is true, complete and correct.

(Date) _____

(Signature) _____

If the statement is signed on behalf of a person by an authorized representative, evidence of the representative's authority to sign on behalf of such person shall be filed with the statement.

[40 FR 30039, July 17, 1975; 40 FR 32735, Aug. 4, 1975, as amended at 43 FR 60546, Dec. 28, 1978; 44 FR 69620, Dec. 4, 1979]

§ 11.491 Short form acquisition/ ownership statement to be filed under section 13(d) or section 13(g) of the Exchange Act (Form F-11A).

Comptroller of the Currency Form F-11A

Short Form Ownership Statement To Be Filed Pursuant to Section 13(d) of the Securities Exchange Act of 1934 § 11.401(b) and Amendments Thereto Filed Pursuant to § 11.402(b)

(Amendment No. ———)

(Name of Bank)

(Title of Class of Securities)

(CUSIP Number)

The information required in the remainder of this cover page shall not be deemed to be "filed" for the purpose of section 18 of the Securities Exchange Act of 1934 ("Act") or otherwise subject to the liabilities of that section of the Act but shall be subject to all other provisions of the Act (however, see the Note).

(1) Names of Reporting Person S.S. or I.R.S. Identification Nos. of Above Person

(2) Check the Appropriate Box if a Member of a Group (See Instructions).
(a) _____
(b) _____

(3) Citizenship or Place of Organization

Number of Shares Beneficially Owned by Each Reporting Person With:
(4) Sole Voting Power _____
(5) Shared Voting Power _____
(6) Sole Dispositive Power _____
(7) Shared Dispositive Power _____

(8) Aggregate Amount Beneficially Owned by Each Reporting Person

(9) If the Aggregate Amount in Row 8 Excludes Certain Shares list the Number of Excluded Shares (See Instructions)

(10) Percent of Class Represented in Row 8

(11) Type of Reporting Person (See Instructions)

Instructions for Cover Page

(1) *Names and Social Security Numbers of Reporting persons*—Furnish the full legal name of each person for whom the report is filed—*i.e.*, each person required to sign the form itself—including each member of a group. Do not include the name of a person required to be identified in the report but who is not a reporting person. Reporting persons are also requested to furnish their Social Security or I.R.S. identification numbers, although disclosure of such numbers is voluntary, not mandatory (see "Special Instructions for Complying With Form F-11A," below).

(2) If any of the shares beneficially owned by a reporting person are held as a member of a group and such membership in a group is disclaimed or the reporting person describes

a relationship with other persons but does not affirm the existence of a group, please check row 2(b) [unless a joint filing pursuant to § 11.401(e) in which case it may not be necessary to check row 2(b)].

(3) *Citizenship of Place of Organization*—Furnish citizenship if the named reporting person is a natural person. Otherwise, furnish place of organization.

(4)–(8). (10) *Aggregate Amount Beneficially Owned By Each Reporting Person etc.*—Rows (4) through (8) inclusive, and (10) are to be completed in accordance with the provisions of Item 4 of Form F–11A. All percentages are to be rounded off to the nearest tenth (one place after decimal point).

(12) *Type of Reporting Person.*—Please classify each "reporting person" according to the following breakdown (see Item 3 of Form F–11A) and place the appropriate symbol on the form:

Category	Symbol
Broker Dealer	BD
Bank	BK
Insurance Company	IC
Investment Company	IV
Investment Adviser	IA
Employee Benefit Plan, Pension Fund, or Endowment Fund	EP
Parent Holding Company	HC
Corporation	CO
Partnership	PN
Individual	IN
Other	OO

Note.—Filing person may, in order to avoid unnecessary duplication, answer items on the form by appropriate cross references to an item or items on the cover page(s). This approach may only be used where the cover page item or items provide all the disclosure required by the schedule item. Moreover, such use of a cover page item will result in the item becoming a part of the schedule and accordingly being considered as "filed" for purposes of section 18 of the Securities Exchange Act or otherwise subject to the liabilities of that section of the Act.

Special Instructions for Complying With Form F–11A

Under section 13(d), 13(g), and 23 of the Securities Exchange Act of 1934 and the rules and regulations thereunder, the Comptroller of the Currency is authorized to solicit the information required to be supplied by this schedule by certain security holders of certain banks.

Disclosure of the information specified in this schedule is mandatory, except for Social Security or I.R.S. identification numbers the disclosure of which is voluntary. The information will be used for the primary purpose of determining and disclosing the holdings of certain beneficial owners of certain equity securities. This statement will be made a matter of public record. Therefore, any information given will be available for inspection by any member of the public.

Failure to disclose the information requested by this schedule, except for Social Security or I.R.S. identification numbers, may result in civil or criminal action against the persons involved for violation of the Federal securities laws and rules promulgated thereunder.

Item 1(a)—Name of Bank

Item 1(b)—Address of Bank's Principal Office

Item 2(a)—Name of Person Filing

Item 2(b)—Address of Principal Business Office or, if None, Residence

Item 2(c)—Citizenship

Item 2(d)—Title of Class of Securities

Item 2(e)—Cusip Number

Item 3—If This Statement Is Filed Pursuant to § 11.401(a) or § 11.402(b), Check Whether the Person Filing Is a

(a) [ ] Broker or Dealer registered under section 15 of the Act

(b) [ ] Bank as defined in section 3(a)(6) of the Act

(c) [ ] Insurance Company as defined in section 3(a)(19) of the Act

(d) [ ] Investment Company registered under section 8 of the Investment Company Act

(e) [ ] Investment Adviser registered under section 203 of the Investment Advisers Act of 1940

(f) [ ] Employee Benefit Plan, Pension Fund which is subject to the provisions of the Employee Retirement Income Security Act of 1974 or Endowment Fund

(g) [ ] Parent Holding Company, in accordance with § 11.401(a)(1)(ii)(G) [Note: See Item 7]

(h) [ ] Group, in accordance with § 11.401(a)(1)(ii)(H)

Item 4—Ownership

If the percent of the class owned, as of December 31 of the year covered by the statement, or as of the last day of any month described in § 11.401 if applicable, exceeds five percent, provide the following information as of that date and identify those shares for which there is a right to acquire.

(a) Amount Beneficially Owned

(b) Percent of Class

(c) Number of shares as to which such person has:

(i) sole power to vote or to direct the vote _____

(ii) shared power to dispose or to direct the disposition of _____

(iii) shared power to dispose or to direct the disposition of _____

Instruction: For computation regarding securities which represent a right to acquire an underlying security see § 11.403(d)(1).

Item 5—Ownership of 5 Percent or Less of a Class

If this statement is being filed to report the fact that as of the date hereof the reporting person has ceased to be the beneficial owner of more than five percent of the class of securities, check the following [ ].

Instructions: Dissolution of a group requires a response to this item.

Item 6—Ownership of More Than 5 Percent on Behalf of Another Person

If any other person is known to have the right to receive or the power to direct the receipt of dividends from, or the proceeds from the sale of, such securities, a statement to that effect should be included in response to this item and, if such interest relates to more than five percent of the class, such person should be identified. A listing of the shareholders of an investment company registered under the Investment Company Act of 1940 or the beneficiaries of employee benefit plan, pension fund or endowment fund is not required.

Item 7—Identification and Classification of the Subsidiary Which Acquired the Security Being Reported on by the Parent Holding Company

If a parent holding company has filed this schedule, pursuant to § 11.401(b)(1)(ii)(G), so indicate under Item 3(g) and attach an exhibit stating the identity and the Item 3 classification of the relevant subsidiary. If a parent holding company has filed this schedule pursuant to § 11.401(c), attach an exhibit stating the identification of the relevant subsidiary.

Item 8—Identification and Classification of Members of the Group

If a group has filed this schedule pursuant to § 11.401(b)(1)(ii)(H), so indicate under Item 3(h) and attach an exhibit stating the identity and Item 3 classification of each member of the group. If a group has filed this schedule pursuant to § 11.401(c), attach an exhibit stating the identity of each member of the group.

Item 9—Notice of Dissolution of Group

Notice of dissolution of a group may be furnished as an exhibit stating the date of the dissolution and that all further filings with respect to transactions in the security reported on will be filed, if required, by members of the group, in their individual capacity. See Item 5.

Item 10—Certification

The following certification shall be included if the statement is filed pursuant to § 11.401(b).

By signing below I certify that, to the best of my knowledge and belief, the securities referred to above were acquired in the ordinary course of business and were not acquired for the purpose of and do not have the effect of changing or influencing the control of the bank and were not acquired in connection with or as a participant in any transaction having such purposes or effect.

Signature.

After reasonable inquiry and to the best of my knowledge and belief, I certify that the information set forth in this statement is true, complete and correct.

_____

Date

_____

Signature

_____

Name/Title

The original statement shall be signed by each person on whose behalf the statement is filed, or by his authorized representative. If the statement is signed on behalf of a person by his authorized representative (other than an executive officer or general partner of the filing person), evidence of the representative's authority to sign on behalf of

such person shall be filed with the statement. The name and any title of each person who signs the statement shall be typed or printed beneath his signature.

Note.—Four copies of this statement, including all exhibits, should be filed with the Comptroller of the Currency.

§ 11.492 Initial statement of beneficial ownership of equity securities to be filed under section 16(a) of the Exchange Act (Form F-7).

Form F-7

Initial Statement of Beneficial Ownership of Securities

Filed Pursuant to Section 16(a) of the Securities Exchange Act of 1934

(1) Name and address of bank:

(2) Name and business address of reporting person:

(3) Relationship of reporting person to bank: (see instructions 1 and 5)

(4) Nature of event requiring the filing of this statement:

☐ Assumption of directorship.

☐ Appointed policy-making officer (see instruction 1).

☐ Became 10% owner.

☐ Newly registered bank.

(5) If an amendment give date of statement which is being amended:

(6) Date of event requiring filing of this statement: (see instruction 6)

TABLE I.—SECURITIES BENEFICIALLY OWNED

Furnish the information required by the following table as to securities of the bank beneficially owned directly or indirectly by the reporting person, including transferrable warrants but excluding puts, calls, options and other rights or obligations required to be reported in Table II (see instruction 7).

(1)—Title of securities owned (see instruction 10)	(2)—Amount owned directly or indirectly (see instruction 12)	(3)—Nature of beneficial ownership (see instruction 11)

TABLE II.—PUTS, CALLS, OPTIONS AND OTHER RIGHTS OR OBLIGATIONS

Furnish the information required by the following table as to all puts, calls, options and other rights or obligations (all hereinafter referred to as "options") pursuant to which the reporting person may buy or sell, or be required to buy or sell, securities of the bank. However, transferrable warrants issued by the bank which give the right to buy other securities of the bank are to be reported in Table I (see instruction 7).

(1)—Title of securities subject to option (see instruction 10)	(2)—Nature of option held (see instruction 13)	(3)—Amount of securities subject to option (see instruction 12)	(4)—Purchase or sale price of securities subject to option (see instruction 14)	(5)—Date of Expiration of option

Remarks (see instruction 15).

Date of statement

Signature

Instructions

1. Persons Required To File Statements

A statement on this form is required to be filed by every person who, at the time any class of equity securities of a bank becomes registered pursuant to section 12 of the Exchange Act (i) is directly or indirectly the beneficial owner of more than 10 percent of such class, or (ii) is a director or officer of the bank which is the issuer of such securities, and by every person who thereafter becomes such a beneficial owner, director, or officer, or (iii) is or becomes such a beneficial owner, director or officer, and who has any right or obligation, such as puts, calls or options, pursuant to which such person may buy or sell, or be required to buy or sell, securities of the bank. The term "officer" means a Chairman of the Board of Directors, Vice Chairman of the Board, Chairman of the Executive Committee, President, Vice President (except as indicated in the next sentence), Cashier, Treasurer, Secretary, Comptroller, and any other person who participates in major policymaking functions of the bank. In some banks (particularly banks with officers bearing titles such as Executive Vice President, Senior Vice President, or First Vice President as well as a number of "Vice Presidents"), some or all "Vice Presidents" do not participate in major policy-making functions, and such persons are not officers for the purpose of this statement.

2. When Statements Are To Be Filed

Persons who hold any of the relationships specified in Instruction 1 when any class of equity securities of the bank becomes registered pursuant to section 12 of the Act are required to file a statement on this form within 10 days after the date such registration becomes effective. Persons who subsequently assume any of the relationships specified in Instruction 1 are required to file a statement within 10 days after assuming such relationship. Statements are not deemed to have been filed with the Comptroller of the Currency or an exchange until they have actually been received by the Comptroller of the Currency or such exchange.

3. Where and How Statements Are To Be Filed

One signed copy and three reproduced copies of each statement shall be filed with the Comptroller of the Currency, Washington, D.C. 20219. One signed copy thereof shall also be filed with each exchange on which any class of equity securities of the bank is listed. However, if such bank has, in accordance with § 11.410(a)(3) of Part 11, designated a single exchange to receive statements, the statement need only be filed with the Comptroller of the Currency and the designated exchange.

4. Separate Statement for Each bank

A separate statement shall be filed with respect to the equity securities of each bank which has such securities registered in the manner specified in Instruction 1, and as to which any of the relationships specified in that Instruction are held by any of the persons therein specified.

5. Relationship of Reporting Person to Bank

Indicate clearly the relationship of the reporting person to the bank: for example, "Director", "Director and Vice President", "Beneficial owner of more than 10 percent of the bank's common stock", etc.

6. Date as of Which Beneficial Ownership Is To Be Given

The information as to beneficial ownership of securities, including those subject to puts, calls, options, warrants, and so forth, shall be given as of the date on which the event occurred which requires the filing of a statement on this form, for example, when registration of equity securities of the bank becomes effective pursuant to section 12 of the Act or when the person whose ownership is reported becomes a director or officer of the bank or becomes the beneficial owner of more than 10 percent of a class of registered equity securities of the bank.

7. Securities To Be Reported

Persons specified in Instruction 1 above shall include information as to their beneficial ownership of all classes of equity securities of the bank, even though one or more of such classes may not be registered pursuant to section 12 of the Act.

8. Statement Required Although No Securities are Owned

If any person required to file a statement on this form does not own any securities required to be reported, a statement on this form shall be filed to report that fact.

9. Reporting of Ownership in Certain Cases

(a) When two or more securities are owned as a unit, such as debentures and transferrable warrants to purchase common stock, report each security separately and describe the unit relationship in the space provided for remarks following Table II of the Form. If one or more of the securities comprising the unit is not required to be reported, the other security or securities shall be reported separately and the unit relationship described as indicated above.

(b) In reporting the ownership of a convertible security or a transferrable

warrant, the number of shares or units subject to the conversion privilege and the conversion or exercise price per share or unit shall be set forth in the "Remarks" space following Table II. Transferrable warrants issued by the bank with respect to any class of the bank's equity securities shall be reported in Table I (in which case the exercise price and date of expiration of the warrant shall be reported on the "Remarks" space following Table II.)

(c) Securities owned indirectly shall be reported on separate lines from those owned directly and also from those owned through a different type of indirect ownership.

10. Title of Equity Security

The statement of the title of an equity security should clearly distinguish it from any securities of other classes issued by the bank.

11. Nature of Ownership—Table I

Under "Nature of ownership", state whether ownership of the equity securities is "direct" or "indirect". If the ownership is indirect, i.e., through a partnership, corporation, trust, or other entity, indicate in a footnote or other appropriate manner the name or identity of the medium through which the securities are indirectly owned. The fact that equity securities are held in the name of a broker or other nominee does not, of itself, constitute indirect ownership. Equity securities owned indirectly shall be reported on separate lines from those owned directly and also from those owned through a different type of indirect ownership. See also the provisions of § 11.410(d) of this part relating to the reporting of ownership of securities held in trust.

12. Statement of Amount Owned

In stating the amount of equity securities beneficially owned, give the face amount of convertible debt securities or the number of shares of stock or other units of other securities. In the case of equity securities owned indirectly, the entire amount of equity securities owned by the partnership, corporation, trust, or other entity shall be stated. The person whose ownership is reported may, if he so desires, also indicate in a footnote or other appropriate manner the extent of his interest in the partnership, corporation, trust or other entity.

13. Puts, Calls, Options and Other Rights—Table II

The terms "puts" and "calls" in Table II include, in addition to separate puts and calls, any combination of the two, such as spreads, straddles, strips and straps. In reporting the nature of the option in Column 2 of Table II, state whether it represents a right to buy, a right to sell, an obligation to buy or an obligation to sell the securities subject to the option.

14. Price at Which Options May Be Exercised

If a warrant is not presently exercisable, state the price at which it will first become exercisable. If a warrant, put, call or option is exercisable at various increasing prices, state the price at which it is presently exercisable.

15. Inclusion of Additional Information

A statement may include any additional information or explanation deemed relevant by the person filing the statement.

16. Signature

If the statement is filed for a corporation, partnership, trust, etc., the name of the organization shall appear over the signature of the officer or other person authorized to sign the statement. If the statement is filed for an individual, it shall be signed by him or specifically on his behalf by a person authorized to sign for him.

§ 11.493 Statement of changes in beneficial ownership of equity securities to be filed under Section 16(a) of the Exchange Act (Form F-8).

Form F-8

Statement of Changes in Beneficial Ownership of Securities

Filed Pursuant to Section 16(a) of the Securities Exchange Act of 1934

(1) Name and address of bank:

_____

(2) Name and business address of reporting person:

_____

_____

_____

(3) Relationship of reporting person to bank: (see instructions 1 and 5)

_____

(4) Statement for calendar month of: (month) _____ (year) _____

(5) If an amendment, give date of statement which is being amended: _____

TABLE I.—SECURITIES BOUGHT, SOLD, OR OTHERWISE ACQUIRED OR DISPOSED OF

Furnish the information required by this table for all changes in ownership during the month and for month-end ownership (see instruction 6). Transactions involving the acquisition or disposition of puts, calls, options or other rights or obligations to buy or sell securities of the bank shall be reported in Table II.

(1)—Title of securities (see instruction 7)	(2)—Date of transaction (see instruction 8)	(3)—Amount acquired of disposed of (see instruction 9)	(4)—Nature of ownership of securities acquired or disposed of (see instruction 10)	(5)—Character of transaction (see instruction 11)	(6)—Purchase or sale price per share or other unit (see instruction 12)	(7)—Amount owned at month-end (see instruction 13)	(8)—Nature of ownership at month-end (see instruction 10)

TABLE II.—PUTS, CALLS, OPTIONS, AND OTHER RIGHTS OR OBLIGATIONS

Furnish the information required by the following table for all changes in ownership, and for month-end ownership, of any put, call, option or other right or obligation (all hereinafter referred to as "options") to buy or sell securities of the bank. (See instructions 6 and 14.) However, the acquisition or disposition of transferrable warrants issued by the bank which give the right to buy securities of the bank are to be reported in Table I. Options exempted by § 11.410(e) of this part need not be reported.

(1)—Title of securities (see instruction 7)	(2)—Date of transaction (see instruction 8)	(3)—Nature of option (see instruction 14)	(4)—Amount of securities subject to option (see instruction 9)	(5)—Character of transaction, if any, reported (see instruction 11)	(6)—Purchase or sale price of securities subject to option (see instruction 12)	(7)—Date of expiration of option	(8)—Amount owned at month-end (see instruction 13)

Remarks (see instructions 11 and 15)

Date of statement .....

Signature .....

Instructions

1—Persons Required To File Statements

A statement on this form is required to be filed by every person who at any time during any calendar month was (i) directly or indirectly the beneficial owner of more than 10 percent of any class of equity securities of a bank registered pursuant to section 12 of the Securities Exchange Act of 1934 (the Act), or (ii) a director or officer of the bank which is the issuer of such securities, and who during such month had any change in the nature or amount of his beneficial ownership of any class of equity securities, or any puts, calls, options or other rights or obligations relating to such securities of such bank. The term "officer" means a Chairman of the

Board of Directors, Vice Chairman of the Board, Chairman of the Executive Committee, President, Vice President (except as indicated in the next sentence), Cashier, Treasurer, Secretary, Comptroller, and any other person who participates in major policy-making functions of the bank. In some banks (particularly banks with officers bearing titles such as Executive Vice President, Senior Vice President, or First Vice President, as well as a number of "Vice Presidents"), some or all "Vice Presidents" do not participate in major policy-making functions, and such persons are not officers for the purposes of this statement.

2—When Statements are To Be Filed

Statements are required to be filed on or before the 10th day after the end of each calendar month in which any change in the nature or amount of beneficial ownership has occurred. Statements are not deemed to have been filed with the Comptroller of the Currency or an exchange until they have actually been received by the Comptroller of the Currency or such exchange.

3—Where Statements are To Be Filed

One signed copy and three reproduced copies of each statement shall be filed with the Comptroller of the Currency, Washington, D.C. 20219. One signed copy thereof shall also be filed with each exchange on which any class of equity securities of the bank is listed. However, if such bank has, in accordance with § 11.410(a)(3) of Part 11, designated a single exchange to receive statements, the statement need only be filed with the Comptroller of the Currency and the designated exchange.

4—Separate Statement for Each Bank

A separate statement shall be filed with respect to the equity securities of each bank.

5—Relationship of Reporting Person to Bank

Indicate clearly the relationship of the reporting person to the bank, for example, "Director", "Director and Vice President", "Beneficial owner of more than 10 percent of the bank's common stock," etc.

6—Transactions and Holdings To Be Reported

(a) Persons required to file statements on this form shall include in their statements all changes during the calendar month in their beneficial ownership and their beneficial ownership at the end of the month of all classes of equity securities of the bank, even though one or more such classes may not be registered pursuant to section 12 of the Act.

(b) Any director or officer who is required to file a statement on Form F-8 with respect to any change in his beneficial ownership of equity securities which occurs within 6 months after he became a director or officer of a bank or within 6 months after equity securities of such bank first become registered pursuant to section 12 of the Act, shall include in the first such statement the information called for by Form F-6 with respect to all changes in his beneficial ownership of equity securities of such bank which occurred within 6 months prior to the date of the changes which requires the filing of such statement.

(c) Any person who has ceased to be a director or officer of a bank which has equity securities registered pursuant to section 12 of the Act, or who is a director or officer of a bank at the time it ceased to have any equity securities so registered, shall file a statement on Form F-8 with respect to any change in his beneficial ownership of equity securities of such bank which shall occur on or after the date on which he ceased to be such director or officer, or the date on which the bank ceased to have any equity securities so registered, as the case may be, if such change shall occur within 6 months after any change in his beneficial ownership of such securities prior to such date. The statement on Form F-8 shall be filed within 10 days after the end of the month in which the reported change in beneficial ownership occurs.

(d) Every change in beneficial ownership shall be reported even though purchases and sales during the month are equal or the change involves only the nature of beneficial ownership (for example, from direct to indirect ownership or from one type of indirect ownership to another). Beneficial ownership at the end of the month of all classes of equity securities of the bank shall be shown even though there has been no reportable change during the month in the ownership of equity securities of a particular class.

(e) When a transaction relates to the acquisition or disposition of two or more securities as a unit, such as debentures and transferrable warrants to purchase common stock of the bank, each security shall be treated separately for the purpose of reporting the transaction. Thus, in reporting the purchase of debentures and transferrable warrants for common stock as units, report the debentures purchase and the warrant purchase separately and use the "Remarks" space to describe the unit relationship.

(f) In reporting the acquisition or disposition of a convertible security or a transferrable warrant, the number of shares or units subject to the conversion privilege or warrant and the conversion or exercise price per share or unit shall be set forth in the "Remarks" space. When a convertible security is converted or a warrant is exercised, the amount of securities acquired as a result of such conversion or exercise shall be reported and, in addition, the disposition of the convertible security or warrant shall be reported as a separate transaction.

(g) Securities owned indirectly shall be reported on separate lines from those owned directly and also from those owned through a different type of indirect ownership.

(h) The acquisition, disposition, exercise or expiration of a put, call, option or other right or obligation to buy or sell securities (all hereinafter referred to as "options") involves a change in beneficial ownership of the security subject to the option and shall be reported in Table II. If such option is exercised, the exercise transaction shall be reported in Table II and the acquisition or disposition of the security subject to the option shall be reported in Table I. Transferrable warrants issued by the bank with respect to any class of the bank's equity securities shall be reported in Table I (in which case the exercise price and date of expiration of the warrant shall be reported in the "Remarks" space.) Options exempted by the provisions of § 11.410(e) of this part need not be reported.

7—Title of Equity Security

The statement of the title of an equity security should clearly distinguish it from any securities of other classes issued by the bank. See instruction 6 with respect to the separate reporting of two or more securities acquired as a unit.

8—Date of Transaction

The exact date (month, day, and year) of each transaction shall be stated opposite the amount involved in the transaction.

9—Statement of Amounts of Equity Securities

In stating the amount of equity securities acquired, disposed of, or beneficially owned, give the face amount of convertible debt securities or the number of shares of stock or other units of other securities. In the case of equity securities owned indirectly, the entire amount of equity securities involved in the transaction or owned by the partnership, corporation, trust, or other entity shall be stated. The person whose ownership is reported may, if he so desires, also indicate in a footnote or other appropriate manner, the extent of his interest in the transaction or holdings of the partnership, corporation, trust, or other entity.

10—Nature of Ownership

Under "Nature of ownership," state whether ownership of the equity securities is "direct" or "indirect." If the ownership is indirect, i.e., through a partnership, corporation, trust, or other entity, indicate in a footnote or other appropriate manner the name or identity of the medium through which the securities are indirectly owned. The fact that equity securities are held in the name of a broker or other nominee does not, of itself, constitute indirect ownership. Equity securities owned indirectly shall be reported on separate lines from those owned directly and also from those owned through a different type of indirect ownership. See also the provisions of § 11.410(d) of this part relating to the reporting of ownership of securities held in trust.

11—Character of Transaction

State whether the transaction was an acquisition or a disposition. If the transaction in equity securities was with the bank, so state. If it involved the purchase of equity securities through the exercise of warrants or options, so state, give the termination date of the option or warrant, and give the exercise price per share. In such case, the appropriate entries shall be made in Table II as well as Table I. If any other purchase or sale was effected otherwise than in the open market, that fact shall be indicated. If the transaction was not a purchase or sale, indicate its character; for example, gift or stock dividend, stock split, or other type of pro rata distribution, etc., as the case may be. The foregoing information may be appropriately set forth in the table or, if more space is needed, under "Remarks" below Table II.

12—Purchase or Sale Price of Securities

(a) If any transaction reported in Table I involved a purchase or sale of securities for cash, including the exercise of an option, state in Column 6 the purchase price per share or other unit, exclusive of brokerage commissions or other costs of execution. If the transaction was only partly for cash and partly for other consideration, state the amount of cash per share or other unit and the nature of the additional consideration. Column 6 need not be answered for transactions not involving cash.

(b) When two or more securities are purchased or sold as a unit (see Instruction 6(a) above), the purchase or sale price of the unit shall be stated next to one of the listed securities and cross-referenced to the other security or securities. Any appropriate details may be given in the "Remarks" space following Table II.

(c) If an option reported in Table II is exercisable at varying increasing prices, state in Column 6 of that table the price at which it is presently exercisable.

13—Beneficial Ownership at End of Month

Beneficial ownership at the end of the month covered by the statement (Columns 7 and 8 of Table I) of all amounts required to be reported shall be shown even though there has been no change during the month in the ownership of securities of one or more classes or amounts. For example, a person reporting a transaction relating to common stock shall in addition to providing all the information on Table I relating to such transaction, report the amount of preferred stock, convertible debentures, etc., owned at the end of the month. In addition, any options owned at the end of the month should be reported in Table II.

14—Puts, Calls, Options and Other Rights—Table II

The terms "put" and "call" in Table II include, in addition to separate puts and calls, any combination of the two, such as spreads, straddles, strips and straps. In reporting the nature of the option in Column 3 of Table II, state whether it represents a right to buy, a right to sell, an obligation to buy or an obligation to sell the securities subject to the option.

15—Inclusion of Additional Information

A statement may include any additional information or explanation deemed relevant by the person filing the statement.

16—Signature

If the statement is filed for a corporation, partnership, trust, etc., the name of the organization shall appear over the signature of the officer or other person authorized to sign the statement. If the statement is filed for an individual, it shall be signed by him or specifically on his behalf by a person authorized to sign for him.

Subpart E—Shareholder Meetings

§ 11.501 Requirement of proxy/information statement.

(a) *Proxy statements.* No solicitation of a proxy with respect to security of a bank registered under section 12 of the Act shall be made unless each person solicited is concurrently furnished or has previously been furnished with a written proxy statement containing the information required by Form F–5.

(b) *Information statements.* If any bank having such a security outstanding fails to solicit proxies from the holders of any such security in such a manner as to require the furnishing of such proxy statement, such bank shall transmit to all holders of record of such security a statement containing the information required by Form F–5, with a prominently displayed caption stating that proxies are not being solicited. The "information statement" required by the preceding sentence shall be transmitted (1) at least 20 calendar days prior to any annual or other meeting of the holders of such security at which such holders are entitled to vote, or (2) in the case of corporate action taken with the written authorization or consent of security holders, at least 20 days prior to the earliest date on which the corporate action may be taken.

(c) *Statements.* A proxy statement or an information statement required by this paragraph is hereinafter sometimes referred to as a "Statement."

§ 11.502 Exceptions.

The requirements of this Subpart E shall apply to every solicitation of a proxy with respect to securities registered pursuant to section 12 of the Act, whether or not trading in such securities has been suspended, except the following:

(a) Any solicitation made otherwise than on behalf of the bank where the total number of persons solicited is not more than 10.

(b) Any solicitation by a person with respect to securities carried in his name or in the name of his nominee (other than as voting trustee) or held in his custody, if such person—

(1) Receives no commission or remuneration for such solicitation, directly or indirectly, other than reimbursement of reasonable expenses;

(2) Furnishes promptly to the person solicited a copy of all soliciting material with respect to the same subject matter or meeting received from all persons who will furnish copies thereof for such purpose and who will, if requested, defray the reasonable expenses to be incurred in forwarding such material; and

(3) In addition, does no more than (i) impartially instruct the person solicited to forward a proxy to the person, if any, to whom the person solicited desires to give a proxy, or (ii) impartially request from the person solicited instructions as to the authority to be conferred by the proxy and state that a proxy will be given if no instructions are received by a certain date.

(c) Any solicitation by a person with respect to securities of which he is the beneficial owner.

(d) Any solicitation through the medium of a newspaper advertisement that informs security holders of a source from which they may obtain copies of a proxy statement, form of proxy, and any other soliciting material and does no more than (1) name the bank; (2) state the reason for the advertisement; and (3) identify the proposal or proposals to be acted upon by security holders.

(e) The furnishing of proxy voting advice by any person (the "advisor") to any other person with whom the advisor has a business relationship, if:

(1) The advisor renders financial advice in the ordinary course of his business;

(2) The advisor discloses to the recipient of the advice any significant relationship with the bank or any of its affiliates, or a shareholder proponent of the matter on which advice is given, as well as any material interest of the advisor in such matter;

(3) The advisor receives no special commission or remuneration for furnishing the proxy voting advice from any person other than a recipient of the advice and other persons who receive similar advice under this subsection; and

(4) The proxy voting advice is not furnished on behalf of any person soliciting proxies or on behalf of a participant in an election subject to the provisions of § 11.511.

(5) **Note.**—The solicitations excepted by paragraphs (a) and (e) remain subject to the prohibitions against false and misleading statements in § 11.509.

§ 11.503 Annual report to security holders to accompany statements.

(a) Any statement furnished on behalf of the bank that relates to an annual meeting of security holders at which directors are to be elected shall be accompanied or preceded by an annual report to such security holders as follows, *Provided, however,* That: a bank is not required to send an annual report to a security holder of record having the same address as another security holder of record, provided that (i) such security holders are not holding such bank's securities in nominee name, (ii) at least one report is sent to a holder of record at that address and (iii) the holders of record to whom a report is not sent agree thereto in writing; and

unless state law requires otherwise, a bank is not required to send an annual report or proxy statement to a security holder if (i) an annual report or a proxy statement for two consecutive annual meetings or (ii) all, and at least two, checks (if sent by first class mail) in payment of dividends or interest on securities during a twelve month period have been mailed to such security holder's address and have been returned undeliverable (although a bank's obligation to deliver an annual report or a proxy statement under this section is reinstated once it has such security holder's current address):

(1) The report shall include, for the bank and its subsidiaries, consolidated balance sheets as of the end of each of the two most recent fiscal years and statements of income and changes in financial position for each of the three most recent fiscal years prepared in accordance with Subpart I. The provisions of §§ 11.911, 11.913 to 11.918, and 11.940 shall not apply. Any financial statement schedules or exhibits or separate financial statements which may otherwise be required in filings with the Comptroller may be omitted.

Note.—If the financial statements for a period prior to the most recently completed fiscal year have been examined by a predecessor accountant, the separate report of the predecessor accountant may be omitted in the report to security holders, provided the bank has obtained from the predecessor accountant a reissued report covering the prior period presented, and the successor accountant clearly indicates in the scope paragraph of his or her report (a) that the financial statements of the prior period were examined by other accountants, (b) the date of their report, (c) the type of opinion expressed by the predecessor accountant, and (d) the substantive reasons therefor, if it was other than unqualified. It should be noted, however, that the separate report of any predecessor accountant is required in filings with the Comptroller. If, for instance, the financial statements in the annual report to security holders are incorporated by reference in a Form F–2, the separate report of a predecessor accountant shall be filed in Part II or in Part IV as a financial statement schedule.

(2) Financial statements and notes thereto shall be presented in roman type at least as large and as legible as 10-point modern type. If necessary for convenient presentation, the financial statements may be in roman type as large and as legible as 8-point modern type. All types shall be leaded at least 2-points.

(3) The report shall contain the Supplementary Financial Information required by § 11.832.

(4) The report shall contain information concerning Disagreements with Accountants on Accounting and Financial Disclosure required by § 11.834.

(5)(i) The report shall contain the Selected Financial Data required by § 11.831.

(ii) The report shall contain Management's Discussion and Analysis of Financial Condition and Results of Operations required by § 11.833.

(6) The report shall contain a brief description of the business done by the bank and its subsidiaries during the most recent fiscal year which will, in the opinion of management, indicate the general nature and scope of the business of the bank and its subsidiaries.

(7) The report shall identify each of the bank's directors and executive officers, and shall indicate the principal occupation or employment of each such person and the name and principal business of any organization by which such person is so employed.

(8) The report shall contain the market price of and dividends on the bank's common equity and related stockholder matters required by § 11.821.

(9) Management's proxy statement, or the report, shall contain an undertaking in boldface or otherwise reasonably prominent type to provide without charge to each person solicited, on the written request of any such person, a copy of the bank's annual report of Form F–2, including the financial statements and the financial statement schedules, required to be filed with the Comptroller pursuant to Rule 13a–1 under the Act for the bank's most recent fiscal year, and shall indicate the name and address of the person to whom such a written request is to be directed. In the discretion of management, a bank need not udertake to furnish without charge copies of all exhibits to its Form F–2, provided that the copy of the annual report on Form F–2 furnished without charge to requesting security holders is accompanied by a list briefly describing all the exhibits not contained therein and indicating that the bank will furnish any exhibit upon the payment of a specified reasonable fee which fee shall be limited to the bank's reasonable expenses in furnishing such exhibit. If the bank's annual report to security holders complies with all of the disclosure requirements of Form F–2 and is filed with the Comptroller in satisfaction of its Form F–2 filing requirements, such bank need not furnish a separate Form F–2 to security holders who receive a copy of such annual report.

Note.—Pursuant to the undertaking required by the above paragraph (a)(9), a bank shall furnish a copy of its annual report on Form F–2 to a beneficial owner of its securities upon receipt of a written request from such person. Each request must set forth a good faith representation that, as of the record date for the annual meeting of the bank's security holders, the person making the request was beneficial owner of securities entitled to vote at such meeting.

(10) Subject to the foregoing requirements, the report may be in any form deemed suitable by managment and the information required by subparagraphs (a)(5) to (a)(10) may be presented in an appendix or other separate section of the report, provided that the attention of security holders is called to such presentation.

Note.—Banks are encouraged to utilize tables, schedules, charts, and graphic illustrations to present financial information in an understandable manner. Any presentation of financial information must be consistent with the data in the financial statements contained in the report and, if appropriate, should refer to relevant portions of the financial statements and notes thereto.

(11) This paragraph (a) shall not apply, however, to solicitations made on behalf of the bank before the financial statements are available if solicitation is being made at the time in opposition to the bank and if the bank's proxy statement includes an undertaking in boldface type to furnish such annual report to all persons being solicited, at least 20 days before the date of the meeting.

(b) Three copies of the report sent to security holders pursuant to this rule shall be mailed to the Comptroller solely for its information, not later than the date on which such report is first sent or given to security holders or the date on which preliminary copies of solicitation material are filed with the Comptroller pursuant to § 11.506, whichever date is later. The report is not deemed to be "soliciting material" or to be "filed" with the Comptroller or subject to this regulation otherwise than as provided in this rule, or to the liabilities of Section 18 of the Act, except to the extent that the bank specifically requests that it be treated as a part of the proxy soliciting material or incorporates it in the proxy statement or other filed report by reference.

Note.—To assist the staff, managements of banks are requested to indicate in a letter transmitting to the Comptroller copies of their annual reports to shareholders or in a separate letter at about the time the annual report is furnished to the Comptroller, whether the financial statements in the report reflect a change from the preceding year in any accounting principles or practices or in the method of applying any such principles or practices.

§ 11.504 Requirements as to proxy.

(a) The form of proxy (1) shall indicate in bold-face type whether or not the proxy is solicited on behalf of the bank's board of directors or, if provided other than by a majority of the board of directors, shall indicate in bold-face type the identity of the persons on whose behalf the solicitation is made, (2) shall provide a specifically designated blank space for dating the proxy, and (3) shall identify clearly and impartially each matter or group of related matters intended to be acted upon whether proposed by the bank or by security holders. No reference need be made, however, to matters as to which discretionary authority is conferred under paragraph (c) of this section.

(b)(1) Means shall be provided in the form of proxy whereby the person solicited is afforded an opportunity to specify by boxes a choice between approval or disapproval of, or abstention with respect to, each matter or group of related matters referred to therein as intended to be acted upon, other than elections to office. A proxy may confer discretionary authority with respect to matters as to which a choice is not so specified by the security holder if the form of proxy states in bold-face type how the shares represented by the proxy are intended to be voted in each such case.

(2) A form of proxy which provides for the election of directors shall set forth the names of persons nominated for election as directors. Such form of proxy shall clearly provide any of the following means for security holders to withhold authority to vote for each nominee:

(i) A box opposite the name of each nominee which may be marked to indicate that authority to vote for such nominee is withheld; or

(ii) An instruction in bold-face type which indicates that the security holder may withhold authority to vote for any nominee by lining through or otherwise striking out the name of any nominee; or

(iii) Designated blank spaces in which the shareholders may enter the names of nominees with respect to whom the shareholder chooses to withhold authority to vote; or

(iv) Any other similar means, provided that clear instructions are furnished indicating how the shareholder may withhold authority to vote for any nominee.

(3) Such form of proxy also may provide a means for the security holder to grant authority to vote for the nominees set forth, as a group, provided that there is a similar means for the security holder to withhold authority to vote for such group of nominees. Any such form of proxy which is executed by the security holder in such manner as not to withhold authority to vote for the election of any nominee shall be deemed to grant such authority, provided that the form of proxy so states in bold-face type.

(4) Instructions. (i) Paragraph (b)(2) does not apply in the case of a merger, consolidation or other plan if the election of directors is an integral of the plan.

(ii) If applicable law gives legal effect to votes cast against a nominee, then in lieu of, or in addition to, providing a means for security holders to withhold authority to vote, the bank should provide a similar means for security holders to vote against each nominee.

(c) A proxy may confer discretionary authority to vote with respect to any of the following matters:

(1) Matters that the persons making the solicitation do not know, within a reasonable time before the solicitation, are to be presented at the meeting, if a specific statement to that effect is made in the proxy statement or form of proxy;

(2) Approval of the minutes of the prior meeting if such approval does not amount to ratification of the action taken at that meeting;

(3) The election of any person to any office for which a bona fide nominee is named in the proxy statement and such nominee is unable to serve or for good cause refuses to serve;

(4) Any proposal omitted from the proxy statement and form of proxy pursuant to § 11.508;

(5) Matters incident to the conduct of the meeting.

(d) No proxy shall confer authority (1) to vote for the election of any person to any office for which a bona fide nominee is not named in the proxy statement, or (2) to vote at any annual meeting other than the next annual meeting (or any adjournment thereof) to be held after the date on which the proxy statement and form of proxy are first sent or given to security holders. A person shall not be deemed to be a bona fide nominee and he shall not be named as such unless he has consented to being named in the proxy statement and to serve if elected.

(e) The proxy statement or form of proxy shall provide, subject to reasonable specified conditions, that the shares represented by the proxy will be voted and that where the person solicited has specified by means of a ballot provided pursuant to § 11.504(b) of this section, a choice with respect to any matters to be acted upon, the shares will be voted in accordance with the specifications so made.

§ 11.505 Presentation of information in statement.

(a) The information included in the statement shall be clearly presented and the statements made shall be divided into groups according to subject matter and the various groups of statements shall be preceded by appropriate headings. The order of items in the form need not be followed. Where practicable and appropriate, the information shall be presented in tabular form. All amounts shall be stated in figures. Information required by more than one applicable item need not be repeated. No statement need be made in response to any item that is inapplicable.

(b) Any information required to be included in the statement as to terms of securities or other subject matter that from a standpoint of practical necessity must be determined in the future may be stated in terms of present knowledge and intention. To the extent practicable, the authority to be conferred concerning each such matter shall be confined within limits reasonably related to the need for discretionary authority. Subject to the foregoing, information that is not known to the persons on whose behalf the solicitation is to be made and is not reasonably within the power of such persons to ascertain or procure may be omitted if a brief statement of the circumstances rendering such information unavailable is made.

(c) There may be omitted from a proxy statement any information contained in any other proxy soliciting material that has been furnished to each person solicited in connection with the same meeting or subject matter if a clear reference is made to the particular document containing such information.

(d) All printed statements shall be set in roman type at least as large as 10-point modern type, except that, to the extent necessary for convenient presentation, financial statements and other statistical or tabular matter, but not the notes thereto, may be set in roman type at least as large as 8-point modern type. All type shall be leaded at least 2 points.

(e) All proxy statements shall disclose, under an appropriate caption, the date by which proposals of security holders intended to be presented at the next annual meeting must be received by the bank for inclusion in the bank's proxy statement and form of proxy relating to that meeting, such date to be calculated in accordance with the provisions of 12 CFR 11.508(a)(3)(i). If the date of the next annual meeting is subsequently advanced by more than 30 days or delayed by more than 90 days from the date of the annual meeting to

which the proxy statement relates, the bank shall, in a timely manner, inform security holders of such change, and the date by which proposals of security holders must be received, by any means reasonably calculated to so inform them.

(f) All proxy statements shall disclose on the first page thereof the complete mailing address, including zip code, of the principal executive offices of the bank and the approximate date on which the proxy statement and form of proxy are first sent or given to security holders.

§ 11.506 Material required to be filed.

(a) Three preliminary copies of each statement, form of proxy, and other item of soliciting material to be furnished to security holders concurrently therewith, shall be filed with the Comptroller by the bank or any other person making a solicitation subject to this subpart at least ten calendar days (or 15 calendar days in the case of other than routine meetings, as defined below) prior to the date such item is first sent or given to any security holders, or such shorter period prior to that date as may be authorized. For the purposes of this paragraph a routine meeting means a meeting with respect to which no one is soliciting proxies subject to this subpart other than on behalf of the bank and at which the bank intends to present no matters other than the election of directors, election of inspectors of election, or other recurring matters. In the absence of actual knowledge to the contrary, the bank may assume that no other such solicitation of the bank's security holders is being made. In cases of annual meetings, one additional preliminary copy of the statement, the form of proxy, and any other soliciting material, marked to show changes from the material sent or given to security holders with respect to the preceding annual meeting, shall be filed with the Comptroller. If the changes are material, the bank shall file with the Comptroller any explanatory comments which may be of assistance in the expeditious processing of the statement.

(b) Three preliminary copies of any additional soliciting material, relating to the same meeting or subject matter, furnished to security holders subsequent to the proxy statement shall be filed with the Comptroller at least two days (exclusive of Saturdays, Sundays, and holidays) prior to the date copies of such material are first sent or given to security holders, or such shorter period prior to such date as may be authorized upon a showing of good cause therefor.

(c) Three copies of each statement, form of proxy, and other items of soliciting material, in the form in which such material is furnished to security holders, shall be filed with, or mailed for filing to, the Comptroller not later than the date such material is first sent or given to any security holders. Three copies of such material shall at the same time be filed with, or mailed for filing to, each exchange upon which any security of the bank is listed.

Note.—The Definitive Statement filed with the Comptroller should be accompanied by a letter indicating any material changes which have been made therein, other than those made in response to the staff's comments, and should also be accompanied by a marked copy of the Definitive Statement indicating all changes made therein.

(d) If the solicitation is to be made in whole or in part by personal solicitation, three copies of all written instructions or other material that discusses or reviews or comments upon the merits of any matter to be acted upon, and is furnished to the individuals making the actual solicitation for their use directly or indirectly in connection with the solicitation, shall be filed with the Comptroller of the Currency by the person on whose behalf the solicitation is made at least 5 days prior to the date copies of such material are first sent or given to such individuals, or such shorter period prior to that date as may be authorized upon a showing of good cause therefor.

(e) All copies of material filed under § 11.506 (a) and (b) shall be clearly marked "Preliminary Copies" and shall be for the information of the Comptroller only and shall not be considered available for public inspection before definitive material has been filed with the Comptroller, except that such material may be disclosed to any department or agency of the U.S. Government and to the Congress. The Comptroller may make such inquiries or investigations with respect to the material as may be necessary for an adequate review thereof. All material filed under § 11.506 (a), (b), or (c) shall be accompanied by a statement of the date upon which definitive copies thereof are intended to be, or have been, sent or given to security holders. All material filed under § 11.506(d) shall be accompanied by a statement of the date upon which copies thereof have been or are intended to be released to the individuals who will make the actual solicitation.

(f) Copies of replies to inquiries from security holders requesting further information and copies of communications that do no more than request that forms of proxy theretofore solicited be signed, dated, and returned need not be filed pursuant to this paragraph.

(g) Notwithstanding the provisions of § 11.506 (a) and (b) and § 11.511(e), copies of soliciting material in the form of speeches, press releases, and radio or television scripts may, but need not, be filed with the Comptroller of the Currency prior to use or publication. Definitive copies, however, shall be filed with or mailed for filing to the Comptroller of the Currency as required by § 11.506(c) of this section not later than the date such material is used or published. The provisions of § 11.506, (a) and (b) and § 11.511(e) of this section shall apply, however, to any reprints or reproductions of all or any part of such material.

(h) Where any statement, form of proxy, or other material filed pursuant to this paragraph is revised, two of the copies of such revised material filed pursuant to § 11.506(c) shall be marked to indicate clearly the changes. If the revision alters the text of the material, the changes in such text shall be indicated by means of underscoring or in some other appropriate manner.

(i) The date that proxy material is "filed" with the Comptroller of the Currency for purposes of paragraphs (a), (b) and (d) of § 11.506 is the date of receipt of the material by the Comptroller of the Currency, not the date of mailing to the Comptroller of the Currency. In computing the advance filing period for preliminary copies of proxy soliciting material referred to in such paragraphs, the filing date of the preliminary material is to be counted as the first day of the period and definitive material should not be planned to be mailed or distributed to security holders until after the expiration of such period. Where additional time is required for final printing after receipt of comments, the preliminary proxy material should be filed as early as possible prior to the intended mailing date.

(j) Where preliminary copies of material are filed with the Comptroller of the Currency pursuant to this § 11.506 the printing of definitive copies for distribution to security holders should be deferred until the comments of the staff of the Comptroller of the Currency have been received and considered.

§ 11.507 Mailing communications for security holders.

(a) If the management of the bank has made or intends to make any proxy solicitation subject to Subpart E, the bank shall perform such of the following acts as may be requested in writing with respect to the same subject matter or meeting by any security holder who is

entitled to vote on such matter or to vote at such meeting and who shall defray the reasonable expenses to be incurred by the bank in the performance of the act or acts requested:

(1) The bank shall mail or otherwise furnish to such security holder the following information as promptly as practicable after the receipt of such request:

(i) A statement of the approximate number of holders of record of any class of securities, any of the holders of which have been or are to be solicited on behalf of the bank, or any group of such holders that the security holder shall designate;

(ii) If the bank has made or intends to make, through bankers, brokers, or other persons any solicitation of the beneficial owners of securities of any class, a statement of the approximate number of such beneficial owners, or any group of such owners that the security holder shall designate;

(iii) An estimate of the cost of mailing a specified proxy statement, form of proxy, or other communication to such holders, including insofar as known or reasonably available, the estimated handling and mailing costs of the bankers, brokers, or other persons specified in paragraph (a)(1)(ii) of this section.

(2) (i) Copies of any proxy statement, form of proxy, or other communication furnished by the security holder shall be mailed by the bank to such holders of record specified in paragraph (a)(1)(i) of this section as the security holder shall designate. The bank shall also mail to each banker, broker, or other person specified in paragraph (a)(1)(ii) of this section, a sufficient number of copies of such proxy statement, form of proxy, or other communication as will enable the banker, broker, or other person to furnish a copy thereof to each beneficial owner solicited or to be solicited through him;

(ii) Any such material that is furnished by the security holder shall be mailed with reasonable promptness by the bank after receipt of a tender of the material to be mailed, of envelopes or other containers therefor, of postage or payment for postage, and of evidence that such material has been filed with the Comptroller of the Currency pursuant to § 11.506. The bank need not, however, mail any such material that relates to any matter to be acted upon at an annual meeting of security holders prior to the earlier of (A) a day corresponding to the first date on which bank proxy soliciting material was released to security holders in connection with the last annual meeting of security holders, or (B) the first day on which solicitation is made on behalf of bank. With respect to any such material that relates to any matter to be acted upon by security holders otherwise than at an annual meeting, such material need not be mailed prior to the first day on which solicitation is made on behalf of bank;

(iii) Neither the management nor the bank shall be responsible for such proxy statement, form of proxy, or other communication.

(3) In lieu of performing the acts specified above, the bank may, at its option, furnish promptly to such security holder a reasonably current list of the names and addresses of such of the holders of record specified in paragraph (a)(1)(i) of this section as the security holder shall designate, and a list of the names and addresses of the bankers, brokers, or other persons specified in paragraph (a)(1)(ii) of this section as the security holder shall designate together with a statement of the approximate number of beneficial owners solicited or to be solicited through each such banker, broker, or other person and a schedule of the handling and mailing costs of each such banker, broker, or other person, if such schedule has been supplied to the management of the bank. The foregoing information shall be furnished promptly upon the request of the security holder or at daily or other reasonable intervals as it becomes available to the bank.

(b) If the issuer knows that securities of any class entitled to vote at a meeting with respect to which the issuer intends to solicit proxies, consents or authorization are held of record by a broker, dealer, bank or voting trustee, or their nominees, the issuer shall:

(1) By first class mail or other equally prompt means, inquire of such record holder whether other persons are the beneficial owners of such securities and, if so, how many copies of the proxy and other soliciting material and, in the case of an annual meeting at which directors are to be elected, how many copies of the annual report to security holders are needed for transmittal to beneficial owners;

(2) Make the inquiry at least 20 calendar days prior to the record date of the meeting of security holders, or (A) if such inquiry is impracticable 20 calendar days prior to the record date of a special meeting, as many days before such meeting as is practicable or (B) at such later time as the rules of a national securities exchange on which the class of securities in question is listed may permit for good cause shown; and

(3) Shall supply the record holders of whom the inquiry is made with additional copies of the proxy, other proxy soliciting material, and/or the annual report to security holders, in a timely manner, in such quantities, assembled in such form and at such a place as the record holder may reasonably request in order to address and send one copy of each to each beneficial owner of securities so held and shall, upon the request of such record holder, pay its reasonable expenses for completing the mailing of such material to security holders to whom the material is sent.

(c) In lieu of performing the acts specified above, the bank may, at its option, furnish promptly to such security holder a reasonably current list of the names and addresses of such of the holders of record specified in paragraph (a)(1) of this section as the security holder shall designate, and a list of the names and addresses of the bankers, brokers, or other persons specified in paragraph (a)(2) of this section as the security holder shall designate together with a statement of the approximate number of beneficial owners solicited or to be solicited through each such banker, broker, or other person and a schedule of the handling and mailing costs of each such banker, broker, or other person, if such schedule has been supplied to the management of the bank. The foregoing information shall be furnished promptly upon the request of the security holder or at daily or other reasonable intervals as it becomes available to the bank.

§ 11.508 Proposals of security holders.

(a) If any security holder of a bank notifies the issuer of his or her intention to present a proposal for action at a forthcoming meeting of the bank's security holders, the bank shall set forth the proposal in its proxy statement and identify it in its form of proxy and provide means by which security holders can make the specification required by § 11.504. Notwithstanding the foregoing, the bank shall not be required to include the proposal in its proxy statement or form of proxy unless the security holder (hereinafter, the "proponent") has complied with the requirements of this paragraph and paragraphs (b) and (c) of this section:

(1) *Eligibility.* (i) At the same time he or she submits the proposal, the proponent shall be a record or beneficial owner of at least 1% or $1,000 in market value of securities entitled to be voted at the meeting and have held such securities for at least one year, and shall continue to own such securities through the date on which the meeting is held. If the bank requests documentary support for a proponent's claim of being the

beneficial owner of at least $1,000 in market value of such voting securities of the bank or of having been a beneficial owner of the securities for one or more years, the proponent shall furnish appropriate documentation within 14 calendar days after receiving the request. In the event the bank includes the proponent's proposal in its proxy soliciting material for the meeting and the proponent fails to comply with the requirement of continuously holding such securities through the meeting date, the bank shall not be required to include any proposals submitted by the proponent in its proxy materials for any meeting held in the following two calendar years.

(ii) Proponents who deliver written proxy materials to holders of more than 25 percent of a class of the bank's outstanding securities entitled to vote with respect to the same meeting of security holders will be ineligible to use the provisions of § 11.508 for the inclusion of a proposal in the bank's proxy materials. In the event the bank includes a proponent's proposal in its proxy material and the proponent thereafter delivers written proxy materials to the holders of more than 25 percent of a class of the issuer's outstanding securities entitled to vote with respect to such meeting, the bank shall not be required to include any proposals submitted by that proponent in its proxy soliciting materials for any meeting held in the following two calendar years.

(2) *Notice and attendance at the meeting.* At the time of submitting a proposal, a proponent shall provide the bank in writing with his or her name, address, the number of the bank's voting securities that he or she holds of record or beneficially, the dates upon which he or she acquired such securities, and documentary support for a claim of beneficial ownership. A proposal may be presented at the meeting either by the proponent or a representative who is qualified under state law to present the proposal on the proponent's behalf at the meeting. In the event that the proponent or the representative fails, without good cause, to present the proposal for action at the meeting, the bank shall not be required to include any proposals submitted by the proponent in its proxy soliciting material for any meeting held in the following two calendar years.

(3) *Timeliness.* The proponent shall submit the proposal sufficiently far in advance of the meeting so that it is received by the bank within the following time periods:

(i) *Annual meetings.* A proposal to be presented at an annual meeting shall be received at the bank's principal executive offices not less than 120 days in advance of a date corresponding to the date of the bank's proxy statement released to security holders in connection with the previous year's annual meeting of security holders, except that if no annual meeting was held in the previous year of the date of the annual meeting has been changed by more than 30 calendar days from the date contemplated at the time of the previous year's proxy statement, a proposal shall be received by the bank a reasonable time before the solicitation is made.

(ii) *Other meetings.* A proposal to be presented at any meeting other than an annual meeting specified in paragraph (a)(3)(i) of this section shall be received a reasonable time before the solicitation is made.

Note.—In order to curtail controversy as to the date on which a proposal was received by the bank, it is suggested that proponents submit their proposals by Certified Mail-Return Receipt Requested.

(4) *Number of proposals.* The proponent may submit no more than one proposal and an accompanying supporting statement for inclusion in the bank's proxy materials for a meeting of security holders. If the proponent submits more than one proposal, or fails to comply with the 500 word limit mentioned in paragraph (b)(1) of this section, the proponent shall be provided the opportunity to reduce the items submitted by him to the limits required by this rule, within 14 calendar days of notification of such limitations by the issuer.

(b)(1) *Supporting statement.* The bank at the request of the proponent, shall include in its proxy statement a statement of the proponent in support of the proposal, which statement shall not include the name and address of the proponent. A proposal and its supporting statement in the aggregate shall not exceed 500 words. The supporting statement shall be furnished to the bank at the time that the proposal is furnished, and the bank shall not be responsible for such statement and the proposal to which it relates.

(2) *Identification of proponent.* The proxy statement shall also include either the name and address of the proponent and the number of shares of the voting security held by the proponent or a statement that such information will be furnished by the bank to any person, orally or in writing as requested, promptly upon the receipt of any oral or written request therefor.

(c) The bank may omit a proposal and any statement in support thereof from its proxy statement and form of proxy under any of the following circumstances:

(1) If the proposal is, under the laws of the bank's domicile, not a proper subject for action by security holders;

Note.—Whether a proposal is a proper subject for action by security holders will depend on the applicable state law. Under certain states' laws, a proposal that mandates certain action by the bank's board of directors may not be a proper subject matter for shareholder action, while a proposal recommending or requesting such action of the board may be proper under such state laws.

(2) If the proposal, if implemented, would require the bank to violate any state law or federal law of the United States, or any law of any foreign jurisdiction to which the bank is subject, except that this provision shall not apply with respect to any foreign law compliance with which would be violative of any state law or federal law of the United States;

(3) If the proposal or the supporting statement is contrary to any of the Commission's proxy rules and regulations, including Rule 14a-9, 17 CFR 240.14a-9, which prohibits false or misleading statements in proxy soliciting materials;

(4) If the proposal relates to the redress of a personal claim or grievance against the bank or any other person, or if it is designed to result in a benefit to the proponent or to further a personal interest, which benefit or interest is not shared with the other security holders at large;

(5) If the proposal relates to operations which account for less than 5 percent of the bank's total assets at the end of its most recent fiscal year, and for less than 5 percent of its net earnings and gross sales for its most recent fiscal year, and is not otherwise significantly related to the bank's business;

(6) If the proposal deals with a matter beyond the bank's power to effectuate;

(7) If the proposal deals with a matter relating to the conduct of the ordinary business operations of the bank;

(8) If the proposal relates to an election to office;

(9) If the proposal is counter to a proposal to be submitted by the bank at the meeting;

(10) If the proposal has been rendered moot;

(11) If the proposal is substantially duplicative of a proposal previously submitted to the bank by another proponent, which proposal will be included in the bank's proxy material for the meeting;

(12) If the proposal deals with substantially the same subject matter as a prior proposal submitted to security holders in the bank's proxy statement and form of proxy relating to any annual or special meeting of security holders held within the preceding five calendar years, it may be omitted from the bank's proxy materials relating to any meeting of security holders held within three calendar years after the latest such previous submission: *Provided*, That:

(i) If the proposal was submitted at only one meeting during such preceding period, it received less than five percent of the total number of votes cast in regard thereto; or

(ii) If the proposal was submitted at only two meetings during such preceding period, it received at the time of its second submission less than eight percent of the total number of votes cast in regard thereto; or

(iii) If the prior proposal was submitted at three or more meetings during such preceding period, it received at the time of its latest submission less than 10 percent of the total number of votes cast in regard thereto; or

(13) If the proposal relates to specific amounts of cash or stock dividends.

(d) Whenever the bank asserts, for any reason, that a proposal and any statement in support thereof received from a proponent may properly be omitted from its proxy statement and form of proxy, it shall file with the Comptroller, not later than 60 days prior to the date the preliminary copies of the proxy statement and form of proxy are filed pursuant to § 11.506, or such shorter period prior to such date as the Comptroller or its staff may permit, three copies of the following items: (1) The proposal; (2) any statement in support thereof as received from the proponent; (3) a statement of the reasons why the bank deems such omission to be proper in the particular case; and (4) where such reasons are based on matters of law, a supporting opinion of counsel. The bank shall at the same time, if it has not already done so, notify the proponent of its intention to omit the proposal from its proxy statement and form of proxy and shall forward to him or her a copy of the statement of reasons why the bank deems the omission of the proposal to be proper and a copy of such supporting opinion of counsel.

(e) If the bank intends to include in the proxy statement a statement in opposition to a proposal received from a proponent, it shall, not later than 10 calendar days prior to the date the preliminary copies of the proxy statement and form of proxy are filed pursuant to § 11.506, or, in the event that the proposal must be revised to be includable, not later than five calendar days after receipt by the bank of the revised proposal, promptly forward to the proponent a copy of the statement in opposition to the proposal. In the event the proponent believes that the statement in opposition contains materially false or misleading statements within the meaning of § 11.509 and the proponent wishes to bring this matter to the attention of the Comptroller, the proponent promptly should provide the staff with a letter setting forth the reasons for this view and at the same time promptly provide the bank with a copy of such letter.

§ 11.509 False or misleading statements.

(a) No solicitation or communication subject to this section shall be made by means of any statement, form of proxy, notice of meeting, or other communications, written or oral, containing any statement that, at the time and in the light of the circumstances under which it is made, is false or misleading with respect to any material fact, or that omits to state any material fact necessary in order to make the statements therein not false or misleading or necessary to correct any statement in any earlier communication with respect to the solicitation of a proxy for the same meeting or subject matter that has become false or misleading. Depending upon the particular circumstances, the following may be misleading within the meaning of this paragraph: Predictions as to specific future market values; material that directly or indirectly impugns character, integrity, or personal reputation, or directly or indirectly makes charges concerning improper, illegal, or immoral conduct or associations, without factual foundation; failure so to identify a statement, form of proxy, and other soliciting material as clearly to distinguish it from the soliciting material of any other person or persons soliciting for the same meeting or subject matter; claims made prior to a meeting regarding the results of a solicitation.

(b) The fact that a proxy statement, form of proxy, or other soliciting material has been filed with or reviewed by the Comptroller or its staff shall not be deemed a finding by the Comptroller that such material is accurate or complete or not false or misleading; or that the Comptroller has passed upon the merits of or approved any statement therein or any matter to be acted upon by security holders. No representation contrary to the foregoing shall be made.

§ 11.510 Prohibition of certain solicitations.

No person making a solicitation that is subject to this section shall solicit—

(a) Any undated or postdated proxy; or

(b) Any proxy that provides that it shall be deemed to be dated as of any date subsequent to the date on which it is signed by the security holder.

§ 11.511 Special provisions applicable to election contests.

(a) *Solicitations to which the paragraph applies.* This paragraph applies to any solicitation subject to this Subpart E by any person or group of persons for the purpose of opposing a solicitation subject to this section by any other person or group of persons with respect to the election or removal of directors at any annual or special meeting of security holders.

(b) *Participant defined.* (1) For purposes of this paragraph the terms "participant" and "participant in a solicitation" include the following:

(i) The bank;

(ii) Any director of the bank, and any nominee for whose election as a director proxies are solicited;

(iii) Any committee or group that solicits proxies, any member of such committee or group, and any person whether or not named as a member who, acting alone or with one or more other persons, directly or indirectly, takes the initiative in organizing, directing or financing any such committee or group;

(iv) Any person who finances or joins with another to finance the solicitation of proxies, except persons who contribute not more than $500 and who are not otherwise participants;

(v) Any person who lends money or furnishes credit or enters into any other arrangements, pursuant to any contract or understanding with a participant, for the purpose of financing or otherwise inducing the purchase, sale, holding, or voting of securities of the bank by any participant or other person, in support of or in opposition to a participant, except a bank, broker, or dealer who, in the ordinary course of business, lends money or executes orders for the purchase or sale of securities and who is not otherwise a participant;

(vi) Any other person who solicits proxies.

(2) Such terms do not include—

(i) Any person or organization retained or employed by a participant to solicit security holders and whose activities are limited to the performance of duties in the course of such employment, or any person who merely

transmits proxy soliciting material or performs ministerial or clerical duties.

(ii) Any person employed by a participant in the capacity of attorney, accountant, or advertising, public relations, or financial adviser, and whose activities are limited to the performance of duties in the course of such employment.

(iii) Any person regularly employed as an officer or employee of the bank or any of its subsidiaries who is not otherwise a participant; or

(iv) Any officer or director of, or any person regularly employed by, any other participant, if such officer, director, or employee is not otherwise a participant.

(c) *Filing of information required by Form F–6.* (1) No solicitation subject to this paragraph shall be made by any person other than the management of the bank unless at least 5 business days prior thereto, or such shorter period as the Comptroller of the Currency may authorize upon a showing of good cause therefor, there has been filed with the Comptroller of the Currency and with each exchange upon which any security of the bank is listed, by or on behalf of each participant in such solicitation, a statement in quadruplicate containing the information specified by Form F–6.

(2) Within 5 business days after a solicitation subject to this paragraph is made by the management of the bank or such longer period as the Comptroller of the Currency may authorize upon a showing of good cause therefor, there shall be filed with the Comptroller of the Currency and with each exchange upon which any security of the bank is listed, by or on behalf of each participant in such solicitation, other than the bank, a statement in quadruplicate containing the information specified by Form F–6.

(3) If any solicitation on behalf of management or any other person has been made, or if proxy material is ready for distribution, prior to a solicitation subject to this paragraph in opposition thereto, a statement in duplicate containing the information specified in Form F–6 shall be filed by or on behalf of each participant in such prior solicitation, other than the bank, as soon as reasonably practicable after the commencement of the solicitation in opposition thereto, with the Comptroller of the Currency and with each exchange on which any security of the bank is listed.

(4) If, subsequent to the filing of the statements required by paragraphs (c) (1), (2) and (3) of this section, additional persons become participants in a solicitation subject to this paragraph, there shall be filed, with the Comptroller of the Currency and each appropriate exchange, by or on behalf of each such person a statement in duplicate containing the information specified by Form F–6, within 3 business days after such person becomes a participant, or such longer period as the Comptroller of the Currency may authorize upon a showing of good cause therefor.

(5) If any material change occurs in the facts reported in any statement filed by or on behalf of any participant, an appropriate amendment to such statement shall be filed promptly with the Comptroller of the Currency and each appropriate exchange.

(6) Each statement and amendment thereto filed pursuant to this paragraph shall be part of the official public files of the Comptroller of the Currency and shall be deemed a communication subject to the provisions of § 11.509.

(d) *Solicitations prior to furnishing required statement.* Notwithstanding the provisions of § 11.501, a solicitation subject to this paragraph may be made prior to furnishing security holders a written statement containing the information specified in Form F–5 with respect to such solicitation if (1) the statements required by paragraph (c) of this section are filed by or on behalf of each participant in such solicitation; (2) no form of proxy is furnished to security holders prior to the time the statements are furnished to security holders, except that this paragraph (d)(2) of this section, shall not apply where a statement then meeting the requirements of Form F–5 has been furnished to security holders by or on behalf of the person making the solicitation; (3) at least the information specified in Items 2(a) and 3(a) of the statement required by 11.509(c) to be filed by each participant, or an appropriate summary thereof, is included in each communication sent or given to security holders in connection with the solicitation; and (4) a written statement containing the information specified in Form F–5 with respect to a solicitation is sent or given to security holders at the earliest practicable date.

(e) *Solicitations prior to furnishing required statement—Filing requirements.* Three copies of any soliciting material proposed to be sent or given to security holders prior to the furnishing of the proxy statement required by § 11.501 shall be filed with the Comptroller of the Currency in preliminary form, at least 5 business days prior to the date copies of such material are first sent or given to security holders, or such shorter period as the Comptroller of the Currency may authorize upon a showing of good cause therefor.

(f) *Application of this paragraph to annual report.* Notwithstanding the provisions of § 11.503, three copies of any portion of the annual report referred to in that paragraph that comments upon or refers to any solicitation subject to this paragraph, or to any participant in any such solicitation other than the solicitation by the management, shall be filed with the Comptroller of the Currency as proxy material subject to this section. Such portion of the annual report shall be filed with the Comptroller of the Currency in preliminary form at least 5 business days prior to the date copies of the report are first sent or given to security holders.

(g) *Application of § 11.506.* The provisions of § 11.506 (c), (d), (e), (f) and (g) shall apply, to the extent pertinent, to soliciting material subject to § 11.511 (e) and (f).

(h) *Use of reprints or reproductions.* In any solicitation subject to this paragraph, soliciting material that includes, in whole or part, any reprints or reproductions of any previously published material shall:

(1) State the name of the author and publication, the date of prior publication, and identify any person who is quoted without being named in the previously published material.

(2) Except in the case of a public official document or statement, state whether or not the consent of the author and publisher has been obtained to the use of the previously published material as proxy soliciting material.

(3) If any participant using the previously published material, or anyone on his behalf, paid, directly or indirectly, for the preparation or prior publication of the previously published material, or has made or proposes to make any payments or give any other consideration in connection with the publication or republication of such material, state the circumstances.

§ 11.512 Solicitation prior to furnishing required proxy statement.

(a) Notwithstanding the provisions of § 11.501, a solicitation (other than one subject to § 11.511) may be made prior to furnishing security holders a written proxy statement containing the information specified in Form F–5 with respect to such solicitation if:

(1) The solicitation is made in opposition to a prior solicitation or an invitation for tenders or other publicized activity which, if successful, could reasonably have the effect of defeating the action proposed to be taken at the meeting;

(2) No form of proxy is furnished to security holders prior to the time the written proxy statement required by § 11.501 is furnished to security holders;

Provided, however, That this paragraph (a)(2) shall not apply where a proxy statement then meeting the requirements of Form F–5 has been furnished to security holders by or on behalf of the person making the solicitation;

(3) The identity of the person or persons by or on whose behalf the solicitation is made and a description of their interests, direct or indirect, by security holdings or otherwise, are set forth in each communication sent or given to security holders in connection with the solicitation; and

(4) A written proxy statement meeting the requirements of this section is sent or given to security holders at the earliest practicable date.

(b) Three copies of any soliciting material proposed to be sent or given to security holders prior to the furnishing of the written proxy statement required by § 11.501 shall be filed with the Comptroller of the Currency in preliminary form at least 5 business days prior to the date definitive copies of such material are first sent or given to security holders, or such shorter period as may be authorized.

Forms

§ 11.590 Form for proxy and information statement (Form F–5).

Information Required in Proxy Statement

Notes.—A. When any item calls for information about any matter to be acted upon which involves other matters about which information is called for by other items of this schedule, the information called for by such other items shall also be given. For example, a merger, consolidation, or acquisition or disposition of assets specified in Item 14, in which the security holders to be solicited will become or continue to be security holders of the surviving or acquiring company, shall be deemed to involve the election of directors if any person who will serve as a director of such company was not elected to such office by the security holders to be solicited. In such case, Items 6 and 7 shall be answered with respect to each such person who will serve as a director of the surviving or acquiring company.

B. Where any item calls for information with respect to any matter to be acted upon at the meeting, such item need be answered in the bank's soliciting material only with respect to proposals to be made by or on behalf of the bank.

C. Except as otherwise specifically provided, when any item calls for information about directors, officers or other persons holding specified positions or relationships during a specific period, the bank shall provide such information about all persons who held any of the specified positions or relationships at any time during that period. However, information need not be included for any portion of the period during which such person did not hold such position or relationship, provided a statement to that effect is made.

Item 1. Revocability of Proxy.

State whether or not the person giving the proxy has the power to revoke it. If the right of revocation before the proxy is exercised is limited or is subject to compliance with any formal procedure, briefly describe such limitation or procedure.

Item 2. Dissenters' Rights of Appraisal.

Outline briefly the rights of appraisal or similar rights of dissenters with respect to any matter to be acted upon and indicated any statutory procedure required to be followed by the dissenting security holders in order to perfect such rights. Where such rights may be exercised only within a limited time after the date of adoption of a proposal, the filing of a charter amendment or other similar act, state whether the persons solicited will be notified of such date.

Instruction. Indicate whether a security holder's failure to vote against a proposal will constitute a waiver of his or her appraisal or similar rights and whether a vote against a proposal will be deemed to satisfy any notice requirements under State law with respect to appraisal rights. If the State law is unclear, state what position will be taken in regard to these matters.

Item 3. Persons Making the Solicitation.

(a) Solicitations not subject to § 11.511.

(1) If the solicitation is made by the bank, so state. Give the name of any director of the bank who has informed the issuer in writing that he intends to oppose any action intended to be taken by the bank and indicate the action which he intends to oppose.

(2) If the solicitation is made otherwise than by the bank, so state and give the names of the persons by whom and on whose behalf it is made.

(3) If the solicitation is to be made otherwise than by the use of the mails, describe the methods to be employed. If the solicitation is to be made by specially engaged employees or paid solicitors, state (i) the material features of any contract or arrangement for such solicitation and identify the parties, and (ii) the cost or anticipated cost thereof.

(4) State the names of the persons by whom the cost of solicitation has been or will be borne, directly or indirectly.

(b) Solicitations subject to § 11.511.

(1) State by whom the solicitation is made and describe the methods employed and to be employed to solicit security holders.

(2) If regular employees of the bank or any other participant in a solicitation have been or are to be employed to solicit security holders, describe the class or classes of employees to be so employed and the manner and nature of their employment for such purpose.

(3) If specially engaged employees, representatives or other persons have been or are to be employed to solicit security holders, state (i) the material features of any contract or arrangement for such solicitation and identify the parties, (ii) the cost or anticipated cost thereof, and (iii) the approximate number of such employees or employees of any other person (naming such other person) who will solicit security holders.

(4) State the total amount estimated to be spent and the total expenditures to date for, in furtherance of, or in connection with the solicitation of security holders.

(5) State by whom the cost of the solicitation will be borne. If such cost is to be borne initially by any person other than the bank, state whether reimbursement will be sought from the bank, and, if so, whether the question of such reimbursement will be submitted to a vote of security holders.

(6) If any such solicitation is terminated pursuant to a settlement between the issuer and any other participant in such solicitation, describe the terms of such settlement, including the cost or anticipated cost thereof to the issuer.

Instructions

1. With respect to solicitations subject to § 11.511, costs and expenditures within the meaning of this Item 3 shall include fees for attorneys, accountants, public relations or financial advisers, solicitors, advertising, printing, transportation, litigation and other costs incidental to the solicitation. The bank may exclude the amount of such costs represented by the amount normally expended for a solicitation for an election of directors in the absence of a contest, and costs represented by salaries and wages of regular employees and officers, provided a statement to that effect is included in the proxy statement.

2. The information required pursuant to paragraph (6) of Item 3(b) should be included in any amended or revised proxy statement or other soliciting materials relating to the same meeting or subject matter furnished to security holders by the bank subsequent to the date of settlement.

Item 4. Interest of Certain Persons in Matters To Be Acted Upon.

(a) Solicitations not subject to § 11.511.

Describe briefly any substantial interest, direct or indirect, by security holdings or otherwise, of each of the following persons in any matter to be acted upon, other than elections to office:

(1) If the solicitation is made on behalf of the bank, each person who has been a director or officer of the bank at any time since the beginning of the last fiscal year.

(2) If the solicitation is made otherwise than on behalf of the bank, each person on whose behalf the solicitation is made. Any person who would be a participant in a solicitation for purposes of 11.511 as defined in paragraphs (b)(1) (iii), (iv), (v) and (vi) thereof shall be deemed a person on whose behalf the solicitation is made for purposes of this paragraph (a).

(3) Each nominee for election as a director of the bank.

(4) Each associate of the foregoing persons.

Instruction: Except in the case of a solicitation subject to this regulation made in opposition to another solicitation subject to this regulation, this sub-item (a) shall not apply to any interest arising from the ownership of securities of the bank where the security holder receives no extra or special benefit not shared on a pro rata basis by all other holders of the same class.

(b) Solicitations subject to § 11.511.

(1) Describe briefly any substantial interest, direct or indirect, by security

holdings or otherwise, of each participant as defined in §§ 11.51(b)(1) (ii), (iii), (iv), (v) and (vi), in any matter to be acted upon at the meeting, and include with respect to each participant the information, or a fair and adequate summary thereof, required by Items 2(a), 2(d), 3, 4(b) and 4(c) of Form F-6.

(2) With respect to any person, other than a director or officer of the bank acting solely in that capacity, who is a party to an arrangement or understanding pursuant to which a nominee for election as director is proposed to be elected, describe any substantial interest, direct or indirect, by security holdings or otherwise, that such person has in any matter to be acted upon at the meeting, and furnish the information called for by Item 4 (b) and (c) of Form F-6.

Item 5. Voting Securities and Principal Holders Thereof.

(a) State for each class of voting securities of the bank entitled to be voted at the meeting, the number of shares outstanding and the number of votes to which each class is entitled.

(b) Give the record date that will determine security holders entitled to vote at the meeting. If the right to vote is not limited to security holders of record on that date, indicate the conditions under which other security holders may be entitled to vote.

(c) If action is to be taken with respect to the election of directors and if the persons solicited have cumulative voting rights: (1) State that they have such rights; (2) briefly describe such rights; (3) state briefly the conditions precedent to the exercise thereof; and (4) indicate if discretionary authority to cumulate votes is solicited.

(d) Furnish the information required by § 11.843(a)(1) to the extent known by the persons on whose behalf the solicitation is made.

(e) Furnish the information required by § 11.843(a)(2).

(f) Furnish the information required by § 11.843(c).

(g) Furnish the information required by § 11.843(b).

Item 6. Directors and Executive Officers.

If action is to be taken with respect to the election of directors, furnish the following information, in tabular form to the extent practicable, with respect to each person nominated for election as a director and each person whose term of office will continue after the meeting. However, if the solicitation is made on behalf of persons other than the bank, the information required need be furnished only as to nominees of the persons making the solicitation.

(a) The information required by § 11.841.

(b) The information required by § 11.844.

Item 7. Executive Compensation.

(See Note C at the beginning of Form F-5.)

Furnish the information required by § 11.842 and Instruction 4 to § 11.813 if action is to be taken with regard to (i) the election of directors, (ii) any bonus, profit sharing or other compensation plan, contract, or arrangement in which any executive director, nominee for election as a director, or officer of the bank will participate, (iii) any pension or retirement plan in which any such person will participate or (iv) the granting or extension to any such person of any options, warrants or rights to purchase any securities, other than warrants or rights issued to security holders as such, on a pro rata basis. However, if the solicitation is made on behalf of persons other than the bank, the required information need be furnished only for nominees of the persons making the solicitation and for associates of such nominees.

Item 8. Relationship With Independent Public Accountants.

If the solicitation is made on behalf of the bank and relates to an annual meeting of security holders at which directors are to be elected, or if financial statements are included pursuant to Item 15, furnish the following information:

(a) The name of the principal accountant selected or being recommended to shareholders for election, approval or ratification for the current year. If no accountant has been selected or recommended, so state and briefly describe the reasons therefor.

(b) The name of the principal accountant for the fiscal year most recently completed, if different from the accountant selected or recommended for the current year, or if no accountant has yet been selected or recommended for the current year.

(c) If a change(s) in accountants has taken place since the date of the proxy statement for the most recent annual meeting of shareholders, and if, in connection with such change(s), a disagreement between the accountant and bank has been reported or was required to be reported on Form F-3 or in the accountant's letter filed as an exhibit thereto, describe the disagreement. Prior to filing the preliminary proxy material with the Comptroller which contains or amends such description, the bank shall furnish the description of the disagreement to any accountant with whom a disagreement has been or was required to be reported. Any such accountant who believes that the description of the disagreement is incorrect or incomplete, may include in the proxy statement a brief declaration, ordinarily expected not to exceed 200 words, of the reasons for that belief. This declaration shall be submitted to the bank within ten business days of the date the accountant receives the bank's description.

(d) The proxy statement shall indicate whether or not representatives of the principal accountants for the current year and for the most recently completed fiscal year are expected to be present at the stockholders' meeting with the opportunity to make a statement if they desire to do so and whether or not such representatives are expected to be available to respond to appropriate questions.

(e) If any change in accountants has taken place since the date of the proxy statement for the most recent annual meeting of shareholders, state whether such change was recommended or approved by: (1) Any audit or similar committee of the Board of Directors, if the bank has such a committee; or (2) the Board of Directors, if the bank has no such committee.

Item 9. Bonus, Profit Sharing and Other Remuneration Plans.

If action is to be taken with respect to any bonus, profit sharing or other remuneration plan, furnish the following information:

(a) Describe briefly the material features of the plan, identify each class of persons who will participate therein, indicate the approximate number of persons in each class and state the basis of such participation.

(b) State separately the amounts which would have been distributable under the plan during the last fiscal year of the bank to: (1) All current executive officers as a group; and (2) to all other current officers and directors as a group, and (3) all employees if the plan has been in effect.

(c) State the name and position with the bank of each person specified in § 11.842(a) who will participate in the plan and the amount which each such person would have received under the plan for the last fiscal year of the bank, if the plan had been in effect.

(d) Furnish such information, in addition to that required by this item and § 11.842, as may be necessary to describe adequately the provisions already made pursuant to all bonus, profit sharing, pension, retirement, stock option, stock purchase, deferred compensation or other compensation or incentive plans, now in effect or in effect within the past five years, for: (i) Each director or officer named in answer to § 11.842(a) who may participate in the plan to be acted upon; (ii) all current executive officers of the bank as a group, if any executive officers may participate in the plan, (iii) all other current officers and directors of the bank as a group, if any other officer and director may participate in the plan; and (iv) all employees, if employees may participate in the plan.

(e) If the plan to be acted upon can be amended otherwise than by a vote of stockholders, to increase the cost thereof to the issuer or to alter the allocation of the benefits as among the groups specified in (b), state the nature of the amendments which can be so made.

Instructions

1. The term "plan" as used in this item means any plan as defined in Instruction 5 to § 11.842.

2. If action is to be taken with respect to the amendment or modification of an existing plan, the item shall be answered with respect to the plan as proposed to be amended or modified and shall indicate any material differences from the existing plan.

3. The following instructions shall apply to paragraph (d):

(a) Information need only be given with respect to benefits received or set aside within the past five years.

(b) Information need not be included as to payments made for, or benefits to be received from, group life or accident insurance, group hospitalization, group relocation or similar group payments or benefits.

(c) If action is to be taken with respect to any plan in which directors or executive officers may participate, the information called for by § 11.842(b) (1) and (2) shall be

furnished for the last five fiscal years of the bank and any period subsequent to the end of the latest such fiscal year, in aggregate amounts for the entire period for each such person and group: (1) As to options granted during the specified period, state the title and aggregate amount of securities subject to options, the average per share exercise price and, if the option price was less than 100 percent of the market value of the security on the date of the grant, such fact and the market price or such date (the title and aggregate amount of such securities subject to options, if any, which are in tandem with stock appreciation rights should be set forth separately); and (2) As to the exercise or realization of options or stock appreciation rights held in tandem with options granted during the specified period or prior thereto, state the net value of the securities (market value less any exercise price) or cash realized during the specified period. If any named person, or any other director or officer, purchased securities through the exercise of options during such period, state the aggregate amount of securities of that class sold during the period by such named person and such other directors and executive officers as a group. The information called for by this Instruction 3(c) is in lieu of the information since the beginning of the bank's last fiscal year called for by § 11.842(d) (1) and (2). If other officers or employees may participate in the plan to be acted upon, state the aggregate amount of securities called for by all options granted to such other officers or employees, respectively, during the five-year period. If the options were other than "qualified" stock options, incentive stock options, or options granted pursuant to an "employee stock purchase plan," as the quoted terms are defined in Sections 422 through 423 of the Internal Revenue Code, state that fact and the weighted average option price per share. The information called for by this instruction may be furnished in the form of the table illustrated in § 11.842.

4. If the plan to be acted upon is set forth in a written document, three copies thereof shall be filed with the Comptroller at the time preliminary copies of the proxy statement and form of proxy are filed pursuant to § 11.506.

Item 10. Pension and Retirement Plans.

If action is to be taken with respect to any pension or retirement plan, furnish the following information:

(a) Describe briefly the material features of the plan, identify each class of persons who will be entitled to participate therein, indicate the approximate number of persons in each such class and state the basis of such participation.

(b) State: (1) The approximate total amount necessary to fund the plan with respect to past services, the period over which such amount is to be paid and the estimated annual payments necessary to pay the total amount over such period; (2) the estimated annual payment to be made with respect to current services; and (3) the amount of such annual payments to be made for the benefit of (i) executive officers, (ii) all other officers and directors, and (iii) employees.

(c) State (1) the name and position with the bank of each person specified in § 11.842(a) who will be entitled to participate in the plan, (2) the amount which would have been paid or set aside by the bank and its subsidiaries for the benefit of such person for the last fiscal year of the issuer if the plan had been in effect, and (3) the amount of the annual benefits estimated to be payable to such person in the event of retirement at normal retirement date.

(d) Furnish such information, in addition to that required by this item and § 11.842, as may be necessary to describe adequately the provisions already made pursuant to all bonus, profit sharing, pension, retirement, stock option, stock purchase, deferred compensation or other compensation or incentive plans, now in effect or in effect within the past five years, for: (1) Each executive director or officer named in answer to § 11.842(a) who may participate in the plan to be acted upon; (ii) all current executive officers of the bank as a group, if any executive officer may participate in the plan; (iii) all other current officers and directors of the bank as a group, if any other officer or director may participate in the plan; and (iv) all employees, if employees may participate in the plan.

(e) If the plan to be acted upon can be amended, other than by a vote of stockholders, to increase the cost thereof to the bank or alter the allocation of the benefits as between the groups specified in (b)(3), state the nature of the amendments which can be so made.

Instructions

1. The term "plan" as used in this item means any plan as defined in Instruction 5 to § 11.842. Instruction 2 to Item 9 shall apply to this item.

2. The requirements of paragraph (b)(3) or (c)(2) do not apply to payments made on an actuarial basis by any group pension plan which provides fixed benefits in the event of retirement at a specified age or after a specified number of years of service.

3. Instruction 3 to Item 9 shall apply to paragraph (d) of this item.

4. If the plan to be acted upon is set forth separately in a written document, three copies shall be filed with the Comptroller at the time preliminary copies of the proxy statement and form of proxy are filed pursuant to paragraph (a) of § 11.506.

Item 11. Options, Warrants, or Rights.

If action is to be taken with respect to the granting or extension of any options, warrants or rights to purchase securities of the issuer or any subsidiary, furnish the following information:

(a) State (i) the title and amount of securities called for or to be called for by such options, warrants or rights; (ii) the prices, expiration dates and other material conditions upon which the options, warrants or rights may be exercised; (iii) the consideration received or to be received by the bank or subsidiary for the granting or extension of the options, warrants or rights; (iv) the market value of the securities called for or to be called for by the options, warrants or rights, as of the latest practicable date; and (v) in the case of options, the Federal income tax consequences of the issuance and exercise of such options to the recipient and to the bank.

(b) State separately the amount of options, warrants or rights received or to be received by the following persons, naming each such person: (i) Each executive officer named in answer to § 11.842(a); (ii) each nominee for election as a director of the bank; (iii) each associate of such directors, executive officers or nominees; and (iv) each other person who received or is to receive 5 percent or more of such options, warrants or rights. State also the total amount of such options, warrants or rights received or to be received by all directors and executive officers of the bank as a group, without naming them.

(c) Furnish such information, in addition to that required by this item and § 11.842 as may be necessary to describe adequately the provisions already made pursuant to all bonus, profit sharing, pension, retirement, stock option, stock purchase, deferred compensation or other compensation or incentive plans, now in effect or in effect within the past five years, for: (i) Each executive director or officer named in answer to § 11.842 who may participate in the plan to be acted upon; (ii) all current executive officers of the bank as a group, if any executive officer may participate in the plan; (iii) all other current executive officers and directors of the bank as a group, if any other officer or director may participate in the plan; and (iv) all employees if employees may participate in the plan.

Instructions

1. The term "plan" as used in this item means any plan as defined in Instruction 5 to § 11.842.

2. Paragraphs (b) and (c) do not apply to warrants or rights to be issued to security holders as such on a pro rata basis.

3. Instruction 3 to Item 9 shall apply to paragraph (c) of this item.

4. If the options described in answer to this item are issued pursuant to a plan which is set forth in a written document, three copies thereof shall be filed with the Comptroller at the time preliminary copies of the proxy statement and form of proxy are filed pursuant to paragraph (a) of § 11.506.

Note.—The bank shall inform the Comptroller of the Currency when the proxy statement in preliminary form is filed, the date the options, warrants or rights and the shares called for thereby will be authorized or created.

Item 12. Authorization or Issuance of Securities Other than for Exchange.

If action is to be taken with respect to the authorization or issuance of any securities other than for exchange for outstanding securities of the bank, furnish the following information:

(a) State the title and amount of securities to be authorized or issued.

(b) Furnish a description of the securities in the manner required by § 11.290, Item 10 in a registration statement filed pursuant to this part. If the terms of any or all of the securities to be authorized cannot be stated or estimated because no offering thereof is

contemplated in the proximate future, and if no further authorization by security holders for the issuance thereof is to be obtained, state that the terms of the securities to be authorized, including dividend or interest rates, conversion prices, voting rights, redemption prices, maturity dates, and similar matters will be determined by the board of directors of the bank. If the securities are additional shares of common stock of a class outstanding, the description may be omitted except for a statement of the preemptive rights, if any. Where the statutory provisions with respect to preemptive rights are so indefinite or complex that they cannot be stated in summarized form, a statement in the form of an opinion of counsel as to the existence and extent of such rights will suffice.

(c) Describe briefly the transaction in which the securities are to be issued, including a statement as to (1) the nature and approximate amount of consideration received or to be received by the bank, and (2) the approximate amount devoted to each purpose, so far as determinable, for which the net proceeds have been or are to be used. If it is impracticable to describe the transaction, state the reason, indicate the purpose of the authorization of the securities, and state whether further authorization for the issuance of the securities by a vote of security holders will be solicited prior to such issuance.

(d) If the securities are to be issued other than in a general public offering for cash, state the reasons for the proposed authorization or issuance and the general effect thereof upon the rights of existing security holders.

Item 13. Modification or Exchange of Securities

If action is to be taken to modify any class of securities of the bank, or to issue or authorize for issuance securities of the bank in exchange for outstanding securities of the bank, furnish the following information:

(a) If outstanding securities are to be modified, state the title and amount thereof. If securities are to be issued in exchange for outstanding securities, state the title and amount of securities to be issued, the title and amount of outstanding securities to be exchanged therefor and the basis of the exchange.

(b) Describe any material differences between the outstanding securities and the modified or new securities in respect of any of the matters concerning which information would be required in § 11.290, Item 10.

(c) State the reasons for the proposed modification or exchange and the general effect thereof upon the rights of existing security holders.

(d) Furnish a brief statement of arrears in dividends or of defaults in principal or interest of the outstanding securities which are to be modified or exchanged.

(e) Outline briefly any other material features of the proposed modification or exchange. If the plan of proposed action is set forth in a written document, file copies thereof with the Comptroller in accordance with § 11.506.

Instruction: If the existing security is presently listed and registered on a national securities exchange, state whether the bank intends to apply for listing and registration of the new or reclassified security on such exchange or any other exchange. If the bank does not intend to make such application, state the effect of the termination of such listing and registration.

Item 14. Mergers, Consolidations, Acquisitions and Similar Matters.

(See Note A at the beginning of this Form F–5.)

If action is to be taken with respect to any plan for (i) the merger or consolidation of the bank into or with any other person, or of any other person into or with the bank, (ii) the acquisition, by the bank or any of its security holders, of securities of another bank, (iii) the acquisition, by the bank, of any other going business or the assets thereof, (iv) the sale or other transfer of all or any substantial part of the assets of the bank, or (v) the liquidation or dissolution of the bank, furnish the following information:

(a) A brief outline of the material features of the plan. State the reasons for the plan and its general effect upon the rights of existing security holders. If the plan is set forth in a written document, file three copies thereof with the Comptroller at the time preliminary copies of the proxy statement and form of proxy are filed pursuant to § 11.506.

(b) Information essential to an investor's appraisal of the proposed action with respect to the bank and, unless otherwise indicated, each other person which is a party to the transaction, (or whose securities will be received by bank shareholders) including the following, except that where target bank shareholders will receive only cash in the transaction, specified disclosures need not be provided relating to the other party, unless material for exercise of prudent judgment:

(1) A brief description of the business and property of each such person in substantially the manner required by §§ 11.811 and 11.812.

(2) A brief statement of dividends in arrears or defaults in principal or interest in respect of any securities of the bank or of such person, and of the effect of the plan thereon, and such other information as may be appropriate in the particular case to disclose adequately the nature and effect of the proposed action.

(3) Such information about the proposed management of the surviving bank as would be required by Items 6 and 7 of this Form F–5. Information concerning remuneration of management may be projected for the current year based on remuneration actually paid or accrued by each of the constituent persons during the last calendar year. If significantly different, proposed compensation arrangements should also be described.

(4) A tabulation in columnar form showing the existing and the pro forma capitalization.

(5) Selected financial data pursuant to § 11.831 and book value per common share as of the end of the most recent period for which a balance sheet is required by § 11.911.

(6) Any pro forma financial information required by § 11.940 and pro forma book value per common share as of the end of the most recent period for which a balance sheet is furnished pursuant to § 11.911.

(7) The equivalent share information specified in the instructions below for exchange transactions.

Instructions

1. The following data shall be set forth in comparative columnar form: The historical primary and fully diluted earnings per share before discontinued operations, extraordinary items, or the cumulative effects of accounting changes, as appropriate, and the primary and fully diluted pro forma per share data; cash dividends declared per common share; and book value per common share presented in response to paragraphs (b)(5) and (6) and equivalent share data pursuant to (b)(7) where appropriate.

2. The appropriate equivalent share amounts of the acquired bank shall be calculated by multiplying the appropriate item (the pro forma income (loss) per share before nonrecurring charges or credits directly attributable to the transaction, pro forma book value per share, or the historical dividends per share of the acquiring bank) by the exchange ratio. The per share amounts are thus equated to the respective values for one share of the bank being acquired. In situations where the fiscal year-ends of the banks involved are different, additional historical information should be presented so that equivalent share amounts may be compared for equivalent periods. If the impact of the change transaction is immaterial to the acquiring company, all equivalent share amounts furnished should be determined on the basis of its historical per share data.

3. The information required by this Item 14(b) is required in a statement of the "acquiring" or "surviving" bank only if a "significant" merger or acquisition is to be voted upon. For purposes of this item, the term "significant" merger or acquisition shall mean a transaction where (a) the net book value of assets to be acquired or the amount paid therefor exceeds 10 percent of the equity capital accounts of the acquiring bank, (b) in an exchange transaction, the number of shares to be issued exceeds 10 percent of the outstanding shares of the acquiring bank, or (c) gross operating revenues for the last fiscal year of the person to be acquired exceeded 10 percent of the gross operating revenues for the last fiscal year of the acquiring bank. If less than a "significant" merger acquisition is to be voted upon, only information necessary for the exercise of prudent judgment is required.

4. Paragraph (a) shall not apply if the plan described in answer to paragraph (a) involves only the bank and one or more of its totally held subsidiaries.

(c) For each class of securities of the bank, or of any person specified in paragraph (b), which is admitted to dealing on a national securities exchange or for which a market otherwise exists, and which will be materially affected by the plan, state the high and low sale prices (or, in the absence of trading in a particular period, the range of the bid and asked prices) for each quarterly period within the last two years. This information may be omitted if the plan

involves merely the liquidation or dissolution of the bank.

Item 15. Financial Information.

(a) If action is to be taken on any matter specified in Items 12, 13, or 14, above, furnish verified financial statements of the Bank and its subsidiaries required by Subpart I. One copy of the definitive proxy statement filed with the Comptroller shall include a manually signed copy of the accountant's report. If financial statements required by Subpart I are furnished, also furnish the supplementary financial information required by § 11.832, information concerning disagreements with accountants on accounting and financial disclosure required by § 11.834 and management's discussion and analysis of financial condition and results of operations required by § 11.833. In addition, interim information should be provided in accordance with § 11.913. In the case of a merger, consolidation, acquisition or similar transaction where target bank shareholders will receive securities from an entity other than a party to the merger, applicable financial statement disclosures should be provided for that entity, rather than the party to the merger.

(b) Notwithstanding paragraph (a) above, any or all of such financial statements, which are not material for the exercise of prudent judgment in regard to the matter to be acted upon may be omitted. Such financial statements are deemed material in the usual case involving the authorization or issuance of any material amount of senior securities. They are not deemed material in cases involving the authorization or issuance of common stock, other than in an exchange, merger, consolidation, acquisition, or similar transaction. In general, where target bank shareholders will receive only cash in the transaction, financial statements need not be provided as to the other person which is a party to the transaction.

(c) If the financial statements are for an annual meeting, they may incorporate by reference any financial statements contained in the annual report sent to security holders pursuant to § 11.503 for that meeting, provided such financial statements substantially meet the requirements of this item.

(d) Financial statements may be omitted for a plan described in answer to Item 14(a), if the plan involves only the bank and one or more of its totally held subsidiaries.

(e) No schedules need be furnished in the proxy statement.

Item 16. Acquisition or Disposition of Property.

If action is to be taken on the acquisition or disposition of any property, furnish the following information:

(a) Describe briefly the general character and location of the property.

(b) State the nature and amount of consideration to be paid or received by the bank or any subsidiary. To the extent practicable, outline briefly the facts bearing upon the question of the fairness of the consideration.

(c) State the name and address of the transferor or transferee, as the case may be, and the nature of any material relationship of such person to the bank or any affiliate of the bank.

(d) Outline briefly any other material features of the contract or transaction.

Item 17. Restatement of Accounts.

If action is to be taken on the restatement of any asset, capital, or surplus account of the bank, furnish the following information:

(a) The nature of the restatement and the date as of which it is to be effective.

(b) The reasons, briefly stated, for the restatement and for the selection of the particular effective date.

(c) The name and amount of each account (including any reserve accounts) affected by the restatement and the effect of the restatement thereon. Tabular presentation of the amounts shall be made when appropriate, particularly in the case of recapitalizations.

(d) To the extent practicable, state whether and the extent, if any, to which the restatement will, as of the date thereof, alter the amount available for distribution to the holders of equity securities.

Item 18. Action With Respect to Reports.

If action is to be taken with respect to any report of the bank or of its directors, officers or committees or any minutes of a meeting of its stockholders:

(a) State whether or not such action is to constitute approval or disapproval of any of the matters referred to in such reports or minutes.

(b) Identify each of such matters which it is intended will be approved or disapproved, and furnish the information required by the appropriate item or items of this schedule with respect to each such matter.

Item 19. Matters Not Required To Be Submitted.

If action is to be taken on any matter which is not required to be submitted to a vote of security holders, state the nature of such matter, the reasons for submitting it to a vote of security holders and the action to be taken by the bank in the event of a negative vote by the security holders.

Item 20. Amendment of Charter, By-Laws or Other Documents.

If action is to be taken on any amendment of the bank's charter, by-laws or other documents as to which information is not required above, state briefly the reasons for, and general effect of, such amendment.

Instruction: Where the matter to be acted upon is the classification of directors, state whether vacancies which occur during the year may be filled by the board of directors to serve only until the next annual meeting or may be so filled for the remainder of the full term.

Item 21. Other Proposed Action.

If action is to be taken on any matter not specifically referred to above, describe briefly the substance of each such matter in substantially the same degree of detail as is required by Items 5 to 20, inclusive, above.

Item 22. Vote Required for Approval.

For each matter which is to be submitted to a vote of security holders, other than elections to office or the selection or approval of auditors, state the vote required for its approval.

§ 11.592 Form for statement in election contests (Form F-6).

Form F-6

Statement in Election Contest

General Instructions

The statement shall contain the number and captions of all items, but the text of the items may be omitted. If an item is inapplicable or the answer is in the negative, so state. The information called for by Items 2(a) and 3(a) or a fair summary thereof is required to be included in all preliminary soliciting material by § 11.511 of this part.

Item 1—Bank. State the name and address of the bank.

Item 2—Identity and Background of Participant. (a) State the following:

(1) Your name and business address;

(2) Your present principal occupation or employment and the name, principal business, and address of any corporation or other organization in which such employment is carried on.

(b) State the following:

(1) Your residence address;

(2) Information as to all material occupations, positions, offices, or employments during the last 10 years, giving starting and ending dates of each and the name, principal business, and address of any business corporation or other business organization in which each such occupation, position, office, or employment was carried on.

(c) State whether or not you are or have been a participant in any other proxy contest involving the bank or other corporations within the past 10 years. If so, identify the principals, the subject matter and your relationship to the parties and the outcome.

(d) State whether or not, during the past 10 years, you have been convicted in a criminal proceeding (excluding traffic violations or similar misdemeanors) and, if so, give dates, nature of conviction, name and location of court, and penalty imposed or other disposition of the case. A negative answer to this paragraph need not be included in the statement or other proxy soliciting material.

Item 3—Interests in Securities of the Bank. (a) State the amount of each class of securities of the bank that you own beneficially, directly or indirectly.

(b) State the amount of each class of securities of the bank that you own of record but not beneficially.

(c) State with respect to the securities specified in (a) and (b) the amounts acquired within the past 2 years, the dates of acquisition and the amounts acquired on each date.

(d) If any part of the purchase price or market value of any of the shares specified in paragraph (c) is represented by funds borrowed or otherwise obtained for the purpose of acquiring or holding such securities, so state and indicate the amount of the indebtedness as of the latest practicable date. If such funds were borrowed or obtained otherwise than pursuant to a margin account or bank loan in the regular course of business of a bank, broker, or dealer, briefly

describe the transaction, and state the names of the parties.

(e) State whether or not you are a party to any contracts, arrangements or understandings with any person with respect to any securities of the bank, including but not limited to joint ventures, loan or option arrangements, puts or calls, guaranties against loss or guaranties of profits, division of losses or profits, or the giving or withholding of proxies. If so, name the persons with whom such contracts, arrangements, or understandings exist and give the details thereof.

(f) State the amount of securities of the bank owned beneficially, directly or indirectly, by each of your associates and the name and address of each such associate.

(g) State the amount of each class of securities of any parent or subsidiary of the bank which you own beneficially, directly or indirectly.

Item 4—Further Matters. (a) Describe the time and circumstances under which you became a participant in the solicitation and state the nature and extent of your activities or proposed activities as a participant.

(b) Furnish for yourself and your associates the information required by item 7(f) of Form F–5.

(c) State whether or not you or any of your associates have any arrangement or understanding with any person:

(1) with respect to any future employment by the bank or its affiliates; or

(2) with respect to any future transactions to which the bank or any of its affiliates will or may be a party. If so, describe such arrangement or understanding, and state the names of the parties thereto.

(d) State the total amount contributed and proposed to be contributed by you in furtherance of the solicitation, directly or indirectly, if such amount exceeds or will exceed $500 in the aggregate.

Item 5—Signature. The statement shall be dated and signed in the following manner:

I certify that the statements made in this statement are true, complete, and correct, to the best of my knowledge and belief.

(Date)

(Signature of participant or authorized representative)

Instruction. If the statement is signed on behalf of a participant by the latter's authorized representative, evidence of the representative's authority to sign on behalf of such participant shall be filed with the statement.

Subpart F—Tender Offers

§ 11.601 Scope and definitions applicable to Subpart F (the "tender offer regulations").

(a) *Scope.* Subpart F shall apply to any tender offer which is subject to section 14(d)(1) of the Act for the securities of a subject bank, including but not limited to, any tender offer made by an affiliate of the bank. Sections 11.610, 11.611, 11.620 and 11.630 shall apply to any tender offer and subject bank securities (other than exempted securities) unless otherwise noted therein.

(b) *Definitions.* Unless the context otherwise requires, all terms used in the tender offer regulations have the same meaning as in the Act and in § 11.102. In addition, for purposes of sections 14(d) and 14(e) of the Act and the tender offer regulations, the following definitions apply:

(1) The term "bidder" means any person who makes a tender offer or on whose behalf a tender offer is made.

(2) The term "subject bank" means any national bank or bank operating under the Code of Law for the District of Columbia which is the issuer of securities sought by a bidder pursuant to a tender offer.

(3) The term "security holders" means holders of record and beneficial owners of securities which are the subject of a tender offer.

(4) The term "beneficial owner" shall have the same meaning as that set forth in § 11.403. However, for purposes of § 11.603, § 11.609(d) and Item 6 of Form F–13, the term shall not include a person who does not have or share investment power, or who is deemed to be a beneficial owner by virtue of §11.403(d)(1).

(5) The term "tender offer material" means:

(i) The bidder's formal offer, including all material terms and conditions of the tender offer and all amendments thereto;

(ii) The related transmittal letter (whereby securities of the subject bank which are sought in the tender offer may be transmitted to the bidder or its depository and all amendments thereto; and

(iii) Press releases, advertisements, letters and other documents published by the bidder or sent to or given by the bidder to security holders which, directly or indirectly, solicit, invite or request tenders of the securities being sought in the tender offer.

(6) The term "business day" means any day, other than Saturday, Sunday or a federal holiday, and shall consist of the time period from 12.01 a.m. through 12:00 midnight Eastern time. Any time period computed under section 14(d)(5) or section 14(d)(6) of the Act or under these tender offer regulations, shall begin on the date of the event causing the computation of such time period. If such event occurs on other than a business day such period shall begin on and shall include the first business day thereafter.

(7) The term "security position listing" means, with respect to securities of any bank held by a registered clearing agency in the name of the clearing agency or its nominee, a list of those participants in the clearing agency on whose behalf the clearing agency holds the bank's securities and of the participants' respective positions in such securities as of a specified date.

§ 11.602 Commencement of a tender offer.

(a) *Commencement.* A tender offer shall commence for the purposes of section 14(d) of the Act and the rules promulgated thereunder at 12:01 a.m. on the date when the first of the following events occurs:

(1) The long form publication of the tender offer is first published by the bidder pursuant to § 11.604(a)(1);

(2) The summary advertisement of the tender offer is first published by the bidder pursuant to § 11.604(a)(2);

(3) The summary advertisement or the long form publication of the tender offer is first published by the bidder pursuant to § 11.604(a)(3);

(4) Definitive copies of a tender offer, in which the consideration offered by the bidder consists of securities registered pursuant to the Securities Act of 1933, are first published or sent or given by the bidder to security holders; or

(5) The tender offer is first published or sent or given to security holders by the bidder by any means not otherwise referred to in §§ 11.602(a)(1)–(4).

(b) *Public announcement.* A public announcement by a bidder through a press release, newspaper advertisement or public statement which includes the information at § 11.604(b)(3) with respect to a tender offer in which the consideration consists solely of cash and/or securities exempt from registration under section 3 of the Securities Act of 1933 shall be deemed to constitute the commencement of a tender offer under § 11.602(a)(5) *except that* such tender offer shall not be deemed to be first published or sent or given to security holders by the bidder under § 11.602(a)(5) on the date of such public announcement if within five business days of such public announcement, the bidder *either:*

(1) Makes a subsequent public announcement stating that the bidder has determined not to continue with such tender offer, in which event § 11.602(a)(5) shall not apply to the initial public announcement; or

(2) Complies with 12 CFR 11.603(a) and contemporaneously disseminates the disclosure required by § 11.605(g)–§ 11.606(d) to security holders pursuant to § 11.604 or otherwise in which event:

(i) The date of commencement of such tender offer under § 11.602(a) will be determined by the date the information required by § 11.606 is first published or sent or given to security holders pursuant to § 11.604 or otherwise; and

(ii) Notwithstanding § 11.602(b)(2)(i), section 14(d)(7) of the Exchange Act shall be deemed to apply to such tender offer from the date of such public announcement.

(3) The information referred to in § 11.602(b) is as follows:

(i) The identity of the bidder;

(ii) The identity of the subject company; and

(iii) The amount and class of securities being sought and the price or range of prices being offered therefor.

(c) *Announcements not resulting in commencement.* A public announcement by a bidder through a press release, newspaper advertisement or public statement which only discloses the information in § 11.602 (c)(1) through (c)(3) concerning a tender offer in which the consideration consists solely of cash and/or securities exempt from registration under section 3 of the Securities Act of 1933 shall not be deemed to constitute the commencement of a tender offer under § 11.602(a)(5).

(1) The identity of the bidder;

(2) The identity of the subject company; and

(3) A statement that the bidder intends to make a tender offer in the future for a class of equity securities of the subject bank which statement does not specify the amount of securities of such class to be sought or the consideration to be offered therefor.

(d) *Public announcement which is not deemed a tender offer.* A public announcement concerning a tender offer by a bidder through a press release, newspaper advertisement or public statement which states that the offering will be made only by means of a prospectus and discloses the name of the issuer and the title of the securities to be surrendered in exchange for the securities to be offered and the basis upon which the exchange may be made where the consideration consists solely or in part of securities to be registered under the Securities Act of 1933 shall not be deemed to constitute the commencement of a tender offer under § 11.602(a)(5): *Provided,* That such bidder files a registration statement with respect to such securities promptly after such public announcement.

(e) *Permitted communications.* The following communications shall not be deemed to be requests or invitations for tenders:

(1) Offers to purchase securities made in connection with a distribution of securities permitted by Rules 10b–6, 10b–7 or 10b–8 under the Act, 17 CFR §§ 240.10b–6, 10b–7 or 10b–8, as promulgated by the SEC;

(2) The call or redemption of any security in accordance with the terms and conditions of the governing instruments;

(3) Offers to purchase securities evidenced by a scrip certificate, order form or similar document which represents a fractional interest in a share of stock or similar security;

(4) Offers to purchase securities pursuant to a statutory procedure for the purchase of dissenting shareholders' securities;

(5) The furnishing of information and advice regarding a tender offer to customers or clients by attorneys, banks, brokers, fiduciaries or investment advisers, who are not otherwise participating in the tender offer or solicitation, on the unsolicited request of a person or pursuant to a general contract for advice to the person to whom the information or advice is given;

(6) A communication from a subject bank to its security holders which communicates no more than the information permitted by § 11.609(e).

§ 11.603 Filing and transmittal of tender offer statement.

(a) No bidder shall make a tender offer if, after consummation thereof, such bidder would be the beneficial owner of more than 5 percent of the class of the subject company's securities for which the tender offer is made, unless as soon as practicable on the date of the commencement of the tender offer such bidder:

(1) Files with the Comptroller six copies of a Tender Offer Statement on Form F–13 (12 CFR 11.690), including all exhibits thereto;

(2) Hand delivers a copy of such Form F–13, including all exhibits thereto:

(i) To the subject bank at its principal executive office; and

(ii) To any other bidder, which has filed a Form F–13 with the Comptroller relating to a tender offer which has not yet terminated for the same class of securities of the subject bank, at such bidder's principal executive office or at the address of the person authorized to receive notices and communications (which is disclosed on the cover sheet of such other bidder's Form F–13);

(3) Gives telephonic notice of the information required by § 11.606(e)(2)(i) and (2) and mails by means of first class mail a copy of such Form F–13, including all exhibits thereto:

(i) To each national securities exchange where such class of the subject bank's securities is registered and listed for trading (which may be based upon information contained in the subject bank's most recent Annual Report on Form F–2 (12 CFR 11.390) filed with the Comptroller unless the bidder has reason to believe that such information is not current) which telephonic notice shall be made when practicable prior to the opening of each such exchange; and

(ii) To the National Association of Securities Dealers, Inc. ("NASD") if such class of the subject bank's securities are authorized for quotation in the NASDAQ interdealer quotation system.

(b) *Additional materials.* The bidder shall file with the Comptroller six copies of any additional tender offer materials as an exhibit to the Form F–13 required by this section, and if a material change occurs in the information set forth in such Form F–13, six copies of an amendment to Form F–13 (each of which shall include all exhibits other than those required by Item 11(a) of Form F–13) disclosing such change and shall send a copy of such additional tender offer material or such amendment to the subject bank and to any exchange and/or the NASD, as required by § 11.603(a), promptly but not later than the date such additional tender offer material or such change is first published, sent or given to security holders.

(c) *Certain announcements.* Notwithstanding the provisions of § 11.603(b), if the additional tender offer material or an amendment to Form F–13 discloses only the number of shares deposited to date, and/or announces an extension of the time during which shares may be tendered, then the bidder may file such tender offer material or amendment and send a copy of such tender offer material or amendment to the subject bank, any exchange and/or the NASD, as required by § 11.603(a), promptly after the date such tender offer material is first published or sent or given to security holders.

§ 11.604 Dissemination of certain tender offers.

(a) *Materials deemed published or sent or given.* A tender offer in which the consideration consists solely of cash and/or securities exempt from registration under section 3 of the Securities Act of 1933 shall be deemed "published or sent or given to security holders" within the meaning of section 14(d)(1) of the Act if the bidder complies with all of the requirements of any one of the following subparagraphs: *Provided, however,* That any such tender offers may be published or sent or given to security holders by other

methods, but with respect to summary publication, and the use of stockholder lists and security position listings pursuant to § 11.604(a) (1) and (2) are exclusive.

(1) *Long-form publication.* The bidder makes adequate publication in a newspaper of long-form publication of the tender offer.

(2) *Summary publication.* (i) The bidder makes adequate publication in a newspaper or newspapers of a summary advertisement of the tender offer; and

(ii) Mails by first class mail or otherwise furnishes with reasonable promptness the bidder's tender offer materials to any security holder who requests such tender offer materials pursuant to the summary advertisement or otherwise.

(3) *Use of stockholder lists and security position listings.* Any bidder using stockholder lists and security position listings pursuant to § 11.605 shall comply with § 11.604(a) (1) or (2) on or prior to the date of the bidder's request for such lists or listing pursuant to § 11.605(a).

(b) *Adequate publication.* Depending on the facts and circumstances involved, adequate publication of a tender offer pursuant to this section may require publication in a newspaper with a national circulation or may only require publication in a newspaper with metropolitan or regional circulation or may require publication in a combination thereof: *Provided, however,* That publication in all editions of a daily newspaper with a national circulation shall be deemed to constitute adequate publication.

(c) *Publication of changes.* If a tender offer had been published or sent or given to security holders by one or more of the methods enumerated in § 11.604(a), a material change in the information published, sent or given to security holders shall be promptly disseminated to security holders in a manner reasonably designed to inform security holders of such change; *Provided, however,* That if the bidder has elected pursuant to § 11.605(f)(1) to require the subject company to disseminate amendments disclosing material changes to the tender offer materials pursuant to § 11.605, the bidder shall disseminate material changes in the information published or sent or given to security holders at least pursuant to § 11.605.

§ 11.605 Obligations of the subject bank and bidder.

(a) *Obligations of the subject bank.* Upon receipt by a subject bank at its principal executive offices of a bidder's written request, meeting the requirements of § 11.605(e), the subject bank shall comply with the following:

(1) The subject bank shall notify promptly transfer agents and any other person who will assist the subject in complying with the requirements of this paragraph of the receipt by the subject bank of a request by a bidder pursuant to this paragraph.

(2) The subject bank shall promptly ascertain whether the most recently prepared stockholder list, written or otherwise, within the access of the subject bank was prepared as of a date earlier than ten business days before the date of the bidder's request and, if so, the subject bank shall promptly prepare or cause to be prepared a stockholder list as of the most recent practicable date which shall not be more than ten business days before the date of the bidder's request.

(3) The subject bank shall make an election to comply and shall comply with all of the provisions of either § 11.605 (b) or (c). The subject bank's election, once made, shall not be modified or revoked during the bidder's tender offer and extensions thereof.

(4) No later than the second business day after the date of the bidder's request, the subject bank shall orally notify the bidder, which notification shall be confirmed in writing, of the subject bank's election made pursuant to § 11.605(a)(3). Such notification shall indicate (i) the approximate number of security holders of the class of securities being sought by the bidder and, (ii) if the subject bank elects to comply with § 11.605(b), appropriate information concerning the location for delivery of the bidder's tender offer materials and the approximate direct costs incidental to the mailing to security holders of the bidder's tender offer materials computed in accordance with § 11.605(g)(1).

(b) *Mailing of tender offer materials by the subject bank.* A subject bank which elects pursuant to § 11.605(a)(3) to comply with the provisions of this paragraph shall perform the acts prescribed by the following subparagraphs.

(1) The subject bank shall promptly contact each participant named on the most recent security position listing of any clearing agency within the access of the subject bank and make inquiry of each such participant as to the approximate number of beneficial owners of the subject bank securities being sought in the tender offer held by each such participant.

(2) No later than the third business day after delivery of the bidder's tender offer materials pursuant to § 11.605(g)(1), the subject bank shall begin to mail or cause to be mailed by means of first class mail a copy of the bidder's tender offer materials to each person whose name appears as a record holder of the class of securities for which the offer is made on the most recent stockholder list referred to in § 11.605(a)(2). The subject bank shall use its best efforts to complete the mailing in a timely manner but in no event shall such mailings be completed in a substantially greater period of time than the subject bank would complete a mailing to security holders of its own materials relating to the tender offer.

(3) No later than the third business day after the delivery of the bidder's tender offer materials pursuant to § 11.605(g)(1), the subject bank shall begin to transmit or cause to be transmitted a sufficient number of sets of the bidder's tender offer materials to the participants named on the security position listings described in § 11.605(b)(1). The subject bank shall use its best efforts to complete the transmittal in a timely manner but in no event shall such transmittal be completed in a substantially greater period of time than the subject bank would complete a transmittal to such participants pursuant to security position listings or clearing agencies of its own material relating to the tender offer.

(4) The subject bank shall promptly give oral notification to the bidder, which notification shall be confirmed in writing, of the commencement of the mailing pursuant to § 11.605(b)(2) and of the transmittal pursuant to § 11.605(b)(3).

(5) During the tender offer and any extension thereof the subject bank shall use reasonable efforts to update the stockholder list and shall mail or cause to be mailed promptly following each update a copy of the bidder's tender offer materials (to the extent sufficient sets of such materials have been furnished by the bidder) to each person who has become a record holder since the later of (i) the date of preparation of the most recent stockholder list referred to in § 11.605(a)(2) or (ii) the last preceding update.

(6) If the bidder has elected pursuant to § 11.605(f)(1) to require the subject bank to disseminate amendments disclosing material changes to the tender offer materials pursuant to this paragraph, the subject bank, promptly following delivery of each such amendment, shall mail or cause to be mailed a copy of each such amendment to each record holder whose name appears on the shareholder list described in § 11.605(a)(2) and (b)(5) and shall transmit or cause to be transmitted

sufficient copies of such amendment to each participant named on security position listings who received sets of the bidder's tender offer materials pursuant to § 11.605(b)(3).

(7) The subject bank shall not include any communication other than the bidder's tender offer materials or amendments thereto in the envelopes or other containers furnished by the bidder.

(8) Promptly following the termination of the tender offer, the subject bank shall reimburse the bidder the excess, if any, of the amounts advanced pursuant to § 11.605(f)(3)(iii) over the direct costs incidental to compliance by the subject bank and its agents in performing the acts required by this paragraph computed in accordance with § 11.605(g)(2).

(c) *Delivery of stockholder lists and security position listings.* A subject bank which elects pursuant to § 11.605(a)(3) to comply with the provisions of this paragraph shall perform the acts prescribed by the following:

(1) No later than the third business day after the date of the bidder's request, the subject bank shall furnish to the bidder at the subject bank's principal executive office a copy of the names and addresses of the record holders on the most recent stockholder list referred to in § 11.605(a)(2) and a copy of the names and addresses of participants identified on the most recent security position listing of any clearing agency which is within the access of the subject bank.

(2) If the bidder has elected pursuant to § 11.605(f)(1) to require the subject bank to disseminate amendments disclosing material changes to the tender offer materials, the subject bank shall update the stockholder list by furnishing the bidder with the name and address of each record holder named on the stockholder list, and not previously furnished to the bidder, promptly after such information becomes available to the subject bank during the tender offer and any extensions thereof.

(d) *Liability of subject banks and others.* Neither the subject bank nor any affiliate or agent of the subject bank nor any clearing agency shall be:

(1) Deemed to have made a solicitation or recommendation respecting the tender offer within the meaning of section 14(d)(4) of the Exchange Act based solely upon the compliance or noncompliance by the subject bank or any affiliate or agent of the subject bank with one or more requirements of this section;

(2) Liable under any provision of the Federal securities laws to the bidder or to any security holder based solely upon the inaccuracy of the current names or addresses on the stockholder list or security position listing, unless such inaccuracy results from a lack of reasonable care on the part of the subject bank or any affiliate or agent of the subject bank;

(3) Deemed to be an "underwriter" within the meaning of section (2)(11) of the Securities Act of 1933 for any purpose of that Act or any rule or regulation promulgated thereunder based solely upon the compliance or noncompliance by the subject bank or any affiliate or agent of the subject bank with one or more of the requirements of this paragraph;

(4) Liable under any provision of the Federal securities laws for the disclosure in the bidder's tender offer materials, including any amendment thereto, based solely upon the compliance or noncompliance by the subject bank or any affiliate or agent of the subject bank with one or more of the requirements of §§ 11.605 or 11.606.

(e) *Content of the bidder's request.* The bidder's written request referred to in § 11.605(a) shall include the following:

(1) The identity of the bidder;

(2) The title of the class of securities which is the subject of the bidder's tender offer;

(3) A statement that the bidder is making a request to the subject bank pursuant to § 11.605(a) for the use of the stockholder list and security position listings for the purpose of disseminating a tender offer to security holders;

(4) A statement that the bidder is aware of and will comply with the provisions of § 11.605(f);

(5) A statement as to whether or not it has elected pursuant to § 11.605(f)(1) to disseminate amendments disclosing material changes to the tender offer materials pursuant to this paragraph; and

(6) The name, address and telephone number of the person whom the subject bank shall contact pursuant to § 11.605(a)(4).

(f) *Obligations of the bidder.* Any bidder who requires that a subject bank comply with the provisions of § 11.605(a), shall comply with the following:

(1) The bidder shall make an election whether or not to require the subject bank to disseminate amendments disclosing material changes to the tender offer materials pursuant to this paragraph, which election shall be included in the request referred to in § 11.605(a) and shall not be revocable by the bidder during the tender offer and extensions thereof.

(2) With respect to a tender offer subject to section 14(d)(1) of the Act in which the consideration consists solely of cash and/or securities exempt from registration under section 3 of the Securities Act of 1933, the bidder shall comply with the requirements of § 11.604(a)(3).

(3) If the subject bank elects to comply with § 11.605(b),

(i) The bidder shall promptly deliver the tender offer materials after receipt of the notification from the subject bank, as provided in § 11.605(a)(4);

(ii) The bidder shall promptly notify the subject bank of any amendment to the bidder's tender offer materials requiring compliance by the subject bank with § 11.605(b)(4) and shall promptly deliver such amendment to the subject bank pursuant to § 11.605(g)(1);

(iii) The bidder shall advance to the subject bank an amount equal to the approximate cost of conducting mailings to security holders computed in accordance with § 11.605(g)(2);

(iv) The bidder shall promptly reimburse the subject bank for the direct costs incidental to compliance by the subject bank and its agents in performing the act required by this section computed in accordance with § 11.605(g)(2) which are in excess of the amount advanced pursuant to § 11.605(f)(3)(iii); and

(v) The bidder shall mail by means of first class mail or otherwise furnish with reasonable promptness the tender offer materials to any security holder who requests such materials.

(4) If the subject bank elects to comply with § 11.605(c):

(i) The subject bank shall use the stockholder and security position listings furnished to the bidder pursuant to § 11.605(c) exclusively in the dissemination of tender offer materials to security holders in connection with the bidder's tender offer and extensions thereof;

(ii) The bidder shall return the stockholder lists and security position listings furnished to the bidder pursuant to § 11.605(c) promptly after the termination of the bidder's tender offer;

(iii) The bidder shall accept, handle and return the stockholder lists and security position listings furnished to the bidder pursuant to § 11.605(c) to the subject bank on a confidential basis;

(iv) The bidder shall not retain any stockholder list or security position listing furnished by the subject bank pursuant to § 11.605(c), or any copy thereof, nor retain any information derived from any such list or listing or copy thereof after the termination of the bidder's tender offer;

(v) The bidder shall mail by means of first class mail, at its own expense, a copy of its tender offer materials to each person whose identity appears on the stockholder list as furnished and updated by the subject bank pursuant to § 11.605 (c)(1) and (2);

(vi) The bidder shall contact the participants named on the security position listing of any clearing agency, make inquiry of each participant as to the appropriate number of sets of tender offer materials required by each such participant, and furnish, at its own expense, sufficient sets of tender offer materials and any amendment thereto to each such participant for subsequent transmission to the beneficial owners of the securities being sought by the bidder;

(vii) The bidder shall mail by means of first class mail or otherwise furnish with reasonable promptness the tender offer materials to any security holder who requests such materials; and

(viii) The bidder shall promptly reimburse the subject bank for direct costs incidental to compliance by the subject bank and its agents in performing the acts required by this section computed in accordance with §11.605(g)(2).

(g) *Delivery of materials, computation of direct costs.* (1) Whenever the bidder is required to deliver tender offer materials or amendments to tender offer materials, the bidder shall deliver to the subject bank at the location specified by the subject bank in its notice given pursuant to § 11.605(a)(4) a number of sets of the materials or of the amendment, as the case may be, at least equal to the approximate number of security holders specified by the subject bank in such notice, together with appropriate envelopes or other containers therefor: *Provided, however,* That such delivery shall be deemed not to have been made unless the bidder has complied with § 11.605(f)(3)(iii) at the time the materials or amendments, as the case may be, are delivered.

(2) The approximate direct cost of mailing the bidder's tender offer materials shall be computed by adding (i) the direct cost incidental to the mailing of the subject bank's last annual report to shareholders (excluding employee time), less the costs of preparation and printing of the report, and postage, plus (ii) the amount of first class postage required to mail the bidder's tender offer materials. The approximate direct costs incidental to the mailing of the amendments to the bidder's tender offer materials shall be computed by adding (iii) the estimated direct costs of preparing mailing labels, of updating shareholder lists and of third party handling charges plus (iv) the amount of first class postage required to mail the bidder's amendment. Direct costs incidental to the mailing of the bidder's tender offer materials thereto when finally computed may include all reasonable charges paid by the subject bank to third parties for supplied or services, including costs attendant to preparing shareholder lists, mailing labels, handling the bidder's materials, contacting participants named on security position listings and for postage, but shall exclude indirect costs, such as employee time which is devoted to either contesting or supporting the tender offer on behalf of the subject bank. The final billing for direct costs shall be accompanied by an appropriate accounting in reasonable detail.

§ 11.606 Disclosure requirements with respect to tender offers.

(a) *Information required on date of commencement*—(1) *Long-form publication.* If a tender offer is published, sent or given to security holders on the date of commencement by means of long-form publication pursuant to § 11.604(a)(1), such long-form publication shall include the information required by § 11.606(e)(1).

(2) *Summary publication.* If a tender offer is published, sent or given to security holders on the date of commencement by means of summary publication pursuant to § 11.604(a)(2):

(i) The summary advertisement shall contain and shall be limited to, the information required by § 11.606(e)(2); and

(ii) The tender offer materials furnished by the bidder upon the request of any security holder shall include the information required by § 11.606(e)(1).

(3) *Use of stockholder lists and security position listings.* If a tender offer is published or sent or given to security holders on the date of commencement by the use of stockholder lists and security position listings pursuant to § 11.604(a)(3),

(i) Either *(A)* the summary advertisement shall contain, and shall be limited to the information required by § 11.606(e)(2) or (B) if long form publication of the tender offer is made, such long form publication shall include the information required by § 11.606(e)(1); and

(ii) The tender offer materials transmitted to security holders pursuant to such lists and security position listings and furnished by the bidder upon the request of any security holder shall include the information required by § 11.606(e)(1).

(4) *Other tender offers.* If a tender offer is published or sent or given to security holders other than pursuant to § 11.604(a), the tender offer materials which are published or sent or given to security holders on the date of commencement of such offer shall include the information required by § 11.606(e)(1).

(b) *Information required in summary advertisement made after commencement.* A summary advertisement published subsequent to the date of commencement of the tender offer shall include at least the information specified in § 11.606(e)(1)(i)-(ii) and (2)(iv).

(c) *Information required in other tender offer materials published after commencement.* Except for summary advertisements described in § 11.606(b) and tender offer materials described in § 11.606(a)(2)(ii) and (a)(3)(ii), additional tender offer materials published, sent or given to security holders subsequent to the date of commencement shall include the information required by § 11.606(e) and may omit any of the information required by § 11.606(e)(1)(v)-(vii) which has been previously furnished by the bidder in connection with the tender offer.

(d) *Material changes.* A material change in the information published or sent or given to security holders shall be promptly disclosed to security holders in additional tender offer materials.

(e) *Information to be included*—(1) *Long-form publication and tender offer materials.* The information required to be disclosed by § 11.606(a)(1), (a)(2)(ii), (a)(3)(i)(B) and (a)(4) shall include the following:

(i) The identity of the holder;

(ii) The identity of the subject bank;

(iii) The amount of a class of securities being sought and the type and amount of consideration being offered therefor;

(iv) The scheduled expiration date of the tender offer, whether the tender offer may be extended and, if so, the procedures for extension of the tender offer;

(v) The exact dates prior to which, and after which, security holders who deposit their securities will have the right to withdraw their securities pursuant to section 14(d)(5) of the Act and §§ 11.607 and 11.608 and the manner in which shares will be accepted for payment and in which withdrawal may be effected;

(vi) If the tender offer is for less than all the outstanding securities of a class of equity securities and the bidder is not obligated to purchase all of the securities tendered, the period or periods, and in the case of the period from the commencement of the offer, the

date of the expiration of such period during which the securities will be taken up pro rata pursuant to section 14(d)(6) of the Act or § 11.608 and the present intention or plan of the bidder with respect to the tender offer in the event of an oversubscription by security holders;

(vii) The disclosure required by Items 1(c); 2 (with respect to persons other than the bidder, excluding sub-items (b) and (d)); 3; 4; 5; 6; 7; 8; and 10 of Form F–13 (12 CFR 11.690) or a fair and adequate summary thereof: *Provided, however,* That negative responses to any such item or sub-item of Form F–13 need not be included; and

(viii) The disclosure required by Item 9 of Form F–13 or a fair and adequate summary thereof. If the information required by Item 9 is summarized, appropriate instructions shall be included stating how complete financial information can be obtained.

(2) *Summary publication.* The information required to be disclosed by § 11.606(a)(2)(i) and (3)(i) in a summary advertisement is as follows:

(i) The information required by § 11.606(e)(1)(i)–(v);

(ii) If the tender offer is for less than all the outstanding securities of a class of equity securities, a statement as to whether the purpose or one of the purposes of the tender offer is to acquire or influence control of the business of the subject bank;

(iii) A statement that the information required by § 11.606(e)(1)(vii) is incorporated by reference into the summary advertisement;

(iv) Appropriate instructions as to how security holders may obtain promptly, at the bidder's expense, the bidder's tender offer materials; and

(v) In a tender offer published or sent or given to security holders by the use of stockholder lists and security position listings pursuant to § 11.604(a)(3), a statement that a request is being made for such lists and listings and that tender offer materials will be mailed to record holders and will be furnished to brokers, banks and similar persons whose name appears or whose nominee appears on the list of stockholders or, if applicable, who are listed as participants in a clearing agency's security position listing for subsequent transmittal to beneficial owners of such securities.

(3) *No transmittal letter.* Neither the initial summary advertisement nor any subsequent summary advertisement shall include a transmittal letter (whereby securities of the subject bank which are sought in the tender offer may be transmitted to the bidder or its depository) or any amendment thereto.

§ 11.607 Additional withdrawal rights.

(a) *Rights.* In addition to the provisions of section 14(d)(5) of the Act, any person who has deposited securities pursuant to a tender offer has the right to withdraw any such securities during the following periods:

(1) At any time until the expiration of fifteen business days from the date of commencement of such tender offer; and

(2) On the date and until the expiration of ten business days following the date of commencement of another bidder's tender offer other than pursuant to § 11.602(b) for securities of the same class: *Provided,* That the bidder has received notice or otherwise has knowledge of the commencement of such other tender offer: *And, provided further,* That withdrawal may only be effected with respect to securities which have not been accepted for payment in the manner set forth in the bidder's tender offer prior to the date such other tender offer is first published, sent or given to security holders.

(b) *Computation of time periods.* The time periods for withdrawal rights pursuant to this section shall be computed on a concurrent, as opposed to a consecutive, basis.

(c) *Knowledge of competing offer.* For the purposes of this section, a bidder shall be presumed to have knowledge of another tender offer, as described in § 11.607(a)(2), on the date such bidder receives a copy of the Form F–13 (12 CFR 11.690) pursuant to § 11.603 from such other bidder.

(d) *Notice of withdrawal.* Notice of withdrawal pursuant to this paragraph shall be deemed to be timely upon the receipt by the bidder's depository of a written notice of withdrawal specifying the name(s) of the tendering stockholder(s), the number or amount of the securities to be withdrawn and the name(s) in which the certificate(s) is (are) registered, if different from that of the tendering security holder(s). A bidder may impose other reasonable requirements, including certificate numbers and a signed request for withdrawal accompanied by a signature guarantee, as conditions precedent to the physical release of withdrawn securities.

§ 11.608 Pro rata rights.

Notwithstanding the pro rata provisions of Section 14(d)(6) of the Act, if any person makes a tender offer for, or a request or invitation for tenders of less than all of the outstanding equity securities of a class, and if a greater number of securities are deposited pursuant thereto than such person is bound or willing to take up and pay for, the securities taken up and paid for shall be taken up and paid for as nearly as may be pro rata, disregarding fractions, according to the number of securities deposited by each depositor during the period such offer, request or invitation remains open.

§ 11.609 Solicitation/recommendation statements with respect to certain tender offer statements.

(a) *Filing and transmittal of recommendation statement.* No solicitation or recommendation to security holders shall be made by any person described in § 11.609(d) with respect to a tender offer for such securities unless as soon as practicable on the earliest date such solicitation or recommendation is first published or sent or given to security holders such person complies with the following paragraphs.

(1) Such person shall file with the Comptroller six copies of a Tender Offer Solicitation/Recommendation Statement on Form F–12 (12 CFR 11.691), including all exhibits thereto; and

(2) If such person is either the subject bank or an affiliate of the subject bank,

(i) Such person shall hand deliver a copy of the Form F–12 to the bidder at its principal office or at the address of the person authorized to receive notices and communications (which is set forth on the cover sheet of the bidder's Form F–13 (12 CFR 11.690) filed with the Comptroller; and

(ii) Such person shall give telephonic notice (which notice to the extent possible shall be given prior to the opening of the market) of the information required by Items 2 and 4(a) of Form F–12 and shall mail a copy of the Form to each national securities exchange where the class of securities is registered and listed for trading and if the class is authorized for quotation in the NASDAQ interdealer quotation system, to the National Association of Securities Dealers, Inc. ("NASD").

(3) If such person is neither the subject bank nor an affiliate of the subject bank,

(i) Such person shall mail a copy of the schedule to the bidder at its principal office or at the address of the person authorized to receive notices and communications (which is set forth on the cover sheet of the bidder's Form F–13 (12 CFR 11.690) filed with the Comptroller), and

(ii) Such person shall mail a copy of the Form to the subject bank at its principal office.

(b) *Amendments.* If any material change occurs in the information set forth in the Form F–12 (12 CFR 11.691) required by this section, the person who filed such Form F–12 shall:

(1) File with the Comptroller six copies of an amendment on Form F–12 disclosing such change promptly, but not later than the date such material is first published, sent or given to security holders; and

(2) Promptly deliver copies and give notice of the amendment in the same manner as that specified in § 11.609(a)(2) or (3), whichever is applicable; and

(3) Promptly disclose and disseminate such change in a manner reasonably designed to inform security holders of such change.

(c) *Information required in solicitation or recommendation.* Any solicitation or recommendation to holders of a class of securities referred to in section 14(d)(1) of the Act with respect to a tender offer for such securities shall include the name of the person making such solicitation or recommendation and the information required by Items 1, 2, 3(b), 4, 6, 7 and 8 of Form F–12 or a fair and adequate summary thereof: *Provided, however,* That such solicitation or recommendation may omit any of such information previously furnished to security holders of such class of securities by such person with respect to such tender offer.

(d) *Applicability.* (1) Except as is provided in § 11.609(d)(2) and (e), § 11.609 shall only apply to the following persons:

(i) The subject bank, any director, officer, employee, affiliate or subsidiary of the subject bank;

(ii) Any record holder or beneficial owner of any security issued by the subject bank, by the bidder, or by any affiliate of either the subject bank or the bidder; and

(iii) Any person who makes a solicitation or recommendation to security holders on behalf of any of the foregoing or on behalf of the bidder other than by means of a solicitation or recommendation to security holders which has been filed with the Comptroller pursuant to § 11.609 or § 11.603.

(2) Notwithstanding § 11.609(d)(1), § 11.609 shall not apply to the following persons:

(i) A bidder who has filed a Form F–13 pursuant to § 11.603;

(ii) Attorneys, banks, brokers, fiduciaries or investment advisers who are not participating in a tender offer in more than a ministerial capacity and who furnish information and/or advice regarding such tender offer to their customers or clients on the unsolicited request of such customers or clients or solely pursuant to a contract or a relationship providing for advice to the customer or client to whom the information and/or advice is given.

(e) *Stop-look-and-listen communication.* § 11.609 shall not apply to the subject bank with respect to a communication by the subject bank to its security holders which only:

(1) Identifies the tender offer by the bidder;

(2) States that such tender offer is under consideration by the subject bank's board of directors and/or management;

(3) States that on or before a specified date (which shall be no later than 10 business days from the date of commencement of such tender offer) the subject bank will advise such security holders of (i) whether the subject bank recommends acceptance or rejection of such tender offer; expresses no opinion and remains neutral toward such tender offer; or is unable to take a position with respect to such tender offer and (ii) the reason(s) for the position taken by the subject bank with respect to the tender offer (including the inability to take a position); and

(4) Requests such security holders to defer making a determination whether to accept or reject such tender offer until they have been advised of the subject bank's position with respect thereto pursuant to § 11.609(e)(3).

(f) *Statement of management's position.* A statement by the subject bank of its position with respect to a tender offer which is required to be published or sent or given to security holders pursuant to § 11.610 shall be deemed to constitute a solicitation or recommendation within the meaning of this section and section 14(d)(4) of the Act.

§ 11.610 Unlawful tender offer practices.

As a means reasonably designed to prevent fraudulent, deceptive or manipulative acts or practices, no person who makes a tender offer shall:

(a) Hold such tender offer open for less than twenty business days from the date such tender offer is first published or sent or given to security holders.

(b) Increase the offered consideration or the dealer's soliciting fee to be given in a tender offer unless such tender offer remains open for at least ten business days from the date that notice of such increase is first published, sent or given to security holders.

(c) Fail to pay the consideration offered or return the securities deposited by or on behalf of security holders promptly after the termination or withdrawal of a tender offer.

(d) Extend the length of a tender offer without issuing a notice of such extension by press release or other public announcement, which notice shall include disclosure of the approximate number of securities deposited to date and shall be issued no later than the earlier of (1) 9:00 a.m. Eastern time, on the next business day after the scheduled expiration date of the offer or (2) if the class of securities which is the subject of the tender offer is registered on one or more national securities exchanges, the first opening of any one of such exchanges on the next business day after the scheduled expiration date of the offer.

§ 11.611 Position of subject bank with respect to a tender offer.

(a) *Position of subject bank.* As a means reasonably designed to prevent fraudulent, deceptive or manipulative acts or practices, the subject bank, no later than 10 business days from the date the tender offer is first published or sent or given, shall publish, send or give to security holders a statement disclosing that the subject bank:

(1) Recommends acceptance or rejection of the bidder's tender offer;

(2) Expresses no opinion and is remaining neutral toward the bidder's tender offer; or

(3) Is unable to take a position with respect to the bidder's tender offer. Such statement shall also include the reason(s) for the position (including the inability to take a position) disclosed therein.

(b) *Material change.* If any material change occurs in the disclosure required by § 11.608 the subject bank shall promptly publish, send or give a statement disclosing such material change to security holders.

§ 11.620 Restrictions on control persons.

When a person makes a tender offer for, or a request or invitation for tenders of, any class of equity securities of a bank registered pursuant to section 12 of the Act, and such person has filed a statement with the Comptroller of the Currency pursuant to this paragraph, any other person controlling, or controlled by or under common control with ("control person") the issuing bank shall not thereafter, during the period such tender offer, request or invitation continues, purchase any class of equity securities of the issuing bank unless:

(a) The control person has filed with the Comptroller of the Currency a statement containing the information specified below with respect to any proposed purchases:

(1) The title and amount of equity securities to be purchased, the names of the persons or classes of persons from whom, and the market in which, the

securities are to be purchased, including the name of any exchange on which the purchase is to be made;

(2) The purpose for which the purchase is to be made and any plan or proposal for the disposition of such securities; and

(3) The source and amount of funds or other consideration used or to be used in making the purchases, and if any part of the purchase price or proposed purchase price is represented by funds or other consideration borrowed or otherwise obtained for the purpose of acquiring, holding, or trading the securities, a description of the transaction and the names of the parties thereto.

(b) The control person has at any time within the past 6 months sent or given to the equity security holders of the issuing bank the substance of the information contained in the statement required by § 11.620(a) and a copy has been filed with the Comptroller of the Currency.

§ 11.630 Change in majority of directors.

If, pursuant to any arrangement or understanding with the person or persons acquiring securities in a transaction subject to section 13(d) or 14(d) of the Act, any persons are to be elected or designated as directors of the bank, otherwise than at a meeting of security holders, and the persons so elected or designated will constitute a majority of the directors of the bank, then, not less than 10 days prior to the date any such person takes office as a director, or such shorter period prior to that date as the Comptroller of the Currency may authorize upon a showing of good cause therefor, the bank shall file with the Comptroller of the Currency and transmit to all holders of record of securities of the bank who would be entitled to vote at a meeting for election of directors, information substantially equivalent to the information which would be required by items 5 (a), (d), (e) and (f), 6 and 7 of Form F-5 to be transmitted if such person or persons were nominees for election as directors at a meeting of such security holders.

Forms

§ 11.690 Tender offer statement to be filed pursuant to section 14(d)(1) of the Exchange Act (form F-13).

Comptroller of the Currency

Tender Offer Form Pursuant to Section 14(d)(1) of the Securities Exchange Act of 1934—Form F-13

(Amendment No. —)

(Name of Subject Bank)

(Bidder)

(Title of Class of Securities)

CUSIP Number

(Name, Address, and Telephone Number of Person Authorized To Receive Notices and Communications on Behalf of Bidder)

The information required in the remainder of this cover page shall not be deemed to be "filed" for the purpose of Section 18 of the Securities Exchange Act of 1934 ("Act") or otherwise subject to the liabilities of that section of the Act but shall be subject to all other provisions of the Act (however, see the Note).

(1) Name of Reporting Person, S.S. or I.R.S. Identification Nos. of Above Person.

(2) Check the appropriate Box if a Member of a Group (See Instructions).

(a) ☐

(b) ☐

(3) Sources of Funds (See Instructions)

(4) Check if Disclosure of Legal Proceedings is Required Pursuant to Items 2(e) or 2(f)

(5) Citizenship of Place of Organization

(6) Aggregate Amount Beneficially Owned by Each Reporting Person

(7) If the Aggregate Amount in Row (6) Excludes Certain Shares, List the Number of Excluded Shares (See Instructions)

(8) Percent of Class Represented by Amount in Row (7)

(9) Type of Reporting Person (See Instructions)

Instructions for Cover Page

(1) Names and Social Security Numbers of Reporting Persons—Furnish the full legal name of each person for whom the report is filed—*i.e.* each person required to sign the form itself—including each member of a group. Do not include the name of a person required to be identified in the report but who is not a reporting person. Reporting persons are also requested to furnish their Social Security or I.R.S. identification numbers, although disclosure of such numbers is voluntary, not mandatory (see "Special Instructions for Complying With Form F-13", below).

(2) If any of the shares beneficially owned by a reporting person are held as a member of a group and such membership is expressly affirmed please check row 2(a). If the membership in a group is disclaimed or the reporting person describes a relationship with other persons but does not affirm the existence of a group, please check row 2(b) (unless a joint filing pursuant to § 11.401(e) in which case it may not be necessary to check row 2(b)).

(3) Source of Funds—Classify the source of funds or other consideration to be used in making purchases as required to be disclosed pursuant to Item 4 of the schedule and insert the appropriate symbol (or symbols if more than one is necessary) in row (3):

Category of source	Symbol
Subject bank (bank whose securities are being acquired)	SB
Bank	BK
Affiliate (of reporting person)	AF
Working Capital (of reporting person)	WC
Personal Funds (of reporting person)	PF
Other	OO

(4) If disclosure of legal proceedings or actions is required pursuant to either items 2(e) or 2(f) of Form F-13, row 4 should be checked.

(5) Citizenship or Place of Organization—Furnish citizenship if the named reporting person is a natural person. Otherwise, furnish the place of organization. (See Item 2 of Form F-13.)

(6), (8) Aggregate Amount Beneficially Owned by Each Reporting Person, etc.—Rows (6) and (8) are to be completed in accordance with the Instructions to Item 6 of Form F-13. All percentages are to be rounded off to nearest tenth (one place after decimal point).

(9) Type of Reporting Person—Please classify each "reporting person" according to the following breakdown and place the appropriate symbol (or symbols, *i.e.*, if more than one is applicable, insert all applicable symbols) on the form:

Category	Symbol
Broker Dealer	BD
Bank	BK
Insurance Company	IC
Investment Company	IV
Investment Adviser	IA
Employee Benefit Plan, Pension Fund, or Endowment Fund	EP
Parent Holding Company	HC
Group Member	GM
Corporation	CO
Partnership	PN
Individual	IN
Other	OO

Note.—Filing persons may, in order to avoid unnecessary duplication, answer items on the form by appropriate cross reference to an item or items on the cover page(s). This approach may be used only where the cover page item or items provide all the disclosure required by the scheduled item. Moreover, such a use of a cover page item will result in the item becoming a part of the schedule and accordingly being considered as "filed" for purposes of section 18 of the Securities Exchange Act or otherwise subject to the liabilities of that section of that Act.

Special Instructions for Complying With Form F-13

Under sections 14(d) and 23 of the Securities Exchange Act of 1934 and the rules and regulations thereunder the Comptroller of the Currency is authorized to solicit the information requirement to be supplied by this form by certain security holders of certain banks.

Disclosure of the information specified in this form is mandatory, except for Social Security and I.R.S. identification numbers the disclosure of which is voluntary. The information will be used for the primary purpose of determining and disclosing the holdings of certain beneficial owners of certain equity shareholders. This statement

will be made a matter of public record. Therefore, any information given will be available for inspection by any member of the public.

Failure to disclose the information requested by this schedule, except for Social Security or I.R.S. identification numbers, may result in civil or criminal action against the person involved for violation of the Federal securities laws and rules promulgated thereunder.

Instructions. Four copies of this statement, including all exhibits should be filed with the Comptroller of the Currency.

General Instructions

A. The item numbers and captions of the item shall be included but the text of the items may be omitted. The answers to the items shall be so prepared as to indicate clearly the coverage of the items without referring to the text of the items. Answer every item. If an item is inapplicable or the answer is in the negative, so state.

B. Information in exhibits to the statement may be incorporated by reference in answer or partial answer to any item or sub-item of the statement unless it would render such answer misleading, incomplete, unclear or confusing. Material incorporated by reference shall be clearly indentified in the reference by page, paragraph, caption or otherwise. An express statement that the specified matter is incorporated by reference shall be made at the particular place in the statement where the information is required. A copy of any information or a copy of the pertinent pages of a document containing such information which is incorporated by reference shall be submitted with this statement as an exhibit and shall be deemed to be filed with the Comptroller for all purposes of the Act.

C. If the statement is filed by a partnership, limited partnership, syndicate or other group, the information called for by Items 2–7, inclusive, shall be given with respect to: (i) each partner of such partnership; (ii) each partner who is denominated as a general partner or who functions as a general partner of such limited partnership; (iii) each member of such syndicate or group; and (iv) each person controlling such partner or member. If the statement is filed by a bank or corporation, or if a person referred to in (i), (ii), (iii) or (iv) of this Instruction is a bank or corporation, the information called for by the above mentioned items shall be given with respect to: (a) Each executive officer and director of such bank or corporation; (b) each person controlling such bank or corporation; and (c) each executive officer and director of any bank or corporation ultimately in control of such bank or corporation. A response to an item in the statement is required with respect to the bidder and to all other persons referred to in this instruction unless such item specifies to the contrary.

D. Upon termination of the tender offer, the bidder shall promptly file a final amendment to Form F–13 disclosing all material changes in the items of that Schedule and stating that the tender offer has terminated, the date of such termination and the results of such tender offer.

E. If the bidder, before filing this statement, has filed a form F–11 with respect to the acquisition of securities of the same class referred to in Item 1(a) of this statement, the bidder shall amend such Form F–11 and may do so by means of this statement and amendments thereto, including the final amendment required to be filed by Instruction D: *Provided*, That the bidder indicates on the cover sheet of this statement that it is amending its Form F–11 by means of this statement.

F. The final amendment required to be filed by Instruction D shall be deemed to satisfy the reporting requirements of section 13(d) of the Act with respect to all securities acquired by the bidder pursuant to the tender offer as reported in such final amendment.

G. For purposes of this statement, the following definitions shall apply:

(i) The term "bidder" means any person on whose behalf a tender offer is made; and

(ii) The term "subject bank" means any bank whose securities are registered pursuant to section 12(b) or section 12(g) of the Securities Exchange Act of 1934 and whose securites are sought by a bidder pursuant to a tender offer.

Item 1—Security and Subject Bank

(a) State the name of the subject bank and the address of its principal office;

(b) State the exact title and the number of shares outstanding of the class of equity securities being sought (which may be based upon information contained in the most recently available filing with the Comptroller of the Currency by the subject bank unless the bidder has reason to believe such information is not current), the exact amount of such securities being sought and the consideration being offered therefor; and

(c) Identify the principal market in which such securities are traded and state the high and low sales prices for such securities in such principal market (or, in the absence thereof, the range of high and low bid quotations) for each quarterly period during the past two years.

Item 2—Identity and Background

If the person filing this statement or any person enumerated in Instruction C of this statement is a corporation, partnership, limited partnership, syndicate or other group of persons, state its name, the state or other place of its organization, its principal business, the address of its principal office and the information required by (e) and (f) of this Item. If such person filing this statement or any person enumerated in Instruction C is a natural person, provide the information specified in (a) through (g) of this Item with respect to such person(s).

(a) Name;

(b) Residence or business address;

(c) Present principal occupation or employment and the name, principal business and address of any corporation or other organization in which such employment or occupation is conducted;

(d) Material occupations, positions, offices or employments during the last 5 years, giving the starting and ending dates of each and the name, principal business and address of any business corporation or other organization in which such occupation, position, office or employment was carried on;

Instruction. If a person has held various positions with the same organization, or if a person holds comparable positions with multiple related organizations, each and every position need not be specifically disclosed.

(e) Whether or not, during the last 5 years, such person has been convicted in a criminal proceeding (excluding traffic violations or similar misdemeanors) and, if so, give the dates, nature of conviction, name and location of court, and penalty imposed or other disposition of the case;

Instruction. While a negative answer to this sub-item is required in this schedule, it need not be furnished to security holders.

(f) Whether or not, during the last 5 years, such person was a party to a civil proceeding of a judicial or administrative body of competent jurisdiction and a result of such proceeding, was or is subject to a judgment, decree or final order enjoining future violations of, or prohibiting activities subject to, Federal or state securities laws or finding any violation of such laws, and, if so, identify and describe such proceeding and summarize the terms of such judgment, decree or final order; and

Instruction. While a negative answer to this subitem is required in this schedule, it need not be furnished to security holders.

(g) Citizenship(s).

Item 3—Past Contacts, Transactions or Negotiations With the Subject Bank

(a) Briefly state the nature and approximate amount (in dollars) of any transaction, other than those described in Item 3(b) of this schedule, which has occurred since the commencement of the subject bank's third full fiscal year preceding the date of this schedule, between the person filing this schedule (including those persons enumerated in Instruction C of this schedule) and:

(1) The subject bank or any of its affiliates which are corporations: *Provided, however*, That no disclosure need be made with respect to any transaction if the aggregate amount involved in such transaction was less than one percent of the subject bank's consolidated revenues (which may be based upon information contained in the most recently available filing with the Comptroller of the Currency by the subject bank, unless the bidder has reason to believe otherwise) (i) for the fiscal year in which such transaction occurred, or (ii) for the portion of the current fiscal year which has occurred, if the transaction occurred in such year; and

(2) The executive officers, directors of affiliates of the subject bank which are not corporations if the aggregate amount involved in such transaction or in a series of similar transactions, including all periodic installments in the case of any lease or other agreement providing for periodic payments or installments, exceeds $40,000.

(b) Describe any contacts, negotiations or transactions which have occurred since the commencement of the subject bank's third full fiscal year preceding the date of this schedule between the bidder or its subsidiaries (including those persons enumerated in Instruction C of this schedule)

and the subject bank or its affiliates concerning, a merger, consolidation or acquisition, a tender offer or other acquisition of securities, an election of directors, or a sale or other transfer of a material amount of assets.

Item 4—Source and Amount of Funds or Other Consideration

(a) State the source and the total amount of funds or other consideration for the purchase of the maximum number of securities for which the tender offer is being made.

(b) If all or any part of such funds or other consideration are or are expected to be, directly or indirectly, borrowed for the purpose of the tender offer:

(1) Provide a summary of each loan agreement or arrangement containing the identity of the parties, the term, the collateral, the stated and effective interest rates, and other material terms or conditions relative to such loan agreements; and

(2) Briefly describe any plans or arrangements to finance or repay such borrowings, or if no such plans or arrangements have been made, make a statement to that effect.

(c) If the source of all or any part of the funds to be used in the tender offer is a loan made in the ordinary course of business by a bank as defined in section 3(a)(6) of the Act, the name of such bank shall not be available to the public if the person filing the statement so requests in writing and files such request, naming such bank, with the Comptroller of the Currency.

(d) If the source of all or any part of the funds to be used in the tender offer is a loan made by a bank as defined in section 3(a)(6) of the Act, indicate whether there exists any agreement, arrangement, or understanding pursuant to which the subject bank maintains or would maintain a correspondent deposit account at such lending bank.

Item 5—Purpose of the Tender Offer and Plans or Proposals of the Bidder

State the purpose or purposes of the tender offer for the subject bank's securities. Describe any plans or proposals which relate to or would result in:

(a) An extraordinary corporate transaction, such as a merger, reorganization or liquidation, involving the subject bank or any of its subsidiaries;

(b) A sale or transfer of a material amount of assets of the subject bank or any of its subsidiaries;

(c) Any change in the present board of directors or management of the subject bank including, but not limited to, any plans or proposals to change the number or the term of directors or to fill any existing vacancies on the board;

(d) Any material change in the present capitalization or dividend policy of the subject bank;

(e) Any other material change in the subject bank's corporate structure or business;

(f) Causing a class of securities of the subject bank to be delisted from a national securities exchange or to cease to be authorized to be quoted in an inter-dealer quotation system of a registered national securities association; or

(g) A class of equity securities of the subject company becoming eligible for termination of registration pursuant to section 12(g)(4) of the Act.

Item 6—Interest In Securities of the Subject Bank

(a) State the aggregate number and percentage of the class represented by such shares (which may be based on the number of shares outstanding as contained in the most recently available filing with the Comptroller of the Currency by the subject bank unless the bidder has reason to believe such information is not current), beneficially owned (identifying those shares for which there is a right to acquire) by each person named in Item 2 of this schedule and by each associate and majority-owned subsidiary of such person giving the name and address of any such associate or subsidiary.

(b) Describe any transaction in the class of securities reported on that was effected during the past 60 days by the persons named in response to paragraph (a) of this Item or by an executive officer, director or subsidiary of such person.

Instructions. 1. The description of a transaction required by Item 6(b) shall include, but not necessarily be limited to; (1) the identity of the person covered by Item 6(b) who effected the transaction; (2) the date of the transaction; (3) the amount of securities involved; (4) the price per share; and (5) where and how the transaction was effected.

2. If the information required by Item 6(b) of this Form is available to the bidder at the time this statement is initially filed with the Comptroller pursuant to § 11.603(a)(1), such information should be included in such initial filing. However, if such information is not available to the bidder at the time of such initial filing, it shall be filed with the Comptroller promptly but in no event later than two business days after the date of such filing and, if material, shall be disclosed in a manner reasonably designed to inform security holders. The procedure specified by this instruction is provided for the purpose of maintaining the confidentiality of the tender offer in order to avoid possible misuse of inside information.

Item 7—Contracts, Arrangements, Understandings or Relationships With Respect to the Subject Bank's Securities

Describe any contract, arrangement, understanding or relationship (whether or not legally enforceable) between the bidder (including those persons enumerated in Instruction C of this Schedule) and any person with respect to any securities of the subject bank (including, but not limited to, any contract, arrangement, understanding or relationship concerning the transfer or the voting of any such securities, joint ventures, loan or option arrangements, puts or calls, guaranty of loans, guaranty against loss, or the giving or withholding of proxies), naming the persons with whom such contracts, arrangements, understandings and relationships have been entered into and giving the material provisions thereof. Include such information for any of such securities that are pledged or otherwise subject to a contingency, the occurrence of which would give another person the power to direct the voting or disposition of such securities, except that, disclosure of standard default and similar provisions contained in loan agreements need not be included.

Item 8—Persons Retained, Employed or To Be Compensated

Identify all persons and classes of persons employed, retained or to be compensated by the bidder, or by any person on the bidder's behalf, to make solicitation or recommendation in connection with the tender offer and describe briefly the terms of such employment, retainer or arrangement for compensation.

Item 9—Financial Statements of Certain Bidders

Where the bidder is other than a natural person and the bidder's financial condition is material to a decision by a security holder of the subject bank whether to sell, tender or hold securities being sought in the tender offer, furnish current, adequate financial information concerning the bidder: *Provided,* That if the bidder is controlled by another entity which is not a natural person and has been formed for the purpose of making the tender offer, furnish current, adequate financial information concerning such parent.

Instructions. 1. The facts and circumstances concerning the tender offer, particularly the terms of the tender offer, may influence a determination as to whether disclosure of financial information is material. However, once the materiality requirement is applicable, the adequacy of the financial information will depend primarily on the nature of the bidder.

In order to provide guidance in making this determination, the following types of financial information will be deemed adequate for purposes of this Item for the type of bidder specified: (a) financial statements prepared in compliance with SEC Form 10 as amended (17 CFR 349.210) for a domestic bidder which is otherwise eligible to use such form; and (b) financial statements prepared in compliance with SEC Form F–20 (17 CFR 249.200) for a foreign bidder which is eligible to use such forms.

2. If the bidder is subject to the periodic reporting requirements of section 13(a) or 15(d) of the Act, financial statements contained in any document filed with the Comptroller of the Currency may be incorporated by reference in this schedule solely for the purpose of this schedule: *Provided,* That such financial statements substantially meet the requirements of this Item; an express statement is made that such financial statements are incorporated by reference; the matter incorporated by reference is clearly identified by page, paragraph, caption or otherwise, and an indication is made where such information may be inspected and copies obtained. Financial statements which are required to be presented in comparative form for two or more fiscal years or periods shall not be incorporated by reference unless the material incorporated by reference includes the entire period for which the comparative data is required to be given.

3. If the bidder is not subject to the periodic reporting requirements of the Act, the financial statements required by this item need not be audited if such financial statements are not available or obtainable without unreasonable cost or expense and a statement is made to that effect disclosing the reasons therefor.

Item 10—Additional Information

If material to a decision by a security holder whether to sell, tender or hold securities being sought in the tender offer, furnish information as to the following:

(a) Any present or proposed material contracts, arrangements, understandings or relationship between the bidder or any of its executive officers, directors, controlling persons or subsidiaries and the subject bank or any of its executive officers, directors, controlling persons or subsidiaries (other than any contract, arrangement or understanding required to be disclosed pursuant to Item 3 or 7 of this schedule);

(b) To the extent known by the bidder after reasonable investigation, the applicable regulatory requirements which must be complied with or approvals which must be obtained in connection with the tender offer;

(c) The applicability of anti-trust laws;

(d) The applicability of the margin requirements of section 7 of the Act and the regulations promulgated thereunder;

(e) Any material pending legal proceedings relating to the tender offer including the name and location of the court or agency in which the proceeding are pending, the date instituted, the principal parties thereto and a brief summary of the proceedings; and

Instruction. In connection with this sub-item, a copy of any document relating to a major development (such as pleadings, an answer, complaint, temporary restraining order, injunction, opinion, judgment or order) in a material pending legal proceeding should be promptly furnished to the Comptroller of the Currency on a supplemental basis.

(f) Such additional material information, if any, as may be necessary to make the required statements, in light of the circumstances under which they are made, not materially misleading.

Item 11—Material To Be Filed as Exhibits

Furnish a copy of:

(a) Tender offer material which is published, sent or given to security holders by or on behalf of the bidder in connection with the tender offer;

(b) Any loan agreement referred to in Item 4 of this schedule;

Instruction. The identity of any bank which is a party to a loan agreement need not be disclosed if the person filing the statement has requested that the identity of such bank not be made available to the public pursuant to Item 4 of this schedule.

(c) Any document setting forth the terms of any contract, arrangement, understanding or relationship referred to in Item 7 or 10(a) of this schedule;

(d) Any written opinion prepared by legal counsel at the bidder's request and communicated to the bidder pertaining to the tax consequences of the tender offer;

(e) An offering circular when in an exchange offer, the securities are offered utilizing an offering circular prepared pursuant to 12 CFR Part 16;

(f) If any oral solicitation of security holders is to be made by or on behalf of the bidder, any written instructions, form or other material which is furnished to the persons making the actual oral solicitation for their use, directly or indirectly, in connection with the tender offer.

Signature. After due inquiry and to the best of my knowledge and belief, I certify that the information set forth in this statement is true, complete and correct.

Signature———————
Name and Title———————
Date———————

The original statement shall be signed by each person on whose behalf the statement is filed or his authorized representative. If the statement is signed on behalf of a person by his authorized representative (other than an executive officer or general partner of the bidder), evidence of the representative's authority to sign on behalf of such person shall be filed with the statement. The name and any title of each person who signs the statement shall be typed or printed beneath his signature.

§ 11.691 Solicitation/recommendation statement to be filed under Section 14(d)(4) of the Exchange Act (Form F-12).

Comptroller of the Currency Form,
Washington, D.C. 20219
Form F-12

Solicitation/Recommendation Statement Pursuant to Section 14(d)(4) of the Securities Exchange Act of 1934

(Amendment No. ——)
(Name of Subject Bank)———————
(Name of Person(s) Filing Statement)———
(Title of Class of Securities)———————
(CUSIP Number of Class of Securities)
(Name, address and telephone number of person authorized to receive notice and communications on behalf of the person(s) filing statement.)

Instructions: Six copies of this statement, including all exhibits, should be filed with the Comptroller.

General Instructions: A. The item numbers and captions of the items shall be included but the text of the items is to be omitted. The answers to the items shall be so prepared as to indicate clearly the coverage of the items without referring to the text of the items. Answer every item. If an item is inapplicable or the answer is in the negative so state.

B. Information contained in exhibits to the statement may be incorporated by reference in answer or partial answer to any item or sub-item of the statement unless it would render such answer misleading, incomplete, unclear or confusing. Material incorporated by reference shall be clearly identified in the reference by page, paragraph, caption or otherwise. An express statement that the specified matter is incorporated by reference shall be made at the particular place in the statement where the information is required. A copy of any information or a copy of the pertinent pages of a document containing such information which is incorporated by reference shall be submitted with this statement as an exhibit and shall be deemed to be filed with the Comptroller for all purposes of the Act.

Item 1—Security and Subject Company

State the title of the class of equity securities to which this statement relates and the name and address of the principal executive offices of the subject bank.

Item 2—Tender Offer of the Bidder

Identify the tender offer to which this statement relates, the name of the bidder and the address of its principal executive offices or, if the bidder is a natural person, the bidder's residence or business address (which may be based on the bidder's Form F-13 (12 CFR 11.690) filed with the Comptroller).

Item 3—Identity and Background

(a) State the name and business address of the person filing this statement.

(b) If material, describe any contract, agreement, arrangement or understanding and any actual or potential conflict of interest between the person filing this statement or its affiliates and: (1) the subject bank, its executive officers, directors or affiliates; or (2) the bidder, its executive officers, directors or affiliates.

Instruction: If the person filing this statement is the subject bank and if the materiality requirement of Item 3(b) is applicable to any contract, agreement, arrangement or understanding between the subject bank or any affiliate of the subject bank and any executive officer or director of the subject bank, it shall not be necessary to include a description thereof in this statement, or in any solicitation or recommendation published, sent or given to security holders if such information, or information which does not differ materially from such information, has been disclosed in any proxy statement, report or other communication sent within one year of the filing date of this statement by the subject bank to the then holders of the securities and has been filed with the Comptroller: *Provided,* That this statement and the solicitation or recommendation published, sent or given to security holders shall contain specific reference to such proxy statement, report or other communication and that a copy of the pertinent portion(s) thereof is filed as an exhibit to this statement.

Item 4—The Solicitation or Recommendation

(a) State the nature of the solicitation or the recommendation. If this statement relates to a recommendation, state whether the person filing this statement is advising security holders of the securities being sought by the bidder to accept or reject the tender offer or to take other action with respect to the tender offer and, if so, furnish a description of such other action being recommended. If the person filing this statement is the subject bank and a recommendation is not being made, state whether the subject bank is either expressing no opinion and is remaining neutral toward the tender offer or is unable to take a position with respect to the tender offer.

(b) State the reason(s) for the position (including the inability to take a position) stated in (a) of this Item.

Instruction: Conclusory statements such as "The tender offer is in the best interest of shareholders," will not be considered sufficient disclosure in response to Item 4(b).

Item 5—Persons Retained, Employed or To Be Compensated

Identify any person or class of persons employed, retained or to be compensated by the person filing this statement or by any person on its behalf, to make solicitations or recommendations to security holders and describe briefly the terms of such employment, retainer or arrangement for compensation.

Item 6—Recent Transactions and Intent With Respect to Securities

(a) Describe any transaction in the securities referred to in Item 1 which was affected during the past 60 days by the person(s) named in response to Item 3(a) and by any executive officer, director, affiliate or subsidiary of such person(s).

(b) To the extent known by the person filing this statement, state whether the persons referred to in Item 6(a) presently intend to tender to the bidder, sell or hold securities of the class of securities being sought by the bidder which are held of record or beneficially owned by such persons.

Item 7—Certain Negotiations and Transactions by the Subject Bank

(a) If the person filing this statement is the subject bank, state whether or not any negotiation is being undertaken or is underway by the subject bank in response to the tender offer which relates to or would result in:

(1) An extraordinary transaction such as a merger or reorganization, involving the subject bank, or any subsidiary of the subject bank;

(2) A purchase, sale or transfer of a material amount of assets by the subject bank or any subsidiary of the subject bank;

(3) A tender offer for or other acquisition of securities by or of the subject bank; or

(4) Any material change in the present capitalization or dividend policy of the subject bank.

Instruction. If no agreement in principle has yet been reached, the possible terms of any transaction or the parties thereto need not be disclosed if in the opinion of the Board of Directors of the subject bank such disclosure would jeopardize continuation of such negotiations. In such event, disclosure that negotiations are being undertaken or are underway and are in the preliminary stages will be sufficient.

(b) Describe any transaction, board resolution, agreement in principle, or a signed contract in response to the tender offer, other than one described pursuant to Item 3(b) of this statement, which relates to or would result in one or more of the matters referred to in Item 7(a) (1), (2), (3) or (4).

Item 8—Additional Information To Be Furnished

Furnish such additional information, if any, as may be necessary to make the required statements, in light of the circumstances under which they are made, not materially misleading.

Item 9—Material To Be Filed as Exhibits

Furnish a copy of:

(a) Any written solicitation or recommendation which is published or sent or given to security holders in connection with the solicitation or recommendation referred to in Item 4.

(b) If any oral solicitation or recommendation to security holders is to be made by or on behalf of the person filing this statement, any written instruction, or other material which is furnished to the persons making the actual oral solicitation or recommendation for their use, directly or indirectly, in connection with the solicitation or recommendation.

(c) Any contract, agreement, arrangement or understanding described in Item 3(b) or the pertinent portion(s) of any proxy statement, report or other communication referred to in Item 3(b).

Signature. After reasonable inquiry and to the best of my knowledge and belief, I certify that the information set forth in this statement is true, complete and correct.

(Date)_____

(Signature)_____

(Name and Title)_____

Instruction. The original statement shall be signed by each person on whose behalf the statement is filed or his authorized representative. If the statement is signed on behalf of a person by his authorized representative (other than an executive officer of a corporation or bank or a general partner of a partnership), evidence of the representative's authority to sign on behalf of such person shall be filed with the statement. The name and any title of each person who signs the statement shall be typed or printed beneath his signature.

Subpart G—Requirements Concerning Registration and Reporting

General

§ 11.701 Scope of subject.

The rules contained in this regulation shall govern all registration statements of registered national banks filed pursuant to Sections 12(b) and 12(g) of the Act and all reports of registered national banks filed pursuant to Sections 13 and 15(d) of the Act, including all amendments to such statements and reports, except that any provision in a form covering the same subject matter as any such rule shall be controlling.

§ 11.702 Title of securities.

Wherever the title of securities is required to be stated, information shall be given that will indicate the type and general character of the securities, including:

(a) In the case of shares, the par or stated value, if any; the rate of dividends, if fixed, and whether cumulative or noncumulative; a brief indication of the preference, if any; and if convertible, a statement to that effect.

(b) In the case of funded debt, the rate of interest; the date of maturity, or if the issue matures serially, a brief indication of the serial maturities, such as "maturing serially from 1970 to 1980"; if payment of principal or interest is contingent, an appropriate indication of such contingency; a brief indication of the priority of the issue; and if convertible a statement to that effect.

(c) In the case of any other kind of security, appropriate information of comparable character.

§ 11.703 Supplemental information.

The Office of the Comptroller of the Currency may request supplemental information concerning the bank, a registration statement or a periodic or other report under the Act. This information shall not be required to be filed with or deemed part of the registration statement or report. The information shall be returned to the registrant upon request, provided that:

(a) Such request is made at the time such information is furnished to the staff;

(b) The return of such information is consistent with the protection of investors; and

(c) The return of such information is consistent with the provisions of the Freedom of Information Act.

§ 11.704 Interpretation of requirements.

Unless the context clearly shows otherwise:

(a) The forms require information only as to the bank and its subsidiaries.

(b) Whenever any fixed period of time in the past is indicated, such period shall be computed from the date of filing.

(c) Whenever words relate to the future, they have reference solely to present intention.

(d) Any words indicating the holder of a position or office include persons, by whatever titles designated, whose duties are those ordinarily performed by holders of such positions or offices.

Formal Requirements

§11.710 Requirements as to proper form.

Every statement or report shall be on the form prescribed by the Comptroller, as in effect on the date of filing. Any statement or report shall be deemed to be filed on the proper form unless objection to the form is made by the Comptroller within thirty days after the date of filing.

§ 11.711 Number of copies; signatures; binding.

(a) Except where otherwise provided in a particular form, three copies of each registration statement and report (including financial statements) and two copies of each exhibit and each other document filed as a part thereof, shall be filed with the Comptroller of the Currency. At least one complete copy of each statement shall be filed with each exchange, if any, on which the securities covered thereby are being registered. At least one copy of each report shall be filed with each exchange, if any, on which the bank has securities registered.

(b) At least one copy of each statement or report filed with the Comptroller of the Currency and one copy thereof filed with an exchange shall be manually signed. If the statement or report is typewritten, one of the signed copies filed with the Comptroller of the Currency shall be an original "ribbon" copy. Unsigned copies shall be conformed. If the signature of any person is affixed pursuant to a power of attorney or other similar authority, a copy of such power or other authority shall also be filed with the statement or report.

(c) Each copy of a statement or report filed with the Comptroller of the Currency or with an exchange shall be bound in one or more parts. Copies filed with the Comptroller of the Currency shall be bound without stiff covers. The statement or report shall be bound on the left side in such a manner as to leave the reading matter legible.

§ 11.712 Requirements as to paper, printing, and language.

(a) Statements and reports shall be filed on good quality, unglazed, white paper 8½ x 11 inches in size, insofar as practicable. Tables, charts, maps, and financial statements may, however, be on larger paper if folded to that size.

(b) The statement or report and, insofar as practicable, all papers and documents filed as a part thereof, shall be printed, lithographed, mimeographed, photocopied or typewritten. The statement or report or any portion thereof may, however, be prepared by any similar process that, in the opinion of the Comptroller of the Currency, produces copies suitable for a permanent record. Irrespective of the process used, all copies of any such material shall be clear, easily readable, and suitable for repeated photocopying. Debits in credit categories and credits in debit categories shall be designated so as to be clearly distinguishable as such on photocopies.

(c) The body of all printed statements and reports and all notes to financial statements and other tabular data included therein shall be in roman type at least as large as 10-point modern type. To the extent necessary for convenient presentation, however, financial statements and other statistical or tabular data, including tabular data in notes, may be in roman type at least as large and as legible as 8-point modern type. All such type shall be leaded at least 2 points.

(d) Statements and reports shall be in English. If any exhibit or other paper or document filed with a statement or report is in a foreign language, it shall be accompanied by a translation into English.

§ 11.713 Preparation of statement or report.

Each statement and report shall contain the numbers and captions of all items of the appropriate form, but the text of the items may be omitted provided the answers thereto are so prepared as to indicate to the reader the coverage of the items without the necessity of his referring to the text of the items or instructions thereto. Where any item requires information to be given in tabular form, however, it shall be given in substantially the tabular form specified in the item. All instructions, whether appearing under the items of the form or elsewhere therein, are to be omitted. Unless expressly provided otherwise, if any item is inapplicable or the answer thereto is in the negative, an appropriate statement to that effect shall be made.

§ 11.714 Riders, inserts.

Riders shall not be used. If the statement or report is typed on a printed form, and the space provided for the answer to any given item is insufficient, reference shall be made in such space to a full insert page or pages on which the item number and caption and the complete answer are given.

§ 11.715 Amendments.

All amendments shall comply with all pertinent requirements applicable to statements and reports. Amendments shall be filed separately for each statement or report amended. Amendments to a statement may be filed either before or after registration becomes effective. All amendments should be filed on Form F-20.

General Requirements as to Contents

§ 11.720 Additional information.

In addition to the information expressly required to be included in a statement or report, there shall be added such further material information, if any, as may be necessary to make the required statements, in the light of the circumstances under which they are made, not misleading.

§ 11.721 Information unknown or not available.

Information required need be given only insofar as it is known or reasonably available to the bank. If any required information is unknown and not reasonably available to the bank, either because the obtaining thereof would involve unreasonable effort or expense or because it rests peculiarly within the knowledge of another person not affiliated with the bank, the information may be omitted, subject to the following conditions:

(a) The bank shall give such information on the subject as it possesses or can acquire without unreasonable effort or expense together with the sources thereof, and

(b) The bank shall include a statement either showing that unreasonable effort or expense would be involved or indicating the absence of any affiliation with the person within whose knowledge the information rests and stating the result of a request made to such person for the information. No such request need be made, however, to any foreign government, or an agency or instrumentality thereof, if, in the opinion of the bank, such request would be harmful to existing relationships.

§ 11.722 Disclaimer of control.

If the existence of control is open to reasonable doubt in any instance, the bank may disclaim the existence of control and any admission thereof; in such case, however, the bank shall state the material facts pertinent to the possible existence of control.

§ 11.723 Incorporation by reference and summaries or outlines of documents.

(a) Matter contained in any part of a statement or report filed pursuant to this Part 11, other than exhibits, may be incorporated by reference in answer or partial answer to any item of a previously filed statement or report. Matter contained in an exhibit may be so incorporated to the extent permitted in paragraph (d) of this section.

(b) Financial statements incorporated by reference shall satisfy the requirements of the form or report in which they are incorporated. Financial statements or other financial data required to be given in comparative form for two or more fiscal years or periods shall not be incorporated by reference unless the material incorporated by reference includes the entire period for which the comparative data is given.

(c) Copies of material incorporated by reference shall be submitted with such copies of the statement or report, and shall be deemed to be filed with the Comptroller of the Currency for all purposes of the Act.

(d) *Summaries or outlines of documents.* Where an item requires a summary or outline of the provisions of any document, only a brief statement shall be made, in succinct and condensed form, as to the most important provisions. In addition to such statement, the summary or outline may incorporate by reference particular items, sections, or paragraphs of any exhibit and may be qualified in its entirety by such reference. Matter contained in an exhibit may be incorporated by reference in answer to an item only to the extent permitted by this paragraph (d).

(e) Any incorporation by reference of matter pursuant to this section shall be subject to the provisions of Rule 24 of the SEC's Rules of Practice restricting incorporation by reference of documents which incorporate by reference other information. Material incorporated by reference shall be clearly identified in the reference by page, paragraph, caption or otherwise. Where only certain pages of a document are incorporated by reference and filed as an exhibit, the document from which the material is taken shall be clearly identified in the reference. An express statement that the specified matter is incorporated by reference shall be made at the particular place in the statement or report where the information is required. Matter shall not be incorporated by reference in any case where such incorporation would render the statement or report incomplete, unclear or confusing.

§ 11.724 Notification of inability to file timely annual or quarterly report or portions thereof.

(a) If all or any required portion of an annual report on Form F–2, or a quarterly report on Form F–4 is not filed within the time period prescribed for such report, the bank, no later than one business day after the due date for such report, shall file a Form 12b–25 (17 CFR 249.322) with the Comptroller which shall contain disclosure of the inability to file the report timely and the reasons therefor in reasonable detail.

(b) With respect to any report or portion of any report described in paragraph (a) of this section which is not timely filed because the bank is unable to do so without unreasonable effort or expense, such report shall be deemed to be filed on its prescribed due date if:

(1) The bank files the Form 12b–25 in compliance with paragraph (a) of this section and, when applicable, furnishes the exhibit required by paragraph (c) of this section;

(2) The bank represents in the Form 12b–25 that:

(i) The reason(s) causing the inability to file timely could not be eliminated by the bank without unreasonable effort or expense; and

(ii) Either the subject annual report/portion thereof will be filed no later than the fifteenth calendar day following the prescribed due date or the subject quarterly report/portion thereof will be filed no later than the fifth calendar day following the prescribed due date; and

(3) The report/portion thereof is actually filed within the period specified by paragraph (b)(2)(ii) of this section.

(c) If paragraph (b) of this section is applicable and the reason the subject report/portion thereof cannot be filed timely without unreasonable effort or expense relates to the inability of any person, other than the bank, to furnish any required opinion, report or certificate, the Form 12b–25 shall have attached as an exhibit a statement signed by such person stating the specific reasons why such person is unable to furnish the required opinion, report or certification on or before the date such report must be filed.

(d) If a Form 12b–25 filed pursuant to paragraph (a) of this section relates only to a portion of a subject report, the bank shall:

(1) File the balance of such report and indicate on the cover page thereof which disclosure items are omitted; and

(2) Include, on the upper right corner of the amendment to the report (required to be filed on Form 8) which includes the previously omitted information, the following statement:

> The following items were the subject of a Form 12b–25 and are included herein: (List Item Numbers).

(e) The provisions of ths section shall not apply to:

(1) Financial statements to be filed by amendment in accordance with § 11.916 or schedules to be filed by amendment in accordance with General Instruction A of Form F–2.

Exhibits

§ 11.730 Additional exhibits.

The bank may file such exhibits as it may desire, in addition to those required by the appropriate form. Such exhibits shall be so marked as to indicate clearly the subject matter to which they refer.

§ 11.731 Omission of substantially identical documents.

In any case where two or more indentures, contracts, franchises, or other documents required to be filed as exhibits are substantially identical in all material respects except as to the parties thereto, the dates of execution, or other details, the bank need file a copy of only one of such documents, with a schedule identifying the documents omitted and setting forth the material details in which such documents differ from the document of which a copy is filed. The Comptroller of the Currency may at any time in its discretion require the filing of copies of documents so omitted.

§ 11.732 Incorporation of exhibits by reference.

(a) Any document or part thereof previously filed with the Comptroller of the Currency pursuant to this part may, subject to the following limitations, be incorporated by reference as an exhibit to any registration statement or report filed with the Comptroller of the Currency by the same or any other person. Any document or part thereof filed with an exchange pursuant to the Act may be incorporated by reference as an exhibit to any registration statement or report filed with the exchange by the same or any other person.

(b) Any document incorporated by reference pursuant to this § 11.732 shall be so incorporated only by reference to the specific document and to the prior filing in which it was physically filed, not to another file which incorporates it by reference.

(c) If any modification has occurred in the text of any document incorporated by reference since the filing thereof, the bank shall file with the reference a statement containing the text of any such modification and the date thereof.

(d) No document which has been on file with the Comptroller of the Currency pursuant to this part for a period of more than 5 years may be incorporated by reference. This limitation shall not, however, apply to a corporate charter or bylaws if such document has not been amended more than twice since such filing.

Subpart H—Content of Nonfinancial Statements and Reports

General

§ 11.800 General.

This subpart lists and describes topics to be discussed in the nonfinancial statement portions of registration statements under Section 12, annual or

other reports under Sections 13 and 15(d), annual reports to security holders and proxy and information statements under Section 14 of the Exchange Act, and any other documents required to be filed under the Exchange Act, to the extent provided in the forms and rules under such Act.

Business

§ 11.811 Description of business.

Describe briefly the business done by the bank and any significant developments or trends in such business occurring over the preceding five years. In describing the business done by the bank, the business of its subsidiaries should be included only insofar as the same is important to an understanding of the character and development of the business conducted by the total enterprise. The description shall also include without limitation, information as to matters such as the following:

(a) The primary business locations of the bank, including the number of banking offices in each city (or county) in the United States in which the bank has offices and the number of banking offices located in each foreign country or jurisdiction.

(b) The competitive conditions and the competitive position of the bank and other financial intermediaries, with which the bank competes, in its service area.

(c) The amount of loan and similar commitments by appropriate categories (excluding check credit card lines), as of the end of each of the last two fiscal years and with respect to the amount as of the end of the most recent fiscal year, the portion considered to be "firm" and the portion not reasonably expected to be exercised within the current year;

Notes.—1. The categorization may include such items as commercial letters of credit, commitments to grant loans, and commitments to purchase loans, or such other classifications deemed appropriate by the bank. Any specific category representing more than 25 percent of the total commitments shown shall, however, be identified and specific categories representing individually less than 25 percent of the total commitments shown may be aggregated as Other Commitments.

2. If more than 25 percent of the total commitments shown are on terms whereby the prices or interest rates are not to be determined by the market conditions prevailing at the time the commitments are exercised, the amount and a description of such commitments should also be disclosed.

(d) If a material portion of the bank's deposits has been obtained from a single person or a few persons (including Federal, State, and local governments and agencies thereunder), the loss of any of one or more of which would have a materially adverse effect on the business of the bank, or if a material portion of the bank's loans are concentrated within a single industry or group of related industries, a description of such customers, their other relationships, if any, to the bank, and material facts regarding their importance to the business of the bank.

(e) The extent to which the business is or may be seasonal;

(f) The importance of and risks attendant to foreign sources and applications of funds;

(g) The material effects that compliance with Federal, State and local provisions relating to the protection of the environment, may have upon the capital expenditures, earnings and competitive position of the bank and its subsidiaries;

(h) The approximate number of persons employed;

(i) The commercial, consumer, international, trust, and municipal trading services and other business activities of the bank.

§ 11.812 Description of property.

Describe briefly, individually or by categories, (a) properties held in fee, by the bank and its subsidiaries, in which the banking offices are located, indicating any major encumbrances with respect thereto, and (b) other real estate of material value that is owned by the bank. In the event aggregate annual rentals paid during the bank's last fiscal year exceeded 5 percent of its operating expenses, state the amount of such rentals and the average term of the leases pursuant to which such rentals were paid, and the expiration dates of any material leases.

§ 11.813 Pending legal proceedings.

Briefly describe any material pending legal proceedings, other than ordinary routine litigation incidental to the business, to which the bank or any of its subsidiaries is a party or of which any of their property is the subject. Include the name of the court or agency in which the proceedings are pending, the date instituted, the principal parties thereto, a description of the factual basis alleged to underlie the proceeding and the relief sought. Include similar information as to any such proceedings known to be contemplated by governmental authorities.

Instructions

1. No information need be given with respect to proceedings which involve principally claims for damages, if the aggregate amount involved does not exceed ten percent of the equity capital accounts of the bank and its subsidiaries on a consolidated basis. However, if any proceedings present in large degree the same issues as other proceedings pending or known to be contemplated, the amount involved in such other proceedings shall be included in computing such percentage.

2. Any material proceedings to which any director, officer, or affiliate of the bank, any person holding beneficially in excess of five percent of the bank's outstanding stock, or any associate of any such director, officer or security holder, is a party, or has a material interest adverse to the bank or any of its subsidiaries, shall also be described.

3. Notwithstanding the foregoing, administrative or judicial proceedings arising under any Federal, State or local provisions regulating the discharge of materials into the environment or otherwise relating to the protection of the environment, shall not be deemed "ordinary routine litigation incidental to the business" and shall be described if such proceeding is material to the business or financial condition of the bank or if it involves primarily a claim for damages and the amount involved, exclusive of interest and costs, exceeds 10 percent of the equity capital of the bank and its subsidiaries on a consolidated basis. Any such proceedings by governmental authorities shall be deemed material and shall be described whether or not the amount of any claim for damages involved exceeds 10 percent of equity capital on a consolidated basis and whether or not such proceedings are considered "ordinary routine litigation incidental to the business": *Provided, however,* That such proceedings which are similar in nature may be grouped and described generically stating: the number of such proceedings in each group; a generic description of such proceedings; the issues generally involved; and, if such proceedings in the aggregate are material to the business or financial condition of the bank, the effect of such proceedings on the business or financial condition of the bank.

Securities of the Bank

§ 11.821 Market price and dividends on the bank's common equity and related stockholder matters.

(a) *Market information.* For each class of securities to be registered pursuant to Section 12(g) of the Act, state briefly the nature of the trading market, if any, in such securities, including the names of the principal makers and the reported high and low prices for each quarterly period during the past two years.

Instructions

In furnishing high and low bid prices, the bank may rely on quotations published in publications of national circulation, provided the source of the information is identified. If the principal market makers are not known, it will suffice to name three market makers which are believed to be actively engaged in making a market in the securities.

(b) *Holders.* (1) Set forth the approximate number of holders of each

class of common equity of the bank as of the latest practicable date.

(2) If the information called for by this paragraph (b) is being presented in a registration statement filed pursuant to the Securities Act or a proxy statement or information statement filed pursuant to the Exchange Act that relates to an acquisition, business combination or other reorganization, indicate the effect of such transaction on the amount and percentage of present holdings of the bank's common equity owned beneficially by—

(i) Any person (including any group as that term is used in Section 13(d)(3) of the Exchange Act) who is known to the bank to be the beneficial owner of more than five percent of any class of the bank's common equity;

(ii) Each director and nominee; and

(iii) All directors and officers as a group, and/or the bank's present commitments to issue such persons shares of any class of its common equity.

(c) *Dividends.* (1) State the frequency and amount of any cash dividends declared on each class of its common equity by the bank for the two most recent fiscal years and for any subsequent interim period for which financial statements are required by the General Instructions to Financial Statements in Subpart I of this Part. Where there are restrictions (including, where appropriate, restrictions on the ability of the bank's subsidiaries to transfer funds to the bank in the form of cash dividends, loans or advances) that currently materially limit the bank's ability to pay such dividends or that the bank reasonably believes are likely to limit materially the future payment of dividends on the common equity so state, and either (i) describe briefly (where appropriate quantify) such restrictions, or (ii) cross reference to the specific discussion of such restrictions as presented in the Management's Discussion and Analysis of Financial Condition and Results of Operations, prescribed by § 11.833, and to the description of such restrictions required by Subpart I of this part in the bank's financial statements.

(2) Banks having a record of paying no cash dividends although earnings indicate an ability to do so, are encouraged to consider the question of their intention to pay cash dividends in the foreseeable future and, if no such intention exists, are encouraged to make a statement of that fact in the filing. Banks having a history of paying cash dividends also are encouraged to indicate whether they currently expect that comparable cash dividends will continue to be paid in the future and, if not, the nature of the change in the amount or rate of cash dividend payments.

Instructions to § 11.821

1. Banks, the common equity of which is listed for trading on more than one securities exchange registered under the Exchange Act, are required to indicate each such exchange pursuant to paragraph (a); where available, these shall be the prices as reported in the consolidated transaction reporting system and, where the prices are not so reported, the prices on the most significant (in terms of volume) securities exchange for such shares.

2. Market prices and dividends reported pursuant to this section shall be adjusted to give retroactive effect to material changes resulting from stock dividends, stock splits and reverse stock splits.

3. The computation of the approximate number of holders of bank's common equity may be based upon the number of record holders or also may include individual participants in security position listings. See SEC Rule 17Ad–8 under the Exchange Act. The method of computation that is chosen shall be indicated.

§ 11.822 Description of bank's securities.

(a) If capital stock is being registered, state the title of the class and furnish the following information:

(1) Outline briefly—

(i) Divided rights;

(ii) Voting rights;

(iii) Liquidation rights;

(iv) Preemptive rights;

(v) Conversion rights;

(vi) Redemption provisions;

(vii) Sinking fund provisions; and

(viii) Liability to further calls or to assessment by the bank.

(2) If the rights of holders of such stock may be modified otherwise than by a vote of a majority or more of the shares outstanding, voting as a class, so state and explain briefly.

(3) Outline briefly any restrictions on the repurchase or redemption of shares by the bank while there is any arrearage in the payment of dividends or sinking fund installments. If there is no such restriction, so state.

Instructions

1. This section requires only a brief summary of the provisions that are pertinent from an investment standpoint. A complete legal description of the provisions referred to is not required and should not be given. Do not set forth the provisions of the governing instruments verbatim; only a succinct resume is required.

2. If the rights evidenced by the securities being registered are materially limited or qualified by the rights of any other class of securities or by the provisions of any contract or other document, include such information regarding such other securities as will enable investors to understand the rights evidenced by the securities being registered. If any securities being registered are to be offered in exchange for other securities, an appropriate description of such other securities shall be given. No information need be given, however, as to any class of securities all of which will be redeemed and retired if appropriate steps to assure such redemption and retirement will be taken prior to registration of the securities being registered.

(b) If long-term debt is being registered, outline briefly the following, if relevant:

(1) Provisions governing interest, conversion, maturity, redemption, amortization, sinking fund, or retirement.

(2) Provisions restricting the declaration of dividends or requiring the maintenance of any ratio of assets or the creation or maintenance of reserves or the maintenance of properties.

(3) Provisions permitting or restricting the issuance of additional securities, the withdrawal of cash deposited against such issuance, the incurring of additional debt, the release or substitution of assets securing the issue, the modification of the terms of the security, and similar provisions.

(4) The name of the trustee and the nature of any material relationship between the trustee and the bank or any of its affiliates; the percentage of securities of the class necessary to require the trustee to take action, and the indemnification the trustee may require before proceeding to enforce the lien.

(5) Provisions governing the kind and priority of any lien, securing the issue, and a brief identification of the principal properties subject to each lien.

Instructions

1. The instructions to § 11.822(a) shall apply to § 11.822(b).

2. Provisions permitting the release of assets upon the deposit of equivalent funds or the pledge of equivalent property, the release of property no longer required in the business, obsolete property or property taken by eminent domain, the application of insurance moneys, and similar provisions, need not be described in answer to paragraph (b)(3).

(c) If securities other than capital stock or long-term debt are being registered, outline briefly the rights evidenced thereby. If subscription warrants or rights are being registered, state the title and amounts of securities called for, the period during which and the price at which the warrants or rights are exercisable.

Instruction

The instructions to § 11.822(a) shall also apply to § 11.822(c).

Financial Information

§ 11.831 Selected financial data.

Furnish in comparative columnar form the selected financial data for the bank referred to below, for

(a) Each of the last five fiscal years of the bank (or for the life of the bank and its predecessors, if less), and

(b) Any additional fiscal years necessary to keep the information from being misleading.

Instructions to § 11.831

1. The purpose of the selected financial data is to supply in a convenient and readable format selected financial data which highlight certain significant trends in the bank's financial condition and results of operations.

2. The following items shall be included in the table of financial data: net interest income; other operating income; provision for loan and lease losses; income (loss) from continuing operations; income (loss) from continuing operations per common share; total assets; long-term obligations and redeemable preferred stock and cash dividends declared per common share. Banks may include additional items which they believe would enhance an understanding of and would highlight other trends in their financial condition and results of operations.

Briefly describe, or cross reference to a discussion thereof, factors such as accounting changes, business combinations or dispositions of business operations, that materially affect the comparability of the selected financial data. Discuss any material uncertainties which might cause the data not to be indicative of the bank's future financial condition or results of operations.

3. Banks that are required to provide five-year summary information in accordance with Statement of Financial Accounting Standard No. 33, "Financial Reporting and Changing Prices," may combine such information with the selected financial data provided pursuant to this section.

4. All references to the bank in the table of selected financial data and in this section shall mean the bank and its subsidiaries consolidated.

5. If interim period financial statements are included, or are required to be included by Subpart I, banks should consider whether any or all of the financial data need to be updated for such interim periods to reflect a material change in the trends indicated. When such updating is necessary, banks shall provide information for the comparable prior period unless not necessary to an understanding of such updating information.

§ 11.832 Supplementary financial information.

(a) Selected quarterly financial data. Banks specified in paragraph (c) shall provide the information specified below.

(1) Revenue of gross profit (net revenue less costs and expenses associated directly with or allocated to services rendered), income (loss) before extraordinary items and cumulative effect of a change in accounting, per share data based upon such income (loss), and net income (loss), for each full quarter within the two most recent fiscal years and any subsequent interim period for which financial statements are included or are required to be included by Subpart I.

(2) A reconciliation of the data supplied pursuant to this paragraph (a) if different from those previously reported on the Form F-4 filed for any quarter, such as would be the case when a pooling of interests occurs or where an error is corrected.

(b) If the financial statements to which this information relates have been reported on by an accountant, appropriate professional standards and procedures, as enumerated in the Statements of Auditing Standards issued by the Auditing Standards Board of the American Institute of Certified Public Accountants, shall be followed by the reporting accountant with regard to the data required by paragraph (a) of this section.

(c) Paragraph (a) of this section applies to any national bank that meets both of the following tests:

(1) *First test.* The bank:

(i) Has securities registered pursuant to Section 12(b) of the Exchange Act; or

(ii) Has securities registered pursuant to Section 12(g) of the Exchange Act which also

(A) Are quoted on the National Association of Securities Dealeres Automated Quotation System, and

(B) Meet all the following criteria:

(*1*) Three or more dealers stand willing to, and do in fact, make a market in such stock, including making regularly published bona fide bids and offers for such stock for their own accounts; or the stock is registered on a securities exchange that is exempted by the Commission from registration as a national securities exchange pursuant to Section 5 of the Exchange Act. For purposes of this paragraph, the insertion of quotations into the National Association of Securities Dealers Automated Quotation System by three or more dealers on at least 10 business days during the six month period immediately preceding the fiscal year for which the financial statements are required shall satisfy the requirement that three dealers be making a market;

(*2*) There continue to be 800 or more holders of record, as defined in § 11.102, of the stock who are not officers, directors, or beneficial owners of 10 percent or more of the stock;

(*3*) The bank continues to be a United States corporation;

(*4*) There are 300,000 or more shares outstanding in addition to shares held beneficially by officers, directors, or beneficial owners of more than 10 percent of the stock; and

(*5*) Any two of the three following requirements:

(*i*) The shares described in paragraph (5)(i)(C)(2)(iv) of this item continue to have a market value of at least $2.5 million;

(*ii*) The minimum representative bid price of such stock is at least $5 per share; or

(*iii*) The bank continues to have at least $2.5 million of capital, surplus, and undivided profits.

Instructions to Paragraph (c)(1)(ii)(B)(5)

1. The computation required by paragraph (*5*)(*i*) and (*ii*) shall be based on the average of the closing representative bid prices as reported by the National Association of Securities Dealers Automated Quotation System in accordance with SEC Rule 11Ac1-2 under the Exchange Act of the 20 business days immediately preceding the fiscal year for which the financial statements are required.

2. The computation required by paragraph (*5*)(*iii*) shall be as of the last business day of the fiscal year immediately preceding the fiscal year for which the financial statements are required.

(2) *Second test.* The bank and its consolidated subsidiaries (i) have had a net income after taxes, but before extraordinary items and the cumulative effect of a change in accounting, of at least $250,000 for each of the last three fiscal years; or (ii) had total assets of at least $200,000,000 for the last fiscal year-end.

(d) Information on the effects of changing prices. Information on the effects of changing prices on business enterprises shall be presented by banks subject to the reporting provisions of Statements of Financial Accounting Standards No. 33, "Financial Reporting and Changing Prices," in accordance with the specific provisions of those Statements.

§ 11.833 Management's discussion and analysis of financial condition and results of operations.

(a) *Full fiscal years.* Discuss the bank's financial condition, changes in financial condition and results of operations. The discussion shall provide information as specified in paragraphs (a) (1), (2) and (3) of this section with respect to liquidity, capital resources and results of operations and also shall provide such other information that the bank believes to be necessary to an understanding of its financial condition, changes in financial condition and results of operations. Discussions of liquidity and capital resources may be

combined whenever the two topics are interrelated.

(1) *Liquidity.* Identify any known trends or any known demands, commitments, events or uncertainties that will result in, or that are reasonably likely to result in, the bank's liquidity increasing or decreasing in any material way. If a material deficiency is identified, indicate the course of action that the bank has taken, or proposes to take, to remedy the deficiency. Also identify and separately describe internal and external sources of liquidity, and briefly discuss any material unused sources of liquid assets.

(2) *Capital resources.* (i) Describe the bank's material commitments for capital expenditures as of the end of the latest fiscal period, and indicate the general purpose of such commitments and the anticipated source of funds needed to fulfill such commitments.

(ii) Describe any known material trends, favorable or unfavorable, in the bank's capital resources. Indicate any expected material changes in the mix and relative cost of such resources. The discussion shall consider changes between equity, debt and any off-balance sheet financing arrangements.

(3) *Results of operations.* (i) Describe any unusual or infrequent events or transactions or any significant economic changes that materially affected the amount of reported income from continuing operations and, in each case, indicate the extent to which income was so affected. In addition, describe any other significant components of revenues or expenses that, in the bank's judgment, should be described in order to understand the bank's results of operations.

(ii) Describe any known trends or uncertainties that have had or that the bank reasonably expects will have a material favorable or unfavorable impact on revenues or income from continuing operations. If the bank knows of events that will cause a material change in the relationship between costs and revenue (such as known future increases in costs of labor or materials or price increases or inventory adjustments), the change in the relationship shall be disclosed.

(iii) To the extent that the financial statements disclose material increases in revenue, provide a narrative discussion of the extent to which such increases are attributable to increases in prices or to increases in the volume or amount of services being sold or to the introduction of new products or services.

(iv) For the three most recent fiscal years of the bank, or for those fiscal years in which the bank has been engaged in business, whichever period is shortest, discuss the impact of inflation and changing prices on the bank's net interest and other operating income and on income from continuing operations.

Instructions to § 11.833(a)

1. The bank's discussion and analysis shall be of the financial statements and of other statistical data that the bank believes will enhance a reader's understanding of its financial condition, changes in financial condition and results of operations. Generally, the discussion shall cover the three year period covered by the financial statements and shall use year-to-year comparisons or any other formats that in the bank's judgment enhance a reader's understanding. However, where threnl information is relevant, reference to the five year selected financial data appearing pursuant to § 11.831 may be necessary.

2. The purpose of the discussion and analysis shall be to provide to investors and other users information relevant to an assessment of the financial condition and results of operations of the bank as determined by evaluating the amounts and certainty of cash flows from operations and from outside sources. The information provided pursuant to this section need only include that which is available to the bank without undue effort or expense and which does not clearly appear in the bank's financial statements.

3. The discussion and analysis shall focus specifically on material events and uncertainties known to management that would cause reported financial information not to be necessarily indicative of future operating results or of future financial condition. This would include descriptions and amounts of (A) matters that would have an impact on future operations and have not had an impact in the past, and (B) matters that have had an impact on reported operations and are not expected to have an impact upon future operations.

4. Where the consolidated financial statements reveal material changes from year to year in one or more line items, the causes for the changes shall be described to the extent necessary to an understanding of the bank's businesses as a whole; provided, however, that if the causes for a change in one line item also relate to other line items, no repetition is required, and a line-by-line analysis of the financial statements as a whole is not required or generally appropriate. Banks need not recite the amounts of changes from year to year which are readily computable from the financial statements. The discussion shall not merely repeat numerical data contained in the consolidated financial statements.

5. The term "liquidity" as used in this item refers to the ability of an enterprise to generate adequate amounts of cash to meet the enterprise's needs for cash. Except where it is otherwise clear from the discussion, the bank shall indicate those balance sheet conditions or income or cash flow items which the bank believes may be indicators of its liquidity condition. Liquidity generally shall be discussed on both a long-term and short-term basis.

6. Banks are encouraged, but not required, to supply forward-looking information. This is to be distinguished from presently known data which will impact upon future operating results, such as known future increases in costs of labor or materials. This latter data may be required to be disclosed. Any forward-looking information supplied is expressly covered by the safe harbor rule for projections. (See Rule 175 under the Securities Act, § 11.106, and Rule 3b–6 under the Exchange Act and Securities Act Release No. 6084 (June 25, 1979).)

7. Banks that are required to provide narrative explanations of supplementary information disclosed in accordance with paragraph 37 of Statement of Financial Accounting Standards No. 33, "Financial Reporting and Changing Prices," (SFAS 33) may combine such explanations with the bank's discussion and analysis required pursuant to this section or may supply such information separately. If such statement is combined, the supplementary information required by SFAS 33 shall be located in reasonable proximity to the discussion and analysis. If such statement is not combined, the discussion of the impact of inflation otherwise required by this item may be omitted, but an appropriate cross reference to the explanation required by paragraph 37 of SFAS 33 shall be made.

8. Banks that are not required to provide supplementary information in accordance with SFAS 33 may discuss the effects of inflation and changes in prices in whatever manner appears appropriate under the circumstances. Although voluntary compliance with SFAS 33 is encouraged, it is not required. All that is required is a brief textual presentation of management's views. No specific numerical financial data need be presented.

9. All references to the bank in the discussion and in this item shall mean the bank and its subsidiaries consolidated.

(b) *Interim periods.* If interim period financial statements are included, or are required to be included by Subpart I, a management's discussion and analysis of the financial condition and results of operations shall be provided so as to enable the reader to assess material changes in financial condition and results of operations between the periods specified in paragraphs (b) (1) and (2) of this section. The discussion and analysis shall include a discussion of material changes in those items specifically listed in paragraph (a) of this section, except that the impact of inflation and changing prices on operations for interim periods need not be addressed.

(1) *Material changes in financial condition.* Discuss any material changes in financial conditions from the end of the preceding fiscal year to the date of the most recent interim balance sheet provided. If the interim financial

statements include an interim balance sheet as of the corresponding interim date of the preceding fiscal year, any material changes in financial conditions from that date to the date of the most recent interim balance sheet provided also shall be discussed. If discussions of changes from both the end and the corresponding interim date of the preceding fiscal year are required, the discussions may be combined at the discretion of the bank.

(2) *Material changes in results of operations.* Discuss any material changes in the bank's results of operations with respect to the most recent fiscal year-to-date period for which an income statement is provided and the corresponding year-to-date period of the preceding fiscal year. If the bank is required to, or has elected to, provide an income statement for the most recent fiscal quarter, such discussion also shall cover material changes with respect to that fiscal quarter and the corresponding fiscal quarter in the preceding fiscal year. In addition, if the bank has elected to provide an income statement for the twelve month period ended as of the date of the most recent interim balance sheet provided, the discussion also shall cover material changes with respect to that twelve month period and the twelve month period ended as of the corresponding interim balance sheet date of the preceding fiscal year. Notwithstanding the above, if for purposes of a registration statement a bank subject to paragraph (b) of § 11.914 provides a statement of income for the twelve month period ended as of the date of the most recent interim balance sheet, provided in lieu of the interim income statements otherwise required, the discussion of material changes in that twelve month period will be in respect to the preceding fiscal year rather than the corresponding preceding period.

Instructions to Paragraph (b) of § 11.833

1. If interim financial statements are presented together with financial statements for full fiscal years, the discussion of the interim financial information shall be prepared pursuant to this paragraph (b) and the discussion of the full fiscal year's information shall be prepared pursuant to paragraph (a) of this item. Such discussions may be combined.

2. In preparing the discussion and analysis required by this paragraph (b), the bank may presume that users of the interim financial information have read or have access to the discussion and analysis required by paragraph (a) for the preceding fiscal year.

3. The discussion and analysis required by this paragraph (b) is required to focus only on material changes. Where the interim financial statements reveal material changes from period to period in one or more significant line items, the causes for the changes shall be described if they have not already been disclosed: *Provided, however,* that if the causes for a change in one line item also relate to other line items, no repetition is required. Banks need not recite the amounts of changes from period to period which are readily computable from the financial statements. The discussion shall not merely repeat numerical data contained in the financial statements. The information provided shall include that which is available to the bank without undue effort or expense and which does not clearly appear in the bank's condensed interim financial statements.

4. The bank's discussion of material changes in results of operations shall identify any significant elements of the bank's income or loss from continuing operations which do not arise from or are not necessarily representative of the bank's ongoing business.

5. The bank shall discuss any seasonal aspects of its business which have had a material effect upon its financial condition or results of operations.

6. Banks are encouraged but are not required to discuss forward-looking information. Any forward-looking information supplied is expressly covered by the safe harbor rule for projections. See Rule 175 under the Securities Act, Rule 3b–6 under the Exchange Act, § 11.106 and Securities Act Release No. 6084 44 FR 38815 (July 2, 1979).

§ 11.834 Disagreements with former accountants on accounting and financial disclosure.

If, (a) within the twenty-four months prior to the date of the most recent financial statements, a Form F–3 under the Exchange Act reporting a change of accountants has been filed, (b) included in such Form F–3 there was a reported disagreement on any matter of accounting principles or practices or financial statement disclosure, (c) during the fiscal year in which the change in accountants took place or during the subsequent fiscal year there have been any transactions or events similar to those which involved the reported disagreement, and (d) such transactions or events were material and were accounted for or disclosed in a manner different from that which the former accountants apparently would have concluded was required, state the existence and nature of the disagreement and also state the effect on the financial statements if the method had been followed which the former accountants apparently would have concluded was required. These disclosures need not be made if the method asserted by the former accountants ceases to be generally accepted because of authoritative standards or interpretations subsequently issued.

Management and Certain Security Holders

§ 11.841 Directors and executive officers.

(a) *Identification of directors and officers.* List all directors and officers of the bank and all persons chosen to become directors or officers. Indicate all positions and offices with the bank held by each person named. State the age of the persons named, their terms of office, and the periods during which each such person has served. Briefly describe any arrangement or understanding between each director and officer and any other person, pursuant to which such director or officer was selected to serve in that capacity. The term "officer" is defined in § 11.102(q).

Instruction

Do not include any arrangements or understandings with directors or officers of the bank acting solely in their capacities as such.

(b) *Identification of certain significant employees.* Where the bank employs persons such as special consultants or attorneys who are not officers, but who make or are expected to make significant contributions to the business of the bank, such persons should be identified and their background disclosed to the same extent as in the case of officers.

(c) *Family relationships.* State the nature of any family relationships between any directors, and/or person nominated or chosed by the bank to become a director.

Instruction

The term "family relationships" means any relationship by blood, marriage, or adoption, not more remote than first cousin.

(d) *Business experience*—(1) *Background.* Give a brief account of the business experience during the past five years of each director, executive officer, person nominated or chosen to become a director or executive officer, and each person named in answer to paragraph (c) of this section. The account should set forth each person's principal occupations and employment during the past five years and the name and principal business of any corporation or other organization in which such occupations and employment were carried on, including whether such corporation or organization is a parent, subsidiary or other affiliate of the bank. When an executive officer or person named in response to paragraph (c) of this section has been employed by the bank or a subsidiary of the bank for less than five years, a brief explanation shall be included as to the nature of the

responsibility undertaken by the individual in prior positions to provide adequate disclosure of prior business experience. Information relating to the level of professional competence, which may include, depending upon the circumstances, such specific information as the size of the operation supervised, is required.

(2) Indicate any other directorships held by each director or person chosen to become a director in any company with a class of securities registered pursuant to Section 12 of the Act.

(e) *Involvement in certain legal proceedings.* For each proposed director or officer, describe any of the following events which occurred during the past five years and if they are material:

(1) Such person filed or was served a petition under the Bankruptcy Act or any state insolvency law; or a receiver, fiscal agent or similar officer was appointed by a court for the business or property of such person or any partnership in which such person was a general partner at or within two years before the time of such filing, or any corporation or business association of which such person was an executive officer at or within two years before the time of such filing;

(2) Such person was convicted in a criminal proceeding or is a named subject of a pending criminal proceeding (excluding traffic violations and other minor offenses);

(3) Such person was the subject of any order, judgment, or decree, not subsequently reversed, suspended or vacated of any court of competent jurisdiction permanently or temporarily enjoining such person from, or otherwise limiting the following activities:

(i) Acting as an investment adviser, underwriter, broker or dealer in securities, as an affiliated person, director or employee of any investment company, bank, savings and loan association or insurance company, or engaging in or continuing any conduct or practice in connection with such activity;

(ii) Engaging in any type of business practice; or

(iii) Engaging in any activity in connection with the purchase or sale of any security or in connection with any violation of federal or state securities laws.

(4) Such person was the subject of any order, judgment or decree, not subsequently reversed, suspended or vacated, of any federal or state authority barring suspending or otherwise limiting for more than 60 days the right of such person to engage in any activity described in subparagraph (3), above, or to be associated with persons engaged in any such activity.

(5) Such person was found by a court of competent jurisdiction in a civil action, or by a government agency, to have violated any federal or state securities law, and the judgment in such civil action or finding by the government agency has not been subsequently reversed, suspended, or vacated.

Instructions

1. For purposes of computing the five year period referred to in this paragraph, the date of a reportable event shall be the date on which the final order, judgment or decree was entered, or the date on which any rights of appeal from preliminary orders, judgments, or decrees have lapsed. With respect to bankruptcy petitions, the computation date shall be the date of filing for uncontested petitions or the date upon which approval of a contested petition becomes final.

2. If any event specified in this subparagraph (d) has occurred and information in regard thereto is omitted on the ground that it is not material, the bank may furnish to the Comptroller at the time of filing, as supplemental information and not as part of the statement, materials to which the omission relates, a description of the event, and a statement of the reasons for the omission of information in regard thereto.

3. The bank is permitted to explain any mitigating circumstances associated with events reported pursuant to this paragraph.

4. If the information called for by § 11.841(d) is being presented in a proxy or information statement, no information need be given respecting any director whose term of office as a director will not continue after the meeting to which the statement relates.

(f)(1) *Committee.* State whether or not the bank has standing audit, nominating and compensation committees of the Board of Directors, or committees performing similar functions. If the bank has such committees, however designated, identify each committee member, state the number of committee meetings held by each such committee during the last fiscal year and describe briefly the functions performed by such committees.

(2)(i) If the bank has a nominating or similar committee, state whether the committee will consider nominees recommended by shareholders and, if so,

(ii) Describe the procedures to be followed by shareholders in submitting such recommendations.

(g) *Director attendance.* State the total number of meetings of the Board of Directors (including regularly scheduled and special meetings) which were held during the last full fiscal year. Name each incumbent director who during the last full fiscal year attended fewer than 75 percent of the aggregate of (1) the total number of meetings of the board of directors (held during the period for which that person has been director) and (2) the total number of meetings held by all committees of the board of which that person served (during the periods served).

(h) *Resignation of directors.* If a director has resigned or declined to stand for re-election to the Board of Directors since the date of the last annual meeting of shareholders because of a disagreement with the bank on any matter relating to the bank's operations, policies or practices and if the director has furnished the bank with a letter describing such disagreement and requesting that the matter be disclosed, the bank shall state the date of resignation or declination to stand for re-election and summarize the director's description of the disagreement. If the bank believes that the description provided by the director is incorrect or incomplete, it may include a brief statement presenting its views of the disagreement.

(i) Shares voted at last meeting. With respect to those classes of voting stock which participated in the election of directors at the most recent meeting at which directors were elected:

(1) State in an introductory paragraph the percentage of shares present at the meeting and voting or withholding authority to vote in the election of directors; and (2) disclose in tabular format following such introductory paragraph, the percentage of total shares cast for and withheld from the vote for or, where applicable, cast against each nominee. Groups of classes or series of classes that vote together in the election of a director or directors, shall be treated as a single class for the purpose of the preceding sentence.

Instructions

1. Calculate the percentage of shares present at the meeting and voting or withholding authority to vote in the election of directors, referred to in paragraph (i)(1), by dividing the total shares cast for and withheld from the vote for or, where applicable, voted against, the director in respect of whom the highest aggregate number of shares was cast by the total number of shares outstanding which were eligible to vote as of the record date for the meeting.

2. No information need be given unless, with respect to any class of voting stock (or group of classes which voted together), 5 percent or more of the total shares cast for, withheld from, and, where applicable, cast against any nominee, were withheld from or cast against such nominee.

3. If a bank elects less than the entire board of directors annually, disclosure is required as to all directors if 5 percent or more of the total shares cast for and withheld from the vote for, or, where applicable, cast against any incumbent director were withheld from,

or cast against the vote for such director at the meeting at which that director was most recently elected.

4. No information need be given if the bank has previously furnished to its security holders a report of the results of the most recent meeting of security holders at which directors were elected which includes: (1) A description of each matter voted upon at the meeting and a statement of the percentage of the shares voting which were voted for and against each such matter, and (2) the information which would be called for by § 11.841(i). If a bank has previously furnished such results to its security holders, this fact should be set forth in the bank's cover letter accompanying the filing of preliminary proxy materials.

§ 11.842 Executive compensation.

(a)(1) *Cash compensation.* Furnish, in substantially the tabular form specified, all cash compensation paid to the following persons through the latest practicable date for services rendered in all capacities to the bank and its subsidiaries during the bank's last fiscal year:

(i) *Five executive officers.* Each of the bank's five most highly compensated executive officers whose cash compensation required to be disclosed pursuant to this paragraph exceeds $60,000, naming each such person; and

(ii) *All executive officers.* All executive officers as a group, stating the number of persons in the group without naming them.

(2) *Bonuses and deferred compensation.* The Cash Compensation Table also shall include:

(i) All cash bonuses to be paid to the named individuals and group for services rendered in all capacities to the bank and its subsidiaries during the last fiscal year unless such amounts have not been allocated at such time as compensation disclosure is filed;

(ii) All cash bonuses paid during the last fiscal year for services rendered in all capacities to the bank and its subsidiaries in a previous fiscal year, less any amount relating to the same contract, agreement, plan or arrangement included in the Cash Compensation Table for a prior fiscal year and less any amount that would have been so included but for the fact that the individual was not included in the Cash Compensation Table, as a named individual or as a member of the group, for such prior fiscal year; and

(iii) All compensation that would have been paid in cash to the named individuals and group for services rendered in all capacities to the bank and its subsidiaries during the last fiscal year but for the fact that the payment of such compensation was deferred.

CASH COMPENSATION TABLE

(A)	(B)	(C)
Name of individual or number in group.	Capacities in which served.	Cash compensation.

Instructions to § 11.842(a)

1. Cash Compensation Table. (A) The bank may include additional columns in the Cash Compensation Table. For example, the bank may segregate cash bonuses and deferred compensation from cash salaries and fees.

(B) Amounts deferred pursuant to Section 401(k) of the Internal Revenue Code are to be included in paragraph (a) for the fiscal year during which they are accrued.

(C) Banks need list in Column (B) of the Cash Compensation Table only those principal capacities served by each of the identified individuals. The cash compensation disclosed, however, must include cash compensation received in all capacities.

2. Persons covered. (A) Paragraph (a) of this section applies to any individual who was an executive officer of the bank at any time during the last fiscal year. Information need not be disclosed, however, for any portion of the period during which such individual was not an executive officer of the bank, provided a statement to that effect is made. With respect to an individual who becomes for the first time an individual whose compensation is to be reported in the Cash Compensation Table, it is not necessary to report compensation that would have been reported in the Table had the individual been included in prior years.

(B) Banks should be flexible in determining which individuals should be named in the Cash Compensation Table in order to ensure that disclosure is made with respect to key policy making members of management. Consideration should be given to the question of whether an individual's level of executive responsibilities, viewed in conjunction with such individual's actual level of cash compensation is such that the bank reasonably may conclude that the person is among its five most highly compensated, key policy making executive officers. Under this standard, it may be appropriate, in certain circumstances, to include an executive officer of a subsidiary in the Cash Compensation Table.

(C) In certain circumstances, it may be appropriate for a bank not to include in the Cash Compensation Table an individual who is one of the registrant's five most highly compensated executive officers. Among the factors that should be considered in determining not to name an individual are: (i) The distribution or accrual of an unusually large amount of cash compensation (such as a bonus or commission) that is not part of a recurring arrangement and is unlikely to continue; and (ii) the payment of amounts of cash compensation relating to overseas assignments that may be attributed predominantly to such assignments.

(b)(1) *Compensation pursuant to plans.* Describe briefly all plans, pursuant to which cash or noncash compensation was paid or distributed during the last fiscal year, or is proposed to be paid or distributed in the future, to the named individuals and group specified in paragraph (a) of this section. Information need not be given with respect to any group life, health, hospitalization, medical reimbursement or relocation plans that do not discriminate, in scope, terms, or operation, in favor of officers or directors of the bank and that are available generally to all salaried employees. The description of each plan shall include the following, except that the description of any defined benefit or actuarial plans need not include the information specified in paragraphs (b)(1)(vi) and (b)(1)(vii) of this section and the description of any stock option and stock appreciation right plan need not include the information specified in paragraph (b)(1)(vii) of this section:

(i) A summary of how the plan operates and who is covered by the plan;

(ii) The criteria used to determine amounts payable, including any performance formula or measure;

(iii) The time periods over which the measurement of benefits will be determined;

(iv) Payment schedules;

(v) Any recent material amendments to the plan;

(vi) Amounts paid or distributed pursuant to the plan to the named individuals and the group during the last fiscal year less any amount relating to the same plan which previously has been disclosed as accrued pursuant to paragraph (b)(1)(vii) of this section or a predecessor provision; and

(vii) Amounts accrued pursuant to the plan for the accounts of the named individuals and group during the last fiscal year, the distribution or unconditional vesting of which are not subject to future events.

(2) *Pension table.* As to defined benefit and actuarial plans, other than any defined benefit or actuarial plan under which benefits are not determined primarily by final compensation (or average final compensation) and years of service, include, as the payment schedule required by paragraph (b)(1)(iv) of this section, a separate Pension Table showing estimated annual benefits payable upon retirement (including amounts attributable to any defined benefit supplementary or excess pension award plans) to persons in specified compensation and years-of-service classifications. In addition, in furnishing the information required by paragraphs (b)(1)(i)–(v) of this section, include:

(i) The compensation covered by the plan, including the relationship of such covered compensation to the compensation reported in the Cash Compensation Table pursuant to paragraph (a) of this section, and state the current compensation covered by the plan for any individuals named in the Cash Compensation Table whose covered compensation differs substantially (by more than 10 percent) from that set forth in the Cash Compensation Table;

(ii) The estimated credited years of service for each of the individuals named in the Cash Compensation Table; and

(iii) A statement as to the basis upon which benefits are computed (e.g., straight life annuity amounts) and whether or not the benefits listed in the Pension Table are subject to any deduction for Social Security or other offset amounts.

EXAMPLE OF PENSION TABLE

Remuneration	Years of service				
	15	20	25	30	35
125,000	xxx	xxx	xxx	xxx	xxx
150,000	xxx	xxx	xxx	xxx	xxx
175,000	xxx	xxx	xxx	xxx	xxx
200,000	xxx	xxx	xxx	xxx	xxx
225,000	xxx	xxx	xxx	xxx	xxx

(3) *Alternative pension plan disclosure.* In furnishing the information required by paragraphs (b)(1) (i)–(v) of this section with respect to defined benefit or actuarial plans under which benefits are not determined primarily by final compensation (or average final compensation) and years of service, include:

(i) The formula by which benefits are determined; and

(ii) The estimated annual benefits payable upon retirement at normal retirement age for each of the individuals named in the Cash Compensation Table pursuant to paragraph (a) of this section.

(4) Stock option and stock appreciation right plans. In addition to providing the information required by paragraphs (b)(1) (i)–(vi) of this section, furnish:

(i) With respect to stock options granted during the last fiscal year: (A) The title and aggregate amount of securities subject to options; (B) the average per share exercise price; and (C) if such option exercise price was less than 100 percent of the market value of the security on the date of grant, such fact and the market price on such date. The title and aggregate amount of such securities subject to options, if any, which are in tandem with stock appreciation rights should be set forth separately.

(ii) With respect to the exercise or realization of options or stock appreciation rights held in tandem with options, state the net value of securities (market value less any exercise price) or cash realized during the last fiscal year.

(iii) With respect to plans pursuant to which stock appreciation rights not in tandem with options were granted during the last fiscal year: (A) The number rights granted; and (B) the average per share base price thereof.

(iv) With respect to the exercise or realization of stock appreciation rights not in tandem with options, state the net value of the shares (market price) or cash realized during the last fiscal year.

Instructions to § 11.842(b)

1. Format. With the exception of these pension plans disclosed pursuant to § 11.842(b)(2), the bank may use either a narrative, tabular or other format or combination of formats provided the information so disclosed is clear and understandable. Disclosure required by § 11.842(b)(2), pertaining to certain defined benefit and actuarial plans, is required to be presented in the Pension Table format set forth in that section.

2. Cash paid pursuant to plans. The cash compensation paid pursuant to a plan need not be disclosed as amounts paid or distributed pursuant to § 11.842(b)(1)(vi) of this section if such compensation was included in the Cash Compensation Table pursuant to paragraph (a) of this section and a statement to that effect is made. Similarly, the cash compensation deferred under a deferred compensation plan need not be disclosed as amounts accrued pursuant to § 11.842(b)(1)(vii) of this section if such compensation was included in the Cash Compensation Table and a statement to that effect is made.

3. Definition of "plan." The term "plan" includes, but is not limited to the following: any plan, contract, authorization or arrangement whether or not set forth in any formal documents, pursuant to which the following may be received: cash, stock, restricted stock, phantom stock, stock options, stock appreciation rights, stock options in tandem with stock appreciation rights, warrants, convertible securities, performance units and performance shares. A plan may be applicable to one person.

4. Pension levels. Compensation set forth in the Pension Table pursuant to § 11.842(b)(2) of this section shall allow for reasonable increases in existing compensation levels; alternatively, banks may present as the highest compensation level in the Pension Table an amount equal to 120 percent of the amount of covered compensation of the most highly compensated individual named in the Cash Compensation Table pursuant to paragraph (a) of this section.

5. Definition of "normal retirement age." The term "normal retirement age" means normal retirement age as defined in a pension or similar plan or, if not defined therein, the earliest time at which a participant may retire without any benefit reduction because of age.

(c) *Other compensation.* Describe, stating amounts, any other compensation not covered by paragraph (a) or (b) of this section that was paid or distributed during the last fiscal year to the named individuals and group specified in paragraph (a) of this section unless:

(1) With respect to any named individual, the aggregate amount of such other compensation is the lesser of $25,000 or 10 percent of the compensation reported in the Cash Compensation Table for such person pursuant to paragraph (a) of this section, or

(2) With respect to the group, the aggregate amount of such other compensation is the lesser of $25,000 times the number of persons in the group or 10 percent of the compensation reported in the Cash Compensation Table for the group pursuant to paragraph (a) of this section and a statement to that effect is made.

Instructions to § 11.842(c)

1. Scope. Compensation to the disclosed pursuant to this paragraph may include, among other things: (a) personal benefits or; (b) securities or property that were paid or distributed other than pursuant to a plan. It does not, in any event, include cash, which is to be disclosed pursuant to either paragraph (a) or (b).

2. Threshold. If the amount of other compensation for a named individual or the group exceeds the established thresholds, the entire amount of such other compensation must be disclosed pursuant to this paragraph.

3. Valuation. Compensation within paragraph (c) shall be valued on the basis of the bank's and subsidiaries' aggregate incremental cost.

(d) *Compensation of directors.* (1) *Standard arrangements.* Describe any standard arrangement, stating amounts, pursuant to which directors of the bank are compensated for all services as a director, including any additional amounts payable for committee participation or special assignments.

(2) *Other arrangements.* Describe any other arrangements pursuant to which any director of the bank was compensated during the bank's last fiscal year for services as a director, stating the amount paid and the name of the director.

(e) *Termination of employment and change of control arrangement.* Describe any compensatory plan or arrangement, including payments to be received from the bank with respect to any individual named in the Cash Compensation Table pursuant to paragraph (a) of this section for the latest or next preceding fiscal year if such a plan or arrangement results or will result from the resignation, retirement or any other termination of such individual's employment with the bank and its subsidiaries or from a change in control of the bank to or a change in the individual's responsibilities following a change in control and the amount involved, including all periodic payments or installments, exceeds $60,000.

General Instructions to § 11.842

1. Transactions with third parties. This section includes transactions between the bank and a third party where the primary purpose of the transaction is to furnish compensation to any named individual or the group specified in paragraph (a) of this section. No information need be given in response to any paragraph of this section as to any such transaction if the transaction has been reported in response to § 11.844.

2. Exclusions. No information need be given pursuant to this section with respect to interest on deferred compensation if the rate of interest does not exceed prevailing market interest rates either: (1) At the time the interest is accrued or (2) at the time the plan pursuant to which the compensation is deferred was established. Similarly, dividends awarded on restricted stock need not be disclosed provided that the restricted stock is not of a particular class available only to certain employees on a discriminatory basis.

§ 11.843 Security ownership of certain beneficial owners and management.

(a) Furnish the following information as of the most recent practicable date:

(1) The name, business address and relationship to the bank of any individual, group, corporation or other entity who owns beneficially, directly or indirectly, more than 5 percent of the bank's outstanding voting securities. The following format should be used:

Name and address	Relationship with bank	Amount beneficially owned	Percent of class beneficially owned
(1)	(2)	(3)	(4)

A footnote to the table should disclose the nature of the beneficial ownership. A disclaimer of beneficial ownership can be added in the footnote with an appropriate explanation indicating the number of shares disclaimed.

Of the number of shares shown in Column (3), indicate by footnote or otherwise the amount of shares with respect to which such listed beneficial owner has the right to acquire beneficial ownership as specified in § 11.403.

(2) The amount of each outstanding class of equity securities of the bank beneficially owned, directly or indirectly, by all directors and nominees, naming them and directors and officers of the bank, as a group, without naming them. The following format should be used:

Title of class	Amount beneficially owned	Percent of class beneficially owned
(1)	(2)	(3)

A footnote to the table should disclose the nature of the beneficial ownership. Of the number of shares shown in Column (2), indicate, by footnote or otherwise, the amount of shares such persons have the right to acquire beneficial ownership of, as specified in § 11.403.

(b) *Changes in control.* Describe any arrangements, known to the bank, including any pledge by any person of securities of the bank or any of its parents, which may at a subsequent date result in a change in control of the bank. A description is not required of ordinary default provisions contained in any charter, trust indentures or other governing instruments relating to securities of the bank.

Instructions

1. The percentages are to be calculated on the basis of the amount of outstanding securities, excluding securities held by or for the account of the bank or its subsidiaries, plus securities deemed outstanding pursuant to § 11.403.

2. For the purposes of this section, beneficial ownership shall be determined in accordance with § 11.403. Include such additional subcolumns or any other appropriate explanation of Column (3) to show amounts for which the beneficial owner has (1) sole voting power, (2) shared voting power, (3) sole investment power, and (4) shared investment power.

3. The bank shall be deemed to know the contents of any statement filed with the Comptroller of the Currency pursuant to Section 13(d) of the Exchange Act. When applicable, a bank may rely upon information set forth in such statements unless the bank knows or has reason to believe that such information is not complete or accurate, or that a settlement or amendment should have been filed and was not.

4. For purposes of furnishing information pursuant to paragraph (a), the bank may indicate the source and date of such information.

5. Where more than one beneficial owner is known to be listed for the same securities, appropriate disclosure should be made to avoid confusion.

6. Subsection (b) does not require a description of ordinary default provisions contained in the charter, trust indentures or other governing instruments relating to securities of the bank.

7. If the holder(s) of voting securities reported pursuant to paragraph (a) hold more than five percent of any class of voting securities of the bank pursuant to any voting trust or similar agreement, state the title of such securities, the amount held or to be held pursuant to the trust or agreement (if not clear from the table) and the duration of the agreement. Give the names and addresses of the voting trustees and outline briefly their voting rights and other powers under the trust or agreement.

(c) If, to the knowledge of the persons on whose behalf the solicitation is made, a change in control of the bank has occurred since the beginning of its last fiscal year, state the name of the person(s) who acquired such control, the amount and the source of the consideration used by such person(s), the basis of the control, the date and a description of the transaction(s) which resulted in the change of control, the percentage of voting securities of the bank now beneficially owned directly or indirectly by the person(s) who acquired control, and the identity of the person(s) from whom control was assumed. If the source of all or any part of the consideration used is a loan made in the ordinary course of business by a bank as defined by Section 3(a)(6) of the Act, the identity of such bank shall be omitted, provided a request for confidentiality has been made pursuant to Section 13(d)(1)(B) of the Act by the person(s) who acquired control. In lieu thereof, the material shall indicate the identity of the bank so omitted and shall be filed separately with the Comptroller of the Currency. If the source of all or any part of the funds used to acquire control of the bank was a loan made by a bank as defined by Section 3(a)(6) of the Act, indicate whether there exists any agreement, arrangement, or understanding pursuant to which the bank maintains or would maintain a

correspondent deposit account at such lending bank.

Instructions

1. State the terms of any loans or pledges obtained by the new control group for the purpose of acquiring control, and the names of the lenders or pledgees.

2. Any arrangement or understandings among members of both the former and new control groups and their associates with respect to the election of directors and other matters should be described.

§ 11.844 Certain relationships and related transactions.

(a) *Transactions with management and others.* Describe briefly any transaction, or series of similar transactions, since the beginning of the bank's last fiscal year, or any currently proposed transaction, or series of similar transactions, to which the bank or any of its subsidiaries was or to be a party, in which the amount involved exceeds $60,000 and in which any of the following persons had, or is to have, a direct or indirect material interest, naming such person and indicating the person's relationship to the bank, the nature of such person's interest in the transaction, the amount of such transaction and, where practicable, the amount of such person's interest in the transaction:

(1) Any director or executive officer of the bank;

(2) Any nominee for election as a director;

(3) Any security holder who is known to the bank to own of record or beneficially more than five percent of any class of the bank's voting securities; and

(4) Any member of the immediate family of any of the foregoing persons.

Instructions to Paragraph (a) of § 11.844

1. The materiality of any interest is to be determined on the basis of the significance of the information to investors in light of all the circumstances of the particular case. The importance of the interest to the person having the interest, the relationship of the parties to the transaction with each other and the amount involved in the transactions are among the factors to be considered in determining the significance of the information to investors.

2. For purposes of paragraph (a), a person's immediate family shall include such person's spouse; parents; children; sibling; mothers and fathers-in-law; sons and daughters-in-law; and brothers and sisters-in-law.

3. No information need be given in answer to § 11.844(a) as to any transaction where:

A. The rates or charges involved in the transaction are determined by competitive bids, or the transaction involves the rendering of services as a common or contract carrier, or public utility, at rates or charges fixed in conformity with law or government authority.

B. The transaction involves services as a bank depository of funds, transfer agent, registrar, trustee under a trust indenture, or similar services.

C. The interest of the specified person arises solely from the ownership or securities of the bank and the specified person receives no extra or special benefits not shared on a pro rata basis.

There may be occasions when the interest of a specified person in a particular transaction or series of transactions is not a direct or indirect material interest. In such cases, information regarding such interest and transaction is not required to be disclosed in response to this paragraph.

4. In computing the amount involved in the transaction or series or similar transactions, include all periodic installments in the case of any lease or other agreement providing for periodic payments or installments.

5. This paragraph calls for disclosure of indirect, as well as direct, material interests in transactions. A person who has a position or relationship with a firm, corporation, or other entity that engages in a transaction with the bank or its subsidiaries may have an indirect interest in such transaction by reason of such position or relationship. However, a person shall be deemed not to have a material indirect interest in a transaction within the meaning of this paragraph if:

A. The interest arises only (i) from such person's position as a director of another corporation or organization which is a party to the transaction; (ii) from the direct or indirect ownership by such person and all other persons specified in paragraphs (a) (1) through (4) of this section, in the aggregate, of less than a ten percent equity interest in another person (other than a partnership) which is a party to the transaction; or (iii) from both such position and ownership.

B. The interest arises only from such person's position as a limited partner in a partnership in which the person and all other persons specified in paragraphs (a) (1) through (4) of this section had an interest of less than ten percent; or

C. The interest of such person arises solely from the holding of an equity interest (including a limited partnership interest, but excluding a general partnership interest), or a creditor interest, in another person which is a party to the transaction with the bank or any of its subsidiaries and the transaction is not material to such other person.

6. The amount of the interest of any specified person shall be computed without regard to the amount of the profit or loss involved in the transaction. Where it is not practicable to state the approximate amount of the interest, the approximate amount involved in the transaction will be indicated.

7. In describing any transaction involving the purchase or sale of assets by or to the bank or any of its subsidiaries, other than in the ordinary course of business, state the cost of the assets to the purchaser and, if acquired by the seller within two years prior to the transaction, the cost thereof to the seller. Indicate the principle followed in determining the bank's purchase or sale price and the name of the person making such determination.

8. Information shall be furnished in answer to this paragraph with respect to transactions not excluded above which involve remuneration from the bank or its subsidiaries, directly or indirectly, to any of the specified persons for services in any capacity unless the interest of such persons arises solely from the ownership individually and in the aggregate of less than ten percent of any class of equity securities of another corporation furnishing the services to the registrant or its subsidiaries.

9. If the information called for by § 11.844(a) is being presented in Form F–1, 12 CFR 11.290, the information called for shall be presented for the last three full fiscal years in the Form F–1 and for the last two full fiscal years in the offering circular.

(b) *Certain business relationships.* Describe any of the following relationships regarding the bank, entities with which it has, does, or will conduct business, and directors or nominees for director that exist, or have existed during the bank's last fiscal year. Indicate the identity of the entity with which the bank has such a relationship, the name of the nominee or director affiliated with such entity and the nature of such nominee's or director's affiliation. Describe the relationship between such entity and the bank and the amount of the business done between the bank and the entity during the bank's last full fiscal year or proposed to be done during the bank's current fiscal year.

(1) The nominee or director is, or during the last fiscal year has been, an executive officer of, or owns or during the last fiscal year has owned, of record or beneficially in excess of ten percent equity interest in any business or professional entity that has made during the bank's last full fiscal year, or proposes to make during the bank's current fiscal year, payments to the bank or to its subsidiaries for property or services in excess of five percent of (i) the bank's or other entity's consolidated gross revenue for its last full fiscal year or (ii) the other entity's consolidated gross revenues for its last full fiscal year;

(2) The nominee or director is, or during the last fiscal year has been, an executive officer of, or owns or during the last fiscal year has owned of record or beneficially in excess of ten percent equity interest in, any business or professional entity to which the bank or its subsidiaries has made during the bank's last full fiscal year or proposes to make during the bank's current fiscal year, payments for property or services in excess of five percent of (i) the bank's or other entity's consolidated gross revenues for its last full fiscal year, or

(ii) the other entity's consolidated gross revenues for its last full fiscal year;

(3) The nominee or director is, or during the last fiscal year has been an executive officer of, or owns or during the last fiscal year has owned, of record or beneficially in excess of ten percent equity interest in, any business or professional entity to which the bank or its subsidiaries was indebted at the end of the bank's last full fiscal year in an aggregate amount in excess of five percent of the bank's total consolidated assets at the end of such fiscal year;

(4) The nominee or director is, or during the last fiscal year has been, a member of, or of counsel to, a law firm which the bank has retained during the last fiscal year or proposes to retain during the current fiscal year, *Provided, however,* That the dollar amount of fees paid to a law firm by the bank need not be disclosed if such amount does not exceed five percent of the law firm's gross revenues for its last full fiscal year;

(5) The nominee or director is or during the last fiscal year has been a partner or executive officer of any investment banking firm which has performed services for the bank other than as a participating underwriter in a syndicate, during the last fiscal year or which the bank proposes to have perform services during the current year, provided, however, that the dollar amount of compensation received by an investment banking firm need not be disclosed if such amount does not exceed five percent of the investment banking firm's consolidated gross revenues for its last fiscal year;

(6) Any other relationships that the bank is aware of between the nominee or director and the bank that are substantially similar in nature and scope to those relationships listed in paragraphs (b) (1) through (5).

Instructions to Paragraph (b) of § 11.844

1. In order to determine whether payments or indebtedness exceed five percent of the consolidated gross revenues of any entity other than the bank for such entity's last full fiscal year, it is appropriate to rely on information provided by the nominee or director.

2. In calculating payments for property and services, the following may be excluded:

A. Payments where the rates or charges involved in the transaction are determined by competitive bids, or the transaction involves the rendering of services as a common contract carrier, or public utility, at rates or charges fixed in conformity with the law or governmental authority;

B. Payments that arise solely from the ownership of securities of the bank and no extra or special benefit not shared on a pro rata basis by all holders of the class of securities is received; or

C. Payments made or received by subsidiaries other than significant subsidiaries as defined in § 11.102(ii) provided that all such subsidiaries making or receiving payments, when considered in the aggregate as a single subsidiary, would not constitute a significant subsidiary as defined in § 11.102(ii).

3. In calculating indebtedness, the following may be excluded:

A. Debt securities that have been publicly offered, admitted to trading on a national securities exchange, or quoted on the automated quotation system of a registered securities association;

B. Amounts due for purchases subject to customary trade terms;

C. Indebtedness incurred by subsidiaries other than significant subsidiaries as defined in § 11.102(ii), provided that all such subsidiaries incurring indebtedness, when considered in the aggregate as a single subsidiary, would not constitute a significant subsidiary as defined in § 11.102(ii).

4. No information called for by paragraph (b) need be given for any director who is no longer a director at the time of filing the registration statement or report containing such disclosure. If such information is being presented in a proxy or information statement, no information need be given respecting any director whose term of office as a director will not continue after the meeting to which the statement relates.

5. If the information called for by § 11.844(b) is being presented in Form F-1, 12 CFR 11.290, the information called for shall be presented for the last three full fiscal years in the Form F-1 and for the last two full fiscal years in the offering circular.

(c) *Indebtedness of management.* (1) For each of the following specified persons, herein called specified persons, who was indebted to the bank at any time since the beginning of the last full fiscal year to date state:

(i) The largest aggregate amount of indebtedness, including extensions of credit of overdrafts, endorsements or guarantees (in dollar amounts and as a percentage of total equity capital accounts at the time) outstanding at any time during such period;

(ii) The amount thereof outstanding as of the latest practicable date;

(iii) The nature of the indebtedness and of the transaction in which it was incurred; and

(iv) The rate of interest paid or charged thereon;

(A) Each director or officer of the bank;

(B) Each nominee for election as director;

(C) Each security holder who is known to the bank to own of record or beneficially more than five percent of any class of the bank's voting securities ("principal security holder");

(D) Any trust or other estate in which any of the persons specified in § 11.844(c)(1)(A) or § 11.844(c)(1)(B) has a substantial beneficial interest or as to which such person serves as trustee or in a similar fiduciary capacity;

(E) Any member of the immediate family of any of the persons specified in paragraph (c)(1) (A) and (B). For purposes of this paragraph the members of a person's immediate family are those persons specified in Instruction 2 to § 11.844(a);

(F) Any corporation or organization (other than the bank or a majority-owned subsidiary of the bank) of which any of the persons specified in paragraph (c)(1) (A) or (B) is an executive officer or partner or is, directly or indirectly, the beneficial owner of ten percent or more of any class of equity securities.

Instructions to Paragraph (c) of § 11.844

1. Include the name of each person whose indebtedness is described and the nature of the relationship by reason of which the information is required to be given.

2. Generally, no information need be given under this paragraph, unless any of the following are present:

A. The extensions of credit were not made on substantially the same terms, including interest rates, collateral and repayment terms as those prevailing at the time for comparable transactions with other than the specified persons.

B. The extensions of credit were not made in the ordinary course of business.

C. Such extensions of credit have involved or presently involve more than a normal risk of collectibility or other unfavorable features, including the restructuring of an extension of credit, or a delinquency as to payment of interest or principal.

D. The aggregate amount of extensions of credit outstanding at any time from the beginning of the last fiscal year to date to a person specified in (A), (B), (C), (D) or (E) of this paragraph exceeded 10% of the equity capital accounts of the bank at that time or $5 million whichever is less.

Note.—For purposes of this Instruction 2(D) only: (1) the information called for by paragraphs (d)(1) (iii) and (iv) of § 11.844 need not be furnished; (2) a principal security holder shall mean each security holder known to the bank to own of record or beneficially more then five (5) percent of any class of the bank's voting securities; and (3) the name of any associates need not be furnished.

3. If any extension of credit to the specified persons as a group exceeded 20% of the equity capital accounts of the bank at any time since the beginning of the last full fiscal year to date, disclose the maximum aggregate amount of credit to the group during the period, the aggregate amount as a percentage of the equity capital accounts of the bank and include a statement, to the extent applicable, that the bank has had, and expects to have in the future, banking transactions in the ordinary course of its business with directors, officers, principal stockholders and their associates, on substantially the same terms,

including interest rates, collateral and repayment terms on extensions of credit, as those prevailing at the same time for comparable transactions with others and did not involve more than the normal risk of collectibility or collectibility or present other unfavorable features.

4. If any indebtedness required to be described arose under section 16(b) of the Act and has not been discharged by payment, state the amount of any profit realized, that such profit will inure to the benefit of the bank or its subsidiaries and whether suit will be brought or other steps taken to recover such profit. If in the opinion of counsel a question reasonably exists as to the recoverability of such profit, it will suffice to state all facts necessary to describe the transaction, including the prices and number of shares involved.

5. Notwithstanding the foregoing, any transaction or series of transactions resulting in indebtedness to the bank or its subsidiaries which may be considered material should be disclosed.

6. If the information called for by § 11.844(c) is being presented in Form F-1, 12 CFR 11.290, the information called for shall be presented for the last three full fiscal years in the Form F-1 and for the last two full fiscal years in the offering circular.

7. Where a specified person is an endorser or guarantor on any extension of credit made by the bank or its subsidiaries disclosure should be made to the extent otherwise applicable.

(d) *Transactions with organizers.* Banks that have been organized within the past five years and that are filing a registration statement on Form F-1 under the Exchange Act (12 CFR 11.290) shall:

(1) State the names of the organizers, the nature and amount of anything of value (including money, property, contracts, options or rights of any kind) received or to be received by each promoter, directly or indirectly, from the Bank and the nature and amount of any assets, services or other consideration therefor received or to be received by the bank; and

(2) As to any assets acquired or to be acquired by the bank from an organizer, state the amount at which the assets were acquired or are to be acquired and the principal followed or to be followed in determining such amount and identify the persons making the determination and their relationship, if any, with the bank or any promoter. If the assets were acquired by the organizer within two years prior to their transfer to the bank, also state the cost thereof to the organizer.

Instructions to § 11.844

1. No information need be given in response to any paragraph of this section for any remuneration or other transaction reported in response to any other paragraph of this section or § 11.842 for any remuneration or transaction with respect to which information may be omitted pursuant to any other paragraph of § 11.844 or 11.842.

2. If the information called for by this section is being presented in a registration statement filed pursuant to the Exchange Act, the period for which the information called for shall be reported in the previous three years.

Exhibits

§ 11.861 Exhibits.

(a) *Exhibits and index required.* (1) Subject to § 11.732 regarding incorporation of exhibits by reference, the exhibits required by the exhibit table shall be filed as indicated as part of the registration statement or report.

(2) Each registration statement or report shall contain an exhibit index, which shall immediately precede the exhibits filed with such registration statement. For convenient reference, each exhibit shall be listed in the exhibit index according to the number assigned to it in the exhibit table. The exhibit index shall indicate, by handwritten, typed, printed, or other legible form of notation in the manually signed original registration statement or report, the page number in the sequential numbering system where such exhibit can be found. Where exhibits are incorporated by reference, this fact shall be noted in the exhibit index referred to in the preceding sentence. Further, the first page of the manually signed registration statement shall list the page in the filing where the exhibit index is located. For a description of each of the exhibits included in the exhibit table, see paragraph (b) of this section.

EXHIBIT TABLE

	Form				
	F-1	F-2	F-3	F-4	F-10
(1) Plan of acquisition, reorganization, arrangement, liquidation or succession	x		x	x	
(2) Articles of incorporation and by-laws	x	x	x	x	
(3) Instruments defining the rights of securities holders, including indentures	x	x	x	x	x
(4) Voting trust agreement	x	x			
(5) Material contracts	x	x			
(6) Letter re change in certifying accountant			x		
(7) Published report regarding matters submitted to vote of security holders				x	

Instructions to the Exhibit Table 1. The exhibit table indicates those documents that must be filed as exhibits to the respective forms listed.

2. The "X" designation indicates the documents which are required to be filed with each form even if filed previously with another document. *Provided, however,* That such previously filed documents may be incorporated by reference to satisfy the filing requirements.

3. The number used in the far left column of the table refers to the appropriate subsection in paragraph (b) where a description of the exhibit can be found. Whenever necessary, alphabetical or numerical subparts may be used.

(b) *Description of exhibits.* Set forth below is an identification of each document listed in the exhibit tables.

(1) *Plan of acquisition, reorganization, arrangement, liquidation or succession.* Any material plan of acquisition, disposition, reorganization, readjustment, succession, liquidation or arrangement and any amendments thereto described in the statement or report. Schedules (or similar attachments) to these exhibits shall not be filed unless such schedules contain information which is material to an investment decision and which is not otherwise disclosed in the agreement or the disclosure document. The plan filed shall contain a list briefly identifying the contents of all omitted schedules, together with an agreement to furnish supplementally a copy of any omitted schedule to the Comptroller.

(2) *Articles of incorporation and by-laws.* The articles of incorporation and by-laws of the bank or instruments corresponding thereto as currently in effect and any amendments thereto. Whenever amendments to the articles or by-laws of the bank are filed, there shall also be filed a complete copy of the articles or by-laws as amended.

(3) *Securities and instruments defining the rights of securities holders, including indentures.* (i) Specimens or copies of all securities being registered hereunder, and copies of all constituent instruments defining the rights of holders of long-term debt of the bank and of all subsidiaries for which consolidated or unconsolidated financial statements are required to be filed.

(ii) There need not be filed, however, (A) any instrument with respect to long-term debt not being registered hereunder if the total amount of securities authorized thereunder does not exceed 25 percent of the equity capital accounts of the bank and its subsidiaries on a consolidated basis, (B) any instrument with respect to any class of securities if appropriate steps to assure the redemption or retirement of such class

will be taken prior to or upon delivery by the bank of the securities being registered, or (C) copies of instruments evidencing scrip certificates for fractions of shares.

(4) *Voting trust agreement.* Any voting trust agreements and amendments thereto.

(5) *Material contracts.* (i) Copies of every material contract not made in the ordinary course of business that is to be performed in whole or in part at or after the filing of the registration statement or that was made not more than 2 years before such filing and performance of which has not been completed. Only those contracts to which the bank or a subsidiary is a party or has succeeded to a party by assumption or assignment, and in which the bank or such subsidiary has a beneficial interest, need be filed.

(ii) If the contract is such as ordinarily accompanies the kind of business conducted by the bank and its subsidiaries, it is made in the ordinary course of business and need not be filed, unless it falls within one or more of the following categories, in which case it should be filed except where immaterial in amount or significance:

(A) Directors, officers, organizers, voting trustees, or security holders named in the statement or report are parties thereto except where the contract merely involves purchase or sale of current assets having a determinable market price, at such price.

(B) It calls for the acquisition or sale of fixed assets for a consideration exceeding 10 percent of the value of all fixed assets of the bank and its subsidaries.

(C) It is a lease under which a significant part of the property described in the statement or report is held by the bank.

(D) The amount of the contract, or its importance to business of the bank and its subsidiaries, is material, and the terms and conditions are of a nature of which investors reasonably should be informed.

(iii) Any bonus or profit-sharing plan, contract, or arrangement shall be deemed material and shall be filed.

(iv) Copies of all amendments or modifications with respect to the foregoing material contracts.

(6) *Letter re change in certifying accountant.* A letter from the bank's former independent accountant regarding its concurrence or disagreement with the statements made by the bank in the current report concerning the resignation or dismissal as the bank's prinicipal accountant.

(7) *Letter re director resignation.* Any letter from a former director which sets forth a description of a disagreement with the bank that led to the director's resignation or refusal to stand for re-election and which requests that the matter be disclosed.

(8) *Published report regarding matters submitted to vote of security holders.* Published reports containing all of the information called for by item 6, instruction 5, of § 11.392.

Miscellaneous

§ 11.871 Recent sales of securities.

Furnish the following information for all securities of the bank sold by the bank within the past three years, or presently proposed to be sold. Include securities issued in exchange for property, services, or other securities.

(a) Give the date of sale, title, and amount of securities sold.

(b) Give the names of the principal underwriters, if any. For any securities sold privately, name the persons or identify the class of persons to whom the securities were sold.

(c) For securities sold for cash, state the aggregate offering price and the aggregate underwriting discounts or commissions. For any securities sold other than for cash, state the nature of the transaction and the nature and aggregate amount of consideration received by the bank.

(d) Give a reasonably itemized statement of the purposes, so far as determinable, for which the net proceeds have been or are to be used and the approximate amount to be used for each purpose.

Instructions

1. Information need not be set forth for notes, drafts, bills of exchange, or bank acceptances that mature not later than 12 months from the date of issuance.

2. If the sales were made in a series of transactions, the information may be given by such totals and periods as will reasonably convey the information required.

§ 11.872 Indemnification of directors and officers.

State the general effect of any charter provision, by law, contract, arrangement, or statute under which any director or officer of the bank is insured or indemnified in any manner against any liability that he may incur in his capacity as such.

Subpart I—Financial Statement Requirements

Verification of Financial Statements

Note.—The term "verified," as used with respect to financial statements, is defined in § 11.102(gg).

§ 11.900 General rules.

(a) Every verification of financial statements filed under this Part, shall be dated, signed manually, indicate the city and State where issued, and identify without detailed enumeration the financial statements covered by the verification.

(b) If the person or persons making a verification wish to take exception to or express qualifications about the verification, each exception or qualification shall be stated specifically and clearly and, to the extent practicable, shall indicate its effect on the financial statements to which it relates.

§ 11.901 Definitions.

For purposes of Subpart I, the following definitions shall apply:

(a) "Associate" of a person means:

(1) A corporation venture or organization of which such person is a general partner or is, directly or indirectly, the beneficial owner of 10 percent or more of any class of equity securities;

(2) Any trust or other estate in which such person has a substantial beneficial interest or for which such person serves as trustee or in a similar capacity; and

(3) Any member of the immediate family of any of the foregoing persons.

(b) "Ordinary course of business" means those loans which were made on substantially the same terms, including interest rate and collateral, as those prevailing at the same time for comparable transactions with unrelated persons and did not involve more than the normal risk of collectibility or present other unfavorable features.

§ 11.902 Opinions to be expressed by principal accounting officer and internal auditor.

Every verification by a bank's principal accounting officer and internal auditor shall include their opinions with respect to:

(a) The financial statements covered by the verification and the accounting principles and practices reflected therein; and

(b) The consistency of the application of accounting principles, or any changes in such accounting principles which have a material effect on the financial statements.

§ 11.903 Examination by independent public accountants.

(a) *Qualifications of independent accountants.* (1) The Comptroller of the Currency will not recognize any person as an independent public accountant who is not—

(i) Registered or licensed to practice as a public accountant by a regulatory authority of a State; and

(ii) In good standing with such authority as such an accountant.

(2) The Comptroller of the Currency will not recognize any certified public accountant or public accountant as independent of the bank or any of its affiliates who is not in fact independent. For example, an accountant will be considered not independent with respect to any person or any of its parents, its subsidiaries, or other affiliates in which, during the period of his/her professional engagement to examine the financial statements being reported on or at the date of his/her report, the firm or a member of the firm had, or was committed to acquire, a direct financial interest or any material indirect financial interest; or with which, during the period of his/her professional engagement to examine the financial statements being reported on, at the date of the report or during the period covered by the financial statements, the firm or a member of the firm was connected as an organizer, underwriter, voting trustee, director, officer, or employee. A firm's independence will not be deemed to be affected adversely where a former officer or employee of the bank is employed by or becomes a partner, shareholder or other principal in the firm and such individual has been completely disassociated from the bank and its affiliates and does not participate in auditing financial statements of the bank or its affiliates covering any period of his/her employment by the bank. For the purposes of § 11.903(a)(2), the term "member" means all partners, shareholders, and other principals in the firm, any professional employee involved in providing any professional service to the bank, its parents, subsidiaries, or other affiliates, or any professional employee having managerial responsibilities and located in the engagement office or other office of the firm which participates in a significant portion of the audit.

(3) In determining whether an accountant is, in fact, independent of a particular bank, the Comptroller of the Currency will give appropriate consideration to all relevant circumstances, including evidence bearing on all relationships between the accountant and that bank or any affiliate thereof, and will not confine itself to the relationships existing in connection with the filing of reports with the Comptroller of the Currency.

(b) *Representations as to the audit.* The independent accountant's report shall:

(1) State whether the audit was made in accordance with generally accepted auditing standards; and

(2) Designate any auditing procedures generally recognized as normal (or deemed necessary by the accountant under the circumstances of the particular case) that have been omitted, and the reasons for their omission. Nothing in this provision shall be construed to imply authority for the omission of any procedure which independent accountants would ordinarily employ in the course of an audit made for the purpose of expressing the opinions required by paragraph (c) of this section.

(c) *Opinions to be expressed.* The independent accountant's report shall clearly state the opinion of the accountant with respect to:

(1) Financial statements covered by the report and the accounting principles and practices reflected therein; and

(2)(i) Consistency of the application of the accounting principles, or

(ii) Any changes in the accounting principles which have a material effect on the financial statements.

(d) *Exceptions.* If the accountant making the report considers that he/she must take exceptions or express qualifications with respect thereto, each exception or qualification shall be stated specifically and clearly and, to the extent practicable, shall indicate its effect on the financial statements to which it relates.

(e) *Examination of financial statements by more than one independent accountant.* If, with respect to the examination of the financial statements of any bank, the principal independent accountant relies on an audit made by another independent accountant of certain of the accounts of the bank or its subsidiaries, the report of the other accountant shall be filed (and the provisions of this section shall be applicable thereto); however, the report of such other accountant need not be filed (1) if no reference is made directly or indirectly to the other accountant's audit in the principal accountant's report, or (2) if, having referred to the other accountant's audit the principal accountant's report indicates an assumption of responsibility for such other accountant's audit. The report of such other accountant is not required to be sent with the annual report to security holders.

(f) *Technical requirements.* The accountant's report shall—

(1) Be dated;

(2) Be signed manually;

(3) Indicate the city and state where issued; and

(4) Identify without detailed enumeration the financial statements covered by the report.

General Instructions as to Financial Statements

§ 11.910 Verification requirement.

Financial statements prepared in accordance with this Subpart shall be verified unless otherwise indicated.

§ 11.911 Consolidated financial statements.

(a) There shall be filed for the bank and its majority-owned bank premises subsidiaries; subsidiaries operating under the provisions of section 25 or 25(a) of the Federal Reserve Act ("Agreement Corporations" and "Edge Act Corporations"); and significant subsidiaries, and in the case of paragraph (a)(2) below, the bank's predecessors:

(1) Consolidated balance sheets as of the end of each of the two most recent fiscal years; and

(2) Consolidated statements of income and consolidated statements of changes in financial position for each of the three fiscal years preceding the date of the most recent verified balance sheet being filed.

(b) If the filing, other than a filing on Form F-1 or F-2, is made within 45 days after the end of the bank's fiscal year and verified financial statements for the most recent fiscal year are not available, the filing shall include balance sheets as of the end of the two preceding fiscal years and an additional balance sheet as of an interim date at least as current as the end of the bank's third fiscal quarter of the most recently completed fiscal year.

(c) The instruction in paragraph (b) is also applicable to filings, other than on Form F-1 or F-2, made after 45 days but within 90 days of the end of the bank's fiscal year, *Provided*, That the following conditions are met:

(1) The bank files annual, quarterly and other reports pursuant to section 13 of the Securities Exchange Act of 1934 and all reports due have been filed;

(2) For the most recent fiscal year for which verified financial statements are not yet available, the bank reasonably and in good faith expects to report income, after taxes but before extraordinary items and the cumulative effect of a change in accounting principles; and

(3) For at least one of the two fiscal years immediately preceding the most recent fiscal year, the bank reported income, after taxes but before extraordinary items and the cumulative

effect of a change in accounting principles.

(d) For filings made after 45 days, but within 90 days of the end of the bank's fiscal year when the conditions set forth in paragraph (c) of this section are not met, the filing must include the verified balance sheets required by paragraph (a) of this section.

(e) For filings made after 134 days subsequent to the end of the bank's most recent fiscal year, the filing shall also include a balance sheet as of an interim date within 135 days of the date of filing.

(f) Notwithstanding the requirements of this section, the most recent interim balance sheet included in a filing shall be at least as current as the most recent balance sheet filed with the Comptroller of the Currency on Form F–4.

(g) For the interim period between the date of the most recent verified balance sheet and the date of the most recent interim balance sheet filed, and for the corresponding period of the preceding fiscal year, the bank shall provide statements of income and changes in financial position.

(h) Any interim financial statements provided in accordance with the requirements of this section need not be verified or presented in greater detail than is required by § 11.917.

§ 11.912 Analysis of changes in equity capital.

(a) An analysis of the change in each caption of equity capital presented in the balance sheet shall be given in a note or separate statement. This analysis shall be presented in the form of a reconciliation of the beginning balance to the ending balance for each period for which an income statement is required to be filed, with all significant reconciling items described by appropriate captions. State separately the adjustments to the balance at the beginning of the earliest period presented for items which were retroactively applied to periods prior to that period. With respect to any dividends, state the amount per share and in the aggregate for each class of shares.

(b) The analysis required by this section may conform generally to schedule RI–A of the Consolidated Report of Income (FFIEC 033) and related instructions thereto, except to the extent revised or expanded financial data presentation is necessary to meet the disclosure standards of the Securities Exchange Act of 1934, as amended.

§ 11.913 Age of financial statements at mailing date of proxy or information statement.

(a) If the financial statements in a proxy statement or information statement (each of which is hereinafter referred to in this section as a "statement") are as of a date 135 days or more prior to the proposed mailing date of the statement, the financial statements shall be updated with a balance sheet as of an interim date within 135 days of such mailing date and with statements of income and changes in financial position for the interim period between the end of the most recent fiscal year and the date of the interim balance sheet provided and for the corresponding period of the preceding fiscal year. Such interim financial statements need not be verified or be presented in greater detail than is required by § 11.917 and shall be at least as current as the most recent financial statements which have been filed with the Comptroller of the Currency on Form F–4.

(b) When the proposed mailing date of a statement falls between 45 and 90 days after the end of the fiscal year and the bank meets the conditions prescribed under § 11.911(c), the statement need not include financial statements more current than as of the end of the third quarter of the most recently completed fiscal year, unless the verified financial statements for such fiscal year are available. A bank not meeting the conditions prescribed under § 11.911(c) shall include in the statement verified financial statements for the most recent fiscal year.

(c) When a statement is filed near the end of a fiscal year and verified financial statements for that fiscal year are not included, the statement shall be updated with such verified financial statements, if they become available prior to the proposed mailing date of the statement.

§ 11.914 Instructions to income statement requirements.

(a) The statements required shall be prepared in compliance with the applicable requirements of this subpart.

(b) If a period or periods reported on include operations of a business prior to the date of acquisition, or for other reasons differ from reports previously issued for any period, the statements shall be reconciled, as to total operating income and net income in the statement or in a note thereto, with the amounts previously reported: *Provided, however,* That such reconciliations need not be made (1) if they have been made in filings with the Comptroller of the Currency in prior years or (2) the financial statements which are being retroactively adjusted have not previously been made public.

(c) Any non-verified statement for an interim period shall include a statement that all adjustments necessary for a fair presentation of the results for such period have been included. If all such adjustments are of a normal recurring nature, a statement to that effect shall be made; otherwise, information describing in appropriate detail the nature and amount of any adjustments other than normal recurring adjustments entering into the determination of the results shown, shall be furnished. Refer to § 11.917(b)(6) regarding estimated provisions for expenses which are normally determined at year-end.

§ 11.915 Financial statements of businesses acquired or to be acquired.

(a) *Financial statements required.* (1) The financial statements required by this section shall be for the business acquired, or to be acquired, by the bank.

(2) Financial statements prepared and verified in accordance with this Subpart shall be furnished for the periods specified in paragraph (b) of this section if:

(i) Consummation of a business combination accounted for as a purchase has occurred or is probable (for purposes of this rule, the term "purchase" encompasses the purchase of an interest in a business accounted for by the equity method); or

(ii) Consummation of a business combination to be accounted for as a pooling of interests has occurred or is probable.

(3) If consummation of more than one transaction has occurred or is probable, the required financial statements may be presented on a combined basis, if appropriate.

(4) This section shall not apply to any business which was totally held by the bank prior to consummation of the transaction.

(b) *Periods to be covered.* (1) If securities are being offered to the security holders of the business to be acquired, financial statements for the periods specified in § 11.911 shall be furnished. In all other cases, financial statements shall be filed for the period specified in this paragraph or such shorter periods as the bank has been in existence. The financial statements covering fiscal years shall be verified. The periods for which such financial statements are to be filed shall be determined using the conditions specified in the definition of significant subsidiary in § 11.102(ii). The determination shall be made by

comparing the most recent annual financial statements of each business acquired (or to be acquired) to the bank's most recent annual consolidated financial statements filed at or prior to the date of acquisition.

(i) If none of the conditions specified in § 11.102(ii) exceed the associated 10 percent tests, financial statements are not required. However, if the aggregate impact of the individually insignificant businesses acquired since the date of the most recent verified balance sheet filed for the bank exceeds 20 percent, financial statements covering at least the substantial majority of the businesses acquired, combined if appropriate, shall be furnished. Such financial statements shall be for at least the most recent fiscal year and any interim periods specified in § 11.911.

(ii) If any of the conditions exceed the associated 10 percent tests, but none exceed 20 percent, financial statements shall be furnished for at least the most recent fiscal year and any interim periods specified in § 11.911.

(iii) If any of the conditions exceed 20 percent, but none exceed 40 percent, financial statements shall be furnished for at least the two most recent fiscal years and any interim periods specified in § 11.911.

(iv) If any of the conditions exceed 40 percent, the full financial statements specified in § 11.911 shall be furnished.

(2)(i) Notwithstanding the requirements in paragraph (b)(1) of this section, separate financial statements of the acquired business need not be presented if the operating results of the acquired business have been reflected in the verified consolidated financial statements of the bank for a complete fiscal year, and such financial statements have already been filed, unless the acquired business is of such significance to the bank that omission of such financial statements would materially impair an investor's ability to understand the historical financial results of the bank. For example, if at the date of acquisition, the acquired business met at least one of the conditions in the definition of significant subsidiary in § 11.102(ii) at the 80 percent level, the income statements of the acquired business should be furnished for such periods prior to the purchase as may be necessary, when added to the time after the purchase for which verified income statements are filed, to cover the equivalent of the period specified in § 11.911.

(ii) A separate verified balance sheet of the acquired business is not required when the bank's most recent verified balance sheet required by § 11.911 is for a date after the date the acquisition was consummated.

§ 11.916 Separate statements of unconsolidated subsidiaries and other persons.

(a) There shall be filed such other verified financial statements, or such summarized financial information, with respect to unconsolidated subsidiaries and other persons as is material to a proper understanding of the financial position and results of operations of the total enterprise. Insofar as practicable, these financial statements shall be as of the same dates or for the same periods as those of the bank. For purposes of a filing on Form F-2, if the fiscal year of any unconsolidated subsidiary or other person ends no more than 90 days before the filing date, or any time after the filing date, the financial statements required by this section may be filed as an amendment to the Form F-2 within 90 days after the end of such subsidiary's or other person's fiscal year. For purposes of this section and § 11.917, "other persons" includes 50 percent owned persons and unconsolidated persons in which the bank takes up equity in undistributed earnings.

(b) Where financial statements of two or more unconsolidated subsidiaries are required under paragraph (a), combined or consolidated statements of such subsidiaries may be filed subject to principles of inclusion and exclusion which clearly exhibit the financial position, changes in financial position and results of operation of the combined or consolidated group. Similarly, where financial statements of two or more other persons are required under paragraph (a) of this section, combined or consolidated statements of such other persons may be filed subject to the same principles of inclusion or exclusion referred to above.

§ 11.917 Interim financial statements.

(a) *Condensed statements.* Interim financial statements shall follow the general form and content of presentation prescribed by the other sections of this subpart with the following exceptions:

(1) Interim financial statements required by this subpart need only be provided for the bank and its consolidated subsidiaries and need not be verified. Separate statements of other entities which may otherwise be required by this subpart may be omitted.

(2) Summarized income statement information shall be given separately for each unconsolidated subsidiary and other person for which separate financial statements would otherwise be required for annual periods.

(3) Interim balance sheets shall include only major captions (*i.e.*, numbered captions) prescribed by § 11.931. Where any major balance sheet caption is less than 10 percent of total assets, and the amount in the caption has not increased or decreased by more than 25 percent since the end of the preceding fiscal year, the caption may be combined with others.

(4) Interim statements of income shall include only major captions prescribed by § 11.932. When any major income statement caption is less than 15 percent of average net income for the most recent three fiscal years and the amount in the caption has not increased or decreased by more than 20 percent as compared to the corresponding interim period of the preceding fiscal year, the caption may be combined with others. In calculating average net income, loss years should be excluded. If losses were incurred in each of the most recent three years, the average loss shall be used for purposes of this test.

(5) The statement of changes in financial position may be abbreviated, starting with a single figure for funds provided by operations and showing other changes individually only when they exceed 10 percent of the average of funds provided by operations for the most recent three years.

(6) Notwithstanding the tests in paragraphs (a) (3), (4) and (5) of this section for combining items, § 11.922 applies, and *de minimis* amounts therefore need not be shown separately.

(7) The interim financial information shall include disclosure either on the face of the financial statements or in accompanying footnotes sufficient to make the interim information presented not misleading. Banks may presume that users of the interim financial information have read or have access to the verified financial statements for the preceding fiscal year and that the adequacy of additional disclosure needed for a fair presentation, except in regard to material contingencies, may be determined in that context. Accordingly, footnote disclosure which would substantially duplicate the disclosure contained in the most recent annual report to security holders or latest verified financial statements (such as a statement of significant accounting policies and practices), details of accounts which have not changed significantly in amount or composition since the end of the most recently completed fiscal year, and detailed disclosures prescribed by § 11.928 may be omitted. However, disclosure shall be provided of events occurring subsequent to the end of the most recent fiscal year

which have a material impact on the bank. Disclosures should encompass, for example, signficant changes since the end of the most recently completed fiscal year in such items as accounting principles and practices; estimates inherent in the preparation of financial statements; status of long-term contracts; capitalization including significant new indebtedness or modification of existing financing arrangements; and the reporting entity resulting from business combinations or dispositions. Notwithstanding the above, where material contingencies exist, disclosure of such matters shall be provided, even if a signficant change since year end has not occurred.

(8) Detailed schedules otherwise required by this Subpart may be omitted for purposes of preparing interim financial statements.

(b) *Other instructions as to content.* The following additional instructions shall be applicable for purposes of preparing interim financial statements:

(1) If appropriate, the income statement shall show earnings per share and dividends per share applicable to common stock. The basis of the earnings per share computation shall be stated together with the number of shares used in the computation. The bank shall file, as an exhibit, a statement setting forth in reasonable detail the computation of per share earnings, unless the computation is otherwise clearly set forth in the report.

(2) If, during the most recent interim period presented, the bank or any of its consolidated subsidiaries entered into a business combination treated for accounting purposes as a pooling of interests, the interim financial statements for both the current year and the preceding year shall reflect the combined results of the pooled businesses. Supplemental disclosure of the separate results of the combined entities for periods prior to the combination shall be given, with appropriate comments or comparisons between the separate and consolidated results.

(3) If a material business combination accounted for as a purchase has occurred during the current fiscal year, pro forma disclosure shall be made of the results of operations for the current year up to the date of the most recent interim balance sheet provided (and for the corresponding period in the preceding year) as though the companies had combined at the beginning of that period. This pro forma information shall at a minimum show:

(i) Total operating income;

(ii) Income before securities gains (losses), extraordinary items and the cumulative effect of accounting changes; and

(iii) Net income.

In addition, the per share amounts shall be shown for paragraphs (b)(3) (ii) and (iii) above.

(4) In addition to meeting the reporting requirements specified by existing standards for accounting changes, the bank shall state the date of any material accounting change and the reasons for making it. In addition, for filings on Form F-4, a letter from the persons who make a verification of the bank's financial statements shall be filed as an exhibit to the first Form F-4 filed subsequent to the date of an accounting change, indicating whether or not the change is to an alternative principle which in their judgment is preferable under the circumstances; except that no such letter need be filed when the change is made in response to a standard adopted by the Financial Accounting Standards Board which requires such change.

(5) Any material retroactive prior period adjustment made during any period covered by the interim financial statements shall be disclosed, together with its effect upon net income—total and per share—and upon the balance of undivided profits for any prior period included. If results of operations for any period presented have been adjusted retroactively by such an item subsequent to the initial reporting of such period, similar disclosure of the effect of the change shall be made.

(6) The interim financial statements furnished shall reflect all adjustments which are, in the opinion of management, necessary to a fair statement of the results for the interim periods presented. A statement to that effect shall be included. Such adjustments shall include, for example, appropriate estimated provisions for bonus and profit sharing arrangements normally determined or settled at year-end. Furnish any material information necessary to make the information called for not misleading, such as a statement that the results for interim periods are not necessarily indicative of results to be expected for the year.

(c) *Periods to be covered.* The periods for which interim financial statements are to provided in filings other than on Form F-4 are prescribed in §§ 11.911 and 11.913. In filings on Form F-4, financial statements shall be provided as set forth below.

(1) An interim balance sheet as of the end of the most recent fiscal quarter and a balance sheet as of the end of the preceding fiscal year shall be provided. The balance sheet as of the end of the preceding fiscal year may be condensed to the same degree as the interim balance sheet provided. An interim balance sheet as of the end of the corresponding fiscal quarter of the preceding fiscal year need not be provided unless necessary for an understanding of the impact of seasonal fluctuations on the bank's financial condition.

(2) Interim statements of income shall be provided for the most recent fiscal quarter, for the period between the end of the preceding fiscal year and the end of the most recent fiscal quarter, and for the corresponding periods of the preceding fiscal year. Such statements may also be presented for the cumulative twelve month period ended during the most recent fiscal quarter and for the corresponding preceding period.

(3) Interim statements of changes in financial position shall be provided for the period between the end of the preceding fiscal year and the end of the most recent fiscal quarter, and for the corresponding period of the preceding fiscal year. Such statements may also be presented for the cumulative twelve month period ending during the most recent fiscal quarter and for the corresponding preceding period.

(d) *Review by independent public accountant.* The interim financial information included in filings with the Comptroller of the Currency need not be verified, or reviewed by an independent public accountant prior to filing. If, however, a review of the data is made in accordance with the established professional standards and procedures for such a review, the bank may state that the independent accountant has performed such a review. If such a statement is made, the report of the independent accountant on such review shall accompany the interim financial information.

(e) *Filing of other interim financial information in certain cases.* The Comptroller of the Currency may, upon the informal written request of the bank, and where consistent with the protection of investors, permit the omission of any of the interim financial information herein required or the filing in substitution therefor of appropriate information of comparable character. The Comptroller of the Currency may also require the filing of other information in addition to, or in substitution for, the interim information herein required in any case where such information is necessary or appropriate for an adequate presentation of the financial condition of any person for which interim financial information is required, or whose financial information

is otherwise necessary for the protection of investors.

§ 11.918 Filing of other statements in certain cases.

The Comptroller of the Currency may, upon the request of the bank, and where consistent with the protection of investors, permit the omission of one or more of the statements herein required or the filing in substitution therefor of appropriate statements of comparable character. The Comptroller of the Currency may also require the filing of other statements in addition to, or in substitution for, the statements herein required in any case where such statements are necessary or appropriate for an adequate presentation of the financial condition of any person whose financial statements are required, or whose statements are otherwise necessary for the protection of investors.

§ 11.919 Schedules to be filed.

(a) The following schedules shall be filed with each balance sheet filed pursuant to this Subpart: Schedule I-Securities, Schedule II–Loans and Lease Financing Receivables; and Schedule III-Commitments and Contingencies.

(b) The following schedules shall be filed with each statement of income filed pursuant to this subpart: Schedule IV-Investments in, Income from Dividends, and Equity in Earnings or Losses of Related Parties; and Schedule V-Charge-Offs and Recoveries and Changes in Allowance for Possible Loan and Lease Losses.

(c) Refer to § 11.933 for requirements as to the format and content of the schedules specified by § 11.919 (a) and (b).

(d) If the information required in any schedule (including the notes thereto) can be shown in the related financial statement or in a note thereto without making such statement unclear or confusing, that procedure may be followed and the schedule omitted.

(e) The schedules shall be examined by the independent public accountant if the related financial statements are so examined.

Rules of General Application

§ 11.920 Principles of financial reporting.

(a) Financial statements prepared in accordance with the requirements of this Subpart and filed with the Comptroller of the Currency shall conform to generally accepted accounting principles and practices applicable to banks, except as provided in (d) below.

(b) Financial statements shall be prepared on the basis of accrual accounting whereby all revenues and expenses shall be recognized during the period earned or incurred, regardless of the time received or paid. Statements with respect to the first fiscal year that a bank reports on the accrual basis shall indicate clearly, by footnote or otherwise, the beginning-of-year adjustments that were necessary and their effect on prior financial statements filed under this part.

(c) The term "financial statements," as used in this Subpart, includes all required notes to financial statements and all required schedules.

(d) The Comptroller of the Currency may from time to time issue releases on accounting principles and practices to be used with respect to specific areas.

§ 11.921 Requirements as to form.

(a) Except as otherwise provided on the applicable form, financial statements shall be prepared in accordance with the requirements of Subpart I of this part.

(b) All money amounts required to be shown in financial statements may be expressed in whole dollars or thousands of dollars. If shown in thousands, an indication to that effect shall be inserted immediately beneath the caption of the statement or schedule, or at the top of each money column.

(c) Negative amounts shall be shown in a manner which clearly distinguishes the negative attribute. When determining methods of display, consideration should be given to the limitations of the reproduction and microfilming processes.

§ 11.922 Items not material.

If the amount that would otherwise be required to be shown with respect to any item is not material, it need not be separately set forth. The combination of insignificant amounts is permitted.

§ 11.923 Inapplicable captions and omission of unrequired or inapplicable financial statements.

No caption need be shown in any financial statement required by the rules set forth in this subpart as to which the items and conditions are not present. Financial statements not required or inapplicable because the required matter is not present need not be filed, but the statements omitted and the reasons for their omission shall be indicated.

§ 11.924 Additional information.

In addition to the information required with respect to any financial statement, further information shall be furnished as is necessary to make the required statements, in light of the circumstances under which they are made, not misleading.

§ 11.925 Reacquired evidences of indebtedness.

Reacquired evidences of indebtedness shall be deducted from the appropriate liability caption.

§ 11.926 Foreign activities.

(a) *General requirement.* Separate disclosure concerning foreign activities shall be made for each period in which either (1) assets, (2) revenue, (3) income (loss) before income tax expense, or (4) net income (loss), each as associated with foreign activities, exceeded ten percent of the corresponding amount in the related financial statements.

(b) *Disclosures.* (1) Disclose total identifiable assets (net of valuation allowances) associated with foreign activities.

(2) For each period for which an income statement is filed, state the amount of revenue, income (loss) before taxes, and net income (loss) associated with foreign activities. Disclose significant estimates and assumptions (including those related to the cost of capital) used in allocating revenue and expenses to foreign activities; describe the nature and effects of any changes in such estimates and assumptions which have a significant impact on interperiod comparability.

(3) The information in paragraph (b) (1) and (2) of this section shall be presented separately for each significant geographic area and in the aggregate for all other geographic areas not deemed significant.

(c) *Definitions.* (1) "Foreign activities" include loans and other revenue producing assets and transactions in which the debtor or customer, whether an affiliated or unaffiliated person, is domiciled outside the United States.

(2) The term "revenue" includes the total of the amounts reported in items (1), (6) and (7) of § 11.932.

(3) A "significant geographic area" is one in which assets or revenue or income before income tax or net income exceed 10 percent of the comparable amount as reported in the related financial statements.

§ 11.927 Leased assets and lease commitments.

The financial statement requirements in Statement of Financial Accounting Standards No. 13, "Accounting for Leases," shall be applied in financial statements filed for fiscal years ended after December 24, 1978 with regard to all leases except for companies where a problem, as defined, exists. The problem and its potential impact should be disclosed in the footnotes to the

financial statements. For purposes of this section, "problem" is defined as: That situation where capitalization of capital leases, as defined in Statement of Financial Accounting Standards No. 13, would result in the violation or probable future violation, expected to occur prior to fiscal years beginning after December 31, 1980, of a restrictive clause in an existing loan indenture or other agreement.

§ 11.928 General notes to financial statements.

If applicable to the bank for which the financial statements are filed, disclosure specified in the following paragraphs shall be set forth in the appropriate statement or in appropriately captioned notes. The information shall be provided for each statement required to be filed, except that the information required by paragraphs (b), (c), (d), (e), (f) and (h) of this section shall be provided as of the date of the most recent fiscal year-end balance sheet being filed and for paragraph (g) as specified therein. When specific statements are presented separately, the pertinent note shall accompany such statements unless cross-referencing is appropriate.

(a) *Principles of consolidation or combination.* With regard to consolidated or combined financial statements, refer to § 11.929 for requirements for supplemental information in notes to the financial statements.

(b) *Assets subject to lien.* The amounts of assets mortgaged, pledged, or otherwise subject to a lien or security interest shall be designated and the obligation secured thereby, if any, shall be identified briefly.

(c) *Restrictions which limit the payment of dividends by the bank.* (1) Describe the most significant restrictions, other than as reported under paragraph (k) of this section, on the payment of dividends by the bank, indicating their sources, their pertinent provisions, and the amount of surplus and/or undivided profits or net income restricted or free or restrictions.

(2) Disclose the amount of consolidated retained earnings which represents undistributed earnings of 50 percent of less owned persons accounted for by the equity method.

(d) *Commitments and contigent liabilities.* Provide a brief statement as to contingent liabilities not reflected in the balance sheet.

(e) *Defaults.* The facts and amounts concerning any default in principal, interest, sinking fund, or redemption provisions with respect to any issue or securities or credit agreements, or any breach of covenant of a related indenture or agreement, which default or breach existed at the date of the most recent balance sheet being filed and which has not been subsequently cured, shall be stated in the notes to the financial statements. If a default or breach exists, but acceleration of the obligation has been waived for a stated period of time beyond the date of the most recent balance sheet being filed, state the amount of the obligation and the period of the waiver.

(f) *Significant changes in bonds, mortgages, and similar debt.* Any significant changes in the authorized or issued amounts of bonds, mortgages, and similar debt since the date of the latest balance sheet being filed shall be stated.

(g) *Warrants or rights outstanding.* Information with respect to warrants or rights outstanding at the date of the related balance sheet shall be set forth as follows:

(1) Title of issue of securities called for by warrants or rights outstanding;

(2) Aggregate amount of securities called for by warrants or rights outstanding;

(3) Date from which warrants or rights are exercisable and expiration date;

(4) Price at which warrant or right is exercisable.

(h) *Income tax expense.* (1) Disclosure shall be made, in the income statement or a note thereto, of (i) the components of income (loss) before income tax expense (benefit) as either domestic or foreign and (ii) the components of income tax expense, including (A) taxes currently payable and (B) the net tax effects, as applicable, of timing differences (indicate separately the amount of the estimated tax effect of each of the various types of timing differences where the amount of each such tax effect exceeds 5 percent of the amount computed by multiplying the income before tax by the applicable statutory Federal income tax rates; other differences may be combined).

Note.—Amounts applicable to United States Federal income taxes, to foreign income taxes, and to other income taxes shall be stated separately for each major component. Amounts applicable to foreign income (loss) and amounts applicable to foreign and other income taxes which are less than 5 percent of the total of income before taxes or the component of tax expense, respectively, need not be separately disclosed. For purposes of this rule, foreign income (loss) is defined as income (loss) generated from a bank's foreign operations, i.e., operations that are located outside the United States.

(2) Provide a reconciliation between the amount of reported total income tax expense and the amount computed by multiplying the income before tax by the applicable statutory Federal income tax rate, showing the estimated dollar amount of each of the underlying causes of the difference. If no individual reconciling item amounts to more than 5 percent of the amount computed by multiplying the income before tax by the applicable statutory Federal income tax rate and the total difference to be reconciled is less than 5 percent of the computed amount, no reconciliation need be provided, unless it would be significant in appraising the trend of earnings. Reconciling items that are individually less than 5 percent of the computed amount may be aggregated in the reconciliation. The reconciliation may be presented in percentages rather than in dollar amounts.

(i) *Interest Cost.* Disclosure shall be provided for each period for which an income statement is presented of the amount of interest cost incurred and the respective amounts expensed or capitalized.

(j) *Material related party transactions which affect the financial statements.* (1) The financial statements filed shall disclose transactions with, investments in, and balances due to or from related parties that are material, individually or in the aggregate. This disclosure should include the following:

(i) The nature of the relationship(s).

(ii) A description of the transactions (summarized when appropriate) for the periods for which an income statement is presented, including amounts, if any, and such other information as is deemed necessary to an understanding of the effects on the financial statements.

(iii) The dollar volume of transactions and the effects of any change in the method of establishing terms from that used in the preceding period.

(iv) Amounts due to or from related parties and, if not otherwise apparent, the terms and manner of settlements.

(v) Amount of investments in related parties.

(2) In cases where separate financial statements are presented for certain investees, or subsidiaries, separate disclosure shall be made in such statements of the amounts in the related consolidated financial statements which are (i) eliminated and (ii) not eliminated. Also, any intercompany profits or losses resulting from transactions with related parties and not eliminated and the effects thereof shall be disclosed.

(3) Disclosure should be made on the face of the balance sheet, income statement, or (if applicable) statement of changes in financial position for any material related-party receivable or payable; revenue, expense, gain or loss;

or cash flows, respectively. Relevant details regarding these amounts should be provided in the notes.

(4) With respect to the classification of current amounts due from or to related parties, consideration should be given to the intent and the financial position of such related parties in determining whether such amounts should be classified as current or long term.

(k) *Preferred shares.* (1) Aggregate preferences on involuntary liquidation, if other than par or stated value, shall be shown parenthetically in the equity section of the balance sheet.

(2) Disclosure shall be made of any restriction upon retained earnings that arises from the fact that upon involuntary liquidation the aggregate preferences of the preferred shares exceeds the par or stated value of such shares.

§ 11.929 Principles of consolidation or combination.

(a) Consolidated statements generally present more meaningful information to the investor than unconsolidated statements. Except where good reason exists, consolidated statements of the bank and its majority-owned significant subsidiaries should be filed.

(b) Every majority-owned bank-premises subsidiary and every majority-owned subsidiary operating under the provisions of section 25 or section 25(a) of the Federal Reserve Act ("Agreement Corporations" and "Edge Act Corporations") shall be consolidated with that of the reporting bank irrespective of whether such subsidiary is a significant subsidiary.

(c) If the financial statements of a subsidiary are as of a date or for periods different from those of the bank, such statements may be used as the basis for consolidation of the subsidiary only if the date of such statements is not more than 93 days from the date of the close of the bank's fiscal year; the closing date of the subsidiary is specified; the necessity for the use of different closing dates is explained briefly; and any changes in the respective fiscal periods of the bank and the subsidiary made during the period of report are indicated clearly.

(d) A brief description of the principles followed in consolidating or combining the separate financial statements, including the principles followed in determining the inclusion or exclusion of (1) subsidiaries and (2) companies in consolidated or combined financial statements, shall be stated in the notes to the respective financial statements.

(e) For each consolidated financial statement and for each combined financial statement, if there has been a change in the persons included or excluded in the corresponding statement for the preceding fiscal period filed with the Comptroller of the Currency and such change has a material effect on the financial statements, the persons included and the persons excluded shall be disclosed. If, during the periods of the report there have been any changes in the respective fiscal periods of the persons included, and such changes have a material effect on the financial statements, the changes and their manner of treatment shall be clearly indicated.

(f) In general, there shall be eliminated intercompany items and transactions between persons included in the (1) consolidated financial statements being filed and, as appropriate, (2) unrealized intercompany profits and losses on transactions between persons for which financial statements are being filed and persons the investment in which is presented in such statements by the equity method. If such eliminations are not made, a statement of the reasons and methods of treatment shall be made.

Financial Statement Formats

§ 11.930 General instructions.

The formats in §§ 11.931 and 11.932 are intended to serve as guides for the preparation of the balance sheet and statement of income in accordance with the requirements of this Subpart. The formats for the statement of changes in financial position and (if applicable) the separate statement of changes in equity capital are not set forth herein. The formats are recommended presentations, but financial statements may be filed in such form and order as will best indicate their significance and character. Banks have the option of conforming their financial statement formats to the provisions of Article 9 of Regulation S-X of the Securities and Exchange Commission (17 CFR 210.9) in lieu of the format set forth herein. For detailed instructions as to the required content of general notes to the financial statements, refer to § 11.928.

§ 11.931 Balance sheet.

The balance sheet shall be prepared in accordance with the instructions for the preparation of the Consolidated Report of Condition (FFIEC 031, 032, 033, or 034 as applicable) ("Call Report") except to the extent revised or expanded financial data presentation is necessary to meet the disclosure standards of the Securities Exchange Act of 1934, as amended.

Note.—See § 11.920 for general requirements of financial reporting.

The following captions and added supplemental instructions shall be observed in the preparation of the balance sheet required under this subpart.

Assets

1. *Cash and balances due from depository institutions.*

(a) State separately (1) interest-bearing balances in other banks and (2) noninterest-bearing balances and cash.

(b) Any withdrawal and usage restrictions (including requirements of the Federal Reserve to maintain certain average reserve balances) or compensating balance requirements should be disclosed.

2. *Securities* (a) Include securities held for investment only. Disclose the aggregate book value of investment securities; show on the balance sheet the aggregate market value at the balance sheet date. The aggregate amounts should include securities pledged, loaned or sold under repurchase agreements and similar arrangements; borrowed securities and securities purchased under resale agreements or similar arrangements should be excluded.

(b) Disclose in a note the carrying value and market value of securities of (1) the U.S. Treasury and other U.S. Government agencies and corporations; (2) states of the U.S. and political subdivisions; and (3) other securities.

3. *Federal funds sold and securities purchased under agreements to resell.*

These amounts should be presented gross and not netted against Federal funds purchased and securities sold under agreements to repurchase.

4. *Loans and lease financing receivables.* Disclose separately (1) total loans and lease financing receivables, (2) the related allowance for losses and (3) unearned income.

(a) Disclose on the balance sheet or in a note the amount of total loans in each of the following categories: (1) Commercial, financial and agricultural, (2) Real estate-construction, (3) Real estate-mortgage, (4) Installment loans to individuals, (5) Lease financing receivables, (6) Foreign, (7) Other (State separately any other loan category regardless of relative size if necessary to reflect any unusual risks or uncertainties such as a substantial portion of total loans which are concentrated in one or a few industries or foreign countries).

(b) A series of categories other than those specified in (a) above may be used to present details of loans if considered a more appropriate presentation.

(c) The amount of foreign loans must be presented if the disclosures specified by § 11.926 are required.

(d) For each period for which an income statement is required, furnish in a note a statement of changes in the allowance for loan losses showing the balances at beginning and end of the period, provision charged to income, recoveries of amounts

charged off and losses charged to the allowance.

(e)(1)(i) For each balance sheet date, disclose in a note the aggregate dollar amount of loans (exclusive of loans to any such persons which in the aggregate do not exceed $60,000 during the latest year) made by the bank or any of its subsidiaries to directors, executive officers, or principal holders of equity securities of the bank or any of its significant subsidiaries, or to any associate of such persons. For the latest fiscal year, an analysis of activity with respect to such aggregate loans to related parties should be provided. The analysis should include the aggregate amount at the beginning of the period, new loans, repayments, and other changes. (Other changes, if significant, should be explained.)

(ii) This disclosure need not be furnished when the aggregate amount of such loans at the balance sheet date (or with respect to the latest fiscal year, the maximum amount outstanding during the period) does not exceed 5 percent of equity capital at the balance sheet date.

(2) If a significant portion of the aggregate amount of loans outstanding at the end of the fiscal year disclosed pursuant to (e)(1)(i) above relates to loans which are nonaccrual, past due (over 90 days) or restructured, as those terms are used in the Call Report, so state and disclose the aggregate amount of such loans along with such other information necessary to an understanding of the effects of the transactions on the financial statements.

(3) Notwithstanding the aggregate disclosure called for by (e)(1) above, if any loans were not made in the ordinary course of business during any period for which an income statement is required to be filed, provide an appropriate description of each such loan.

5. *Assets held in trading accounts.* Include securities or any other investments held for trading purposes only.

6. *Premises and fixed assets.*

7. *Other real estate owned.* State in a note (1) the basis at which carried, (2) the aggregate fair market value of all real estate owned other than bank premises with an explanation of the method of determining such fair market value, and (3) for each period for which an income statement is required, a reconciliation of any valuation allowance account, including the balance at the beginning and end of the period, provision charged to income, and losses charged to the allowance.

8. *Investments in an indebtedness of unconsolidated subsidiaries and associated companies.*

9. *Customers' liability to the bank on acceptances outstanding.*

10. *Intangible assets.*

11. *Other assets.* Disclose separately on the balance sheet or in a note thereto any of the following assets or any other asset the amount of which exceeds 30 percent of equity capital. The remaining assets may be shown as one amount.

(1) Accrued interest.

(2) Net deferred tax charges.

12. *Total assets.*

Liabilities

13. *Deposits.* (a) Disclose separately the amounts of noninterest bearing deposits and interest bearing deposits. The amount of noninterest bearing deposits and interest bearing deposits in foreign banking offices must be presented if the disclosures provided by § 11.926 are required.

(b) State in a note the aggregate amount of (1) time certificates of deposit in denominations of $100,000 or more and (2) other time deposits in denominations of $100,000 or more, in domestic offices and, if § 11.926 applies, foreign offices.

14. *Federal funds purchased and securities sold under agreements to repurchase and other short term borrowings.*

(a) Disclose separately on the balance sheet or in a note, amounts payable for (1) federal funds purchased and securities sold under agreements to repurchase; (2) commercial paper, and (3) other short term borrowings. Disclose any unused lines of credit for short-term financing.

(b) If the average balance outstanding during the period for any category was 30 percent or more of equity capital, provide the following information, with respect to each category, in a note:

(1) Weighted average interest rate at balance sheet date.

(2) Maximum amount of borrowings at any month-end during each period for which an end of period balance sheet is required.

(3) Approximate average borrowings outstanding during the period.

(4) Approximate weighted average interest rate for such average borrowings outstanding during the period.

15. *Demand notes issued to the U.S. Treasury.*

16. *Other borrowed money*—See supplemental instruction to Item 14.

17. *Mortgage indebtedness and obligations under capitalized leases.*

(a) Report the amount of mortgages, liens, or other encumbrances on premises and fixed assets and on other real estate owned for which the bank or its consolidated subsidiaries are liable. If the bank is the lessee on capitalized lease property, include the bank's liability for capitalized lease payments. (See the Call Report Glossary entry for "lease accounting" for a discussion of accounting with bank as lessee.)

(b) State in a note material terms and conditions of each obligation, including (but not limited to): (1) The general character of the debt; (2) the rate of interest; (3) the date of maturity or if maturing serially, a brief indication of the serial maturities; (4) if the payment of principal or interest is contingent, an appropriate indication of such contingency; (5) a brief indication of priority; and (6) the amount outstanding at the balance sheet date.

18. *Bank's liability on acceptances executed and outstanding.* Report the amount of liability that is represented by drafts and bills of exchange that have been accepted by the reporting bank, or by others for its account, and that are outstanding. See the Call Report Glossary entry for "Bankers Acceptances" for further information.

19. *Notes and debentures subordinated to deposits.*

(a) Report the amount of outstanding notes and debentures (including mandatory convertible debt) that are subordinated to the deposits of the consolidated bank (see the Call Report Glossary entry for "Subordinated Notes and Debentures").

(b) State in a note the material terms and conditions of each obligation including, but not limited to: (1) The general character of the debt; (2) the rate of interest; (3) the date of maturity, or if maturing serially, an indication of serial maturities; (4) if the payment of principal or interest is contingent, an appropriate indication of such contingency; (5) a brief indication of priority; (6) the amount outstanding at the balance sheet date; and (7) if convertible, the basis.

20. *Other liabilities.* Disclose separately on the balance sheet or in a note any of the following liabilities or any other items which are individually in excess of 25 percent of the equity capital (except that amounts in excess of 5 percent of equity capital should be disclosed with respect to item (4)). The remaining items may be shown as one amount. (1) Income taxes payable, (2) Deferred income taxes, (3) Indebtedness to affiliates and other persons the investments in which are accounted for by the equity method, (4) Indebtedness to directors, executive officers, and principal holders of equity securities of the bank or any of its signficant subsidiaries, (5) Accounts payable and accrued expenses, (6) Commitments and contingent liabilities, minority interest in consolidated subsidiaries.

21. *Total Liabilities.*

22. *Limited-life preferred stock.* Report the amount of any preferred stock that has a stated maturity date that can be redeemed at the option of the holder (excluding those issues of preferred stock that automatically convert into perpetual preferred stock or common stock at a stated date). State on the face of the balance sheet the title of each issue, the carrying amount and redemption amount. (If there is more than one issue, these amounts may be aggregated on the face of the balance sheet and details concerning each issue may be presented in the note required by paragraph (b) below.) Show also the dollar amount of any shares subscribed but unissued, and show the deduction of subscriptions receivable therefrom. If the carrying amount is different from the redemption amount, describe the accounting treatment for such difference in the note required by paragraph (b) below. Also state in this note or on the face of the balance sheet, for each issue, the number of shares authorized and the number of shares issued or outstanding, as appropriate.

(b) State in a separate note captioned "Redeemable Preferred Stocks": (1) A general description of each issue, including its redemption features (e.g. sinking fund, at option of holders, out of future earnings) and the rights, if any, of holders in the event of default, including the effect, if any, on junior securities in the event of a required dividend, sinking fund, or other redemption payment(s) is not made; (2) the combined aggregate amount of redemption requirements for all issues each year for the five years following the date of the latest balance sheet; and (3)

the changes in each issue for each period for which an income statement is required to be filed.

Equity Capital

23. *Perpetual preferred stock.* Report the amount of preferred stock that does not have a stated maturity date or that cannot be redeemed at the option of the holder (including those issues of preferred stock that automatically convert into common stocks at a stated date). State on the face of the balance sheet, or if more than one issue is outstanding, state in a note, the title of each issue and the dollar amount thereof. Show also the dollar amount of any shares subscribed but unissued, and show the deduction of subscriptions receivable therefrom. State on the face of the balance sheet or in a note, for each issue, the number of shares authorized and the number of shares issued or outstanding, as appropriate. Show in a note or separate statement the changes in each class of preferred share reported herein for each period for which an income statement is required to be filed.

24. *Common stock.* Report the aggregate par or stated value of outstanding common stock. State for each class of shares the title of issue, the number of shares authorized, issued and outstanding, the par value per share and the dollar amount thereof. Show also the dollar amount, if any, of each class of shares subscribed to but unissued, and show the deduction of subscriptions receivable therefrom. Disclose in the statement of a note the changes in the aggregate par or stated value of outstanding common stock for each period for which an income statement is required.

25. *Surplus.*

26. *Undivided profits and capital reserves.* Report the amounts appropriated and unappropriated; restrictions which limit the payment of dividends; and the amount of undivided profits which represents undistributed earnings of 50 percent or less owned companies.

27. *Cumulative foreign currency translation adjustments.* (Not applicable to banks with domestic offices only).

28. *Total equity capital.*

29. *Total liabilities, limited-life preferred stock, and equity capital.*

§ 11.932 Statement of income.

The statement of income shall conform generally to the Consolidated Report of Income (FFIEC 031, 032, 033, or 034 as applicable) and related instructions thereto, except to the extent revised or expanded financial data presentation is necessary to meet the disclosure standards of the Securities Exchange Act of 1934, as amended.

Note.—See § 11.920 for general requirements of financial reporting.

The following captions and added supplemental instructions shall be observed in the preparation of the statement of income required under this subpart.

1. *Interest income.* Include commitment and origination fees, late charges and current amortization of premium and accretion of discount on loans which are related to or are an adjustment of the loan interest rate. Disclose separately.

(a) Interest and fee income on loans.

(b) Income from lease financing receivables.

(c) Interest income on balance due from depository institutions.

(d) Interest and dividend income on securities—Disclose separately (1) taxable interest income, (2) nontaxable interest income, and (3) dividends. State in a note interest and dividend income on

(i) U.S. Treasury securities and U.S. Government agency and corporation obligations.

(ii) Securities issued by states and political subdivisions in the U.S.

(iii) Other domestic securities (debt and equity).

(iv) Foreign securities (debt and equity).

(e) Interest income from assets held in trading accounts.

(f) Interest income on federal funds sold and securities purchased under agreements to resell.

(2) *Interest Expense.* Disclose separately.

(a) Interest on deposits.

(i) Interest on time certificates of deposit of $100,000 or more.

(ii) Interest on other deposits.

(b) Expense of federal funds purchased and securities sold under agreements to repurchase.

(c) Interest on demand notes issued to the U.S. Treasury and on other borrowed money.

(d) Interest on mortgage indebtedness and obligations under capitalized leases.

(e) Interest on notes and debentures subordinated to deposits.

(3) *Net interest income.*

(4) *Provision for loan and lease losses.*

(5) *Net interest income after provision for loan and lease losses.*

(6) *Noninterest income.* Disclose separately.

(a) Income from fiduciary activities.

(b) Service charges on deposit accounts.

(c) Trading gains (losses) and fees from foreign exchange transactions.

(d) Other foreign transaction gains (losses).

(e) Gains (losses) and fees from assets held in trading accounts. Report the net gain or loss from the sale of assets reportable in § 11.931, item 5, "Assets held in trading accounts," other than those trading gains (losses) and fees relating to foreign exchange transactions reported in item 6(c) above.

(f) Other noninterest income. Report all operating income of the bank not required to be reported in item 1(a) through 1(f) and 6(a) through 6(e). State separately the dollar amount of any individual component of this item which exceeds 25 percent of the total.

7. *Gain (losses) on securities not held in trading accounts.* Report the net gain or loss. Disclose in a note the method used to determine the cost of investments sold and the related income taxes.

8. *Noninterest expense.*

(a) Salaries and employee benefits.

(b) Expenses of premises and fixed assets.

(c) Other noninterest expense. See item 6(f) for threshold for disclosure of individual components.

(d) Total noninterest expense.

(e) Amortization of goodwill.

(f) Minority interest in income of consolidated subsidiaries.

9. *Income (loss) before income taxes and extraordinary items and other adjustments.*

10. *Applicable income taxes (on item 8).*—See § 11.928(h).

11. *Income (loss) before extraordinary items and other adjustments.*

12. *Extraordinary items and other adjustments.*

(a) Extraordinary items and other adjustments, gross of income taxes.

(b) Applicable income taxes (on item 12(a)).

(c) Extraordinary items and other adjustments, net of income taxes.

13. *Net income (loss).* Report the sum of items 10 and 11(c).

14. *Earnings per share data.*

§ 11.933 Schedules.

Schedule I—Securities

Exclude assets held in trading accounts.

	Book value (Col. A)	Market value (Col. B)
1. U.S. Treasury securities		
2. U.S. Government agency and corporation obligations:		
a. All holdings of U.S. Government-issued or guaranteed certificates of participation in pools of residential mortgages		
b. All other		
3. Securities issued by states and political subdivisions in the U.S		
4. Other domestic securities (debt and equity):		
a. All holdings of private (i.e., nongovernment-issued or guaranteed) certificates of participation in pools of residential mortgages		
b. All other		
5. Foreign securities (debt and equity)		
6. Total (sum of items 1 through 5) (Total of column A must equal call report schedule RC, item 2)		
7. Pledged securities		

Schedule II—Loans and Lease Financing Receivables

Net of unearned income and before adjustment for allowance for loan and lease losses. Excluding assets held in trading accounts.

	Book value
1. Loans secured by real estate:	
a. Construction and land development	
b. Secured by farmland (including farm residential and other improvements)	
c. Secured by 1–4 family residential properties	
d. Secured by multifamily (5 or more) residential properties	
e. Secured by nonfarm nonresidential properties	

	Book value
2. Loans to depository institutions:	
a. To commercial banks in the U.S.:	
(1) To U.S. branches and agencies of foreign banks	
(2) To other commercial banks in the U.S.	
b. To other depository institutions in the U.S.	
c. To banks to foreign countries:	
(1) To foreign branches of other U.S. banks	
(2) To other banks in foreign countries	
3. Loans to finance agricultural production and other loans to farmers	
4. Commercial and industrial loans:	
a. To U.S. addressees (domicile)	
b. To non-U.S. addressees (domicile)	
5. Acceptances of other banks	
6. Loans to individuals for household, family, and other personal expenditures (includes purchased paper)	
a. Credit cards and related plans	
b. Other	
7. Loans to foreign governments and official institutions (including foreign central banks)	
8. Obligations (other than securities) of states and politicial subdivisions in the U.S.:	
a. Nonrated industrial development obligations	
b. Other obligations (excluding securities)	
9. Other loans:	
a. Loans for purchasing or carrying securities (secured and unsecured)	
b. All other loans	
10. Lease financing receivables (net of unearned income)	
11. Less: Any unearned income on loans reflected in items 1-9 above	
12. Total loans and leases, net of unearned income (sum of items 1 through 10 minus item 11) (must equal call report schedule RC, item 4a)	
1. Commercial paper included in call report schedule RC-C	

Schedule III—Commitments and Contingencies

See Call Report, Instructions to Schedule RC-L.

	Dollar amounts
1. Commitments to make or purchase loans or to extend credit in the form of lease financing arrangements (report only the unused portions of commitments that are fee paid or otherwise legally binding)	
2. Futures and forward contracts (exclude contracts involving foreign exchange):	
a. Commitments to purchase	
b. Commitments to sell	
3. Standby contracts and other option arrangements:	
a. Obligations to purchase under option contracts	
b. Obligations to sell under option contracts	
4. Commitments to purchase foreign currencies and U.S. dollar exchange (spot and forward)	
5. Standby letters of credit:	
a. Standby letters of credit:	
(1) To U.S. addressees (domicile)	
(2) To non-U.S. addressees (domicile)	
b. Amount of standby letters of credit in items 5.a.(1) and 5.a.(2) conveyed to others through participations	
6. Commercial and similar letters of credit	
7. Participations in acceptances (as described in the instructions) conveyed to others by the reporting (accepting) bank	
8. Participations in acceptances (as described in the instructions) acquired by the reporting (nonaccepting) bank	
9. Securities borrowed	
10. Securities lent	
11. Other significant commitments and contingencies (list below each component of this item over 25 percent of call report schedule RC, item 28, "Total equity capital")	

1. Loans originated by the reporting bank that have been sold or participated to others during the calendar quarter ending with the report date (exclude the portions of such loans retained by the reporting bank; see instructions for other exclusions).

Schedule IV—Investments in, Dividend Income From, and Equity in Earnings or Losses of Related Parties

Name of issuer [1]	Percent of voting stock owned	Total investment	Equity in underlying net assets at balance sheet date [2]	Amount of dividends [3]	Bank's proportionate part of earnings or loss for the period
	Col. A	Col. B	Col. C	Col. D	Col. E
Totals					

[1] Group separately securities of (a) subsidiaries consolidated, (b) subsidiaries not consolidated, (c) associated companies, and (d) other related parties. Show shares, bonds, notes and advances separately in each case.
[2] Equity shall include advances and other obligations reported in Column B to the extent recoverable.
[3] State as to any dividends other than cash the basis on which they have been reported as income. If any such dividend received has been credited to income in an amount differing from that charged to surplus or undivided profits by the disbursing subsidiary, state the amount of such difference and explain.

Schedule V—Charge-Offs and Recoveries and Changes in Allowance for Loan and Lease Losses

I. Charge-Offs and Recoveries on Loans and Leases [1]

	Charge-offs (col. A)	Recoveries (col. B)
1. Real estate loans		
2. Installment loans		
3. Credit cards and related plans		
4. Commercial (time and demand) and all other loans		
5. Lease financing receivables		
6. Total (sum of items 1 through 5)		
1. Loans to foreign governments and official institutions included in part I, items 1 through 4 above		
Item 2 is to be completed only by banks with agricultural loans exceeding five percent of total loans		
2. Agricultural loans included in part I, items 1 through 4 above		

[1] See Call Report, Instructions to Schedule R-B.

II. Changes in Allowance for Loan and Lease Losses

	Dollar amounts
1. Balance end of previous calendar year	
2. Recoveries (must equal part I, item 6, column B above)	
3. Charge-Offs (must equal part I, item 6, column A above)	
4. Provision for loan and lease losses (must equal call report schedule RI, item 4)	

II. Changes in Allowance for Loan and Lease Losses—Continued

	Dollar amounts
5. Adjustments (see instructions for this schedule)	
6. Balance end of current period (sum of items 1 through 5) (must equal call report schedule RC, item 4b)	

Pro Forma Financial Information

§ 11.940 Presentation requirements.

(a) Pro forma financial information shall be furnished when any of the following conditions exist:

(1) During the most recent fiscal year or subsequent interim period for which a balance sheet is required by § 11.911, a significant business combination accounted for as a purchase has occurred;

(2) After the date of the most recent balance sheet filed pursuant to § 11.911, consummation of a significant business combination to be accounted for by either the purchase method or pooling-of-interests method of accounting has occurred or is probable;

(3) The bank is offering its securities to the security holders of a significant business to be acquired or the proceeds from the offered securities will be applied, directly or indirectly, to the

purchase of a specific significant business;

(4) The disposition of a significant portion of a business either by sale, abandonment or distribution to shareholders by means of a spin-off, split-up or split-off has occurred or is probable and such disposition is not fully reflected in the bank's financial statements included in the filing; or

(5) Other transactions or events have occurred or are probable for which disclosure of pro forma financial information would be material to investors.

(b) A business combination or disposition of a business shall be considered significant if:

(1) A comparison of the most recent annual financial statements of the business acquired or to be acquired and the bank's most recent annual consolidated financial statements filed at or prior to the date of acquisition indicates that the business would be a significant subsidiary under conditions specified in § 11.102(ii); or

(2) The business to be disposed of meets the conditions of a significant subsidiary in § 1.102(ii).

(c) When consummation of more than one transaction has occurred or is probable during a fiscal year, the tests of significance in paragraph (b) above shall be applied to the cumulative effect of those transactions. If the cumulative effect of the transactions is significant, pro forma financial information shall be presented.

(d) For purposes of this section, the term "business" should be evaluated in light of the facts and circumstances involved and whether there is sufficient continuity of the acquired entity's operations prior to and after the transactions so that disclosure of prior financial information is material to an understanding of future operations. A presumption exists that a separate entity, a subsidiary, or a division is a business. However, a lesser component of an entity may also constitute a business. Among the facts and circumstances which should be considered in evaluating whether an acquisition of a lesser component of an entity constitutes a business are the following:

(1) Whether the nature of the revenue-producing activity of the component will remain generally the same as before the transaction; or

(2) Whether any of the following attributes remain with the component after the transaction:

(i) Physical facilities,

(ii) Employee base,

(iii) Market distribution system,

(iv) Sales force,

(v) Customer base,

(vi) Operating rights,

(vii) Production techniques, or

(viii) Trade names.

(e) This section does not apply to transactions between a bank and its totally owned subsidiaries.

§ 11.941 Preparation requirements.

(a) *Objective.* Pro forma financial information should provide investors with information about the continuing impact of a particular transaction by showing how it might have affected historical financial statements if the transaction had been consummated at an earlier time. Such statement should assist investors in analyzing the future prospects of the bank because they illustrate the possible scope of the change in the bank's historical financial position and results of operations caused by the transaction.

(b) *From and content.* (1) Pro forma financial information shall consist of a pro forma condensed balance sheet, pro forma condensed statements of income, and accompanying explanatory notes. Where a limited number of pro forma adjustments are required and those adjustments are easily understood, a narrative description of the pro forma effects of the transaction may be furnished in lieu of the statements described herein.

(2) The pro forma financial information shall be accompanied by an introductory paragraph which briefly sets forth a description of (i) the transaction, (ii) the entities involved, and (iii) the periods for which the pro forma information is presented. In addition, an explanation of what the pro forma presentation shows shall be set forth.

(3) The pro forma condensed financial information need only include major captions (*i.e.*, the numbered captions) prescribed by §§ 11.931 and 11.932. Where any major balance sheet caption is less than 10 percent of total assets, the caption may be combined with others. When any major income statement caption is less than 15 percent of average net income of the bank for the most recent three fiscal years, the caption may be combined with others. In calculating average net income, loss years should be excluded, unless losses were incurred in each of the most recent three years, in which case the average loss shall be used for purposes of this test. Notwithstanding these tests, *de minimis* amounts need not be shown separately.

(4) Pro forma statements shall ordinarily be in columnar form showing condensed historical statement, pro forma adjustments, and the pro forma results.

(5) The pro forma condensed income statement shall disclose income (loss) from continuing operations before nonrecurring charges or credits directly attributable to the transaction. Material nonrecurring charges or credits and related tax effects which result directly from the transaction and which will be included in the income of the Bank within the 12 months succeeding the transaction shall be disclosed separately. It should be clearly indicated that such charges or credits were not considered in the pro forma condensed income statement. If the transaction for which pro forma financial information is presented related to the disposition of a business, the pro forma results should give effect to the disposition and be presented under an appropriate caption.

(6) Pro forma adjustments related to the pro forma condensed income statement shall be computed assuming the transaction was consummated at the beginning of the fiscal year presented and shall include adjustment which give effect to events that are (i) directly attributable to the transaction, (ii) expected to have a continuing impact on the bank, and (iii) factually supportable. Pro forma adjustments related to the pro forma condensed balance sheet shall be computed assuming the transaction was consummated at the end of the most recent period for which a balance sheet is required by § 11.911 and shall include adjustments which give effect to events that are directly attributable to the transaction and factually supportable, regardless of whether they have a continuing impact or are nonrecurring. All adjustments should be referenced to notes which clearly explain the assumption involved.

(7) Historical, primary and fully diluted per share data based on continuing operations (or net income if the bank does not report discontinued operations, extraordinary items, securities gains (losses), or the cumulative effects of accounting changes) for the bank, and primary and fully diluted pro forma per share data based on continuing operations before nonrecurring charges or credits directly attributable to the transaction shall be presented on the face of the pro forma condensed income statement together with the number of shares used to compute such per share data. For transactions involving the issuance of securities, the number of shares used in the calculation of the pro forma per shares outstanding during the period, adjusted to give effect to shares subsequently issued or assumed to be

issued had the particular transaction or event taken place at the beginning of the period presented. If a convertible security is being issued in the transaction, consideration should be given to the possible dilution of the pro forma per share data.

(8) If the transaction is structured in such a manner that significantly different results may occur, additional pro forma presentations shall be made which give effect to the range of possible results.

Instructions

1. The historical statement of income used in the pro forma financial information shall not report operations of a segment that has been discontinued, extraordinary items, securities gains (losses), or the cumulative effects of accounting changes. If the historical statement of income includes such items, only the appropriate portion of the statement (and appropriate captions) should be used in preparing pro forma results.

2. For a purchase transaction, pro forma adjustments for the income statement shall include amortization of any intangible asset, depreciation and other adjustments based on the allocated purchase price of net assets acquired. Disclose in a note the effect which the purchase adjustment will have on the reported results of operations for each of the next five years if such adjustments:

(a) Involve a significant write-down of the historical cost of the acquired assets to their fair value at the acquisition date; and

(b) Will have a significant effect on earnings in periods immediately following the acquisition which will be progressively eliminated over a relatively short period.

3. For a disposition transaction, the pro forma financial information shall begin with the historical financial statements of the bank and show the deletion of the business to be divested along with the necessary pro forma adjustments, including adjustments relating to expenses that will be or have been incurred on behalf of the business to be divested, *e.g.*, advertising costs and personnel expenses.

4. When consummation of more than one transaction has occurred or is probable during a fiscal year, the pro forma financial information may be presented on a combined basis; however, in some circumstances, *e.g.*, where some transactions have been consummated and the others are probable, it may be more useful to present the pro forma financial information on a nonaggregated basis, even though some or all of the transactions would not meet the tests of significance individually. For combined presentations, a note should explain the various transactions and disclose the maximum variances in the pro forma financial information which would occur for any of the possible combinations. If the pro forma financial information is presented in a proxy or information statement for purposes of obtaining shareholder approval of one of the transactions, the effects of that transaction must be clearly set forth.

5. Income tax effects, if any, of pro forma adjustments normally should be calculated at the statutory rate in effect during the periods for which pro forma condensed income statements are presented and should be reflected as a separate pro forma adjustment.

(c) *Periods to be presented.* (1) A pro forma condensed balance sheet as of the end of the most recent period for which a consolidated balance sheet of the bank is required by § 11.911 shall be filed, unless the transaction is already reflected in such balance sheet.

(2)(i) Pro forma condensed statements of income shall be filed for only the most recent fiscal year and for the period from the end of the most recent fiscal year to the most recent interim date for which a balance sheet is required. A pro forma condensed statement of income may be filed for the corresponding interim period of the preceding fiscal year. A pro forma condensed statement of income shall not be filed when the historical income statement reflects the transaction for the entire period.

(ii) For a business combination accounted for as a pooling of interests, the pro forma income statements (which are in effect a restatement of the historical income statements as if the combination had been consummated) shall be filed for all periods for which historical income statements of the bank are required.

(3) Pro forma condensed statements of income shall be presented using the bank's fiscal year-end. If the most recent fiscal year-end of any other entity involved in the transaction differs from the bank's most recent fiscal year-end by more than 93 days, the other entity's income statement shall be brought up to within 93 days of the bank's most recent fiscal year-end, if practicable. This updating could be accomplished by adding subsequent interim period results to the most recent fiscal year-end information and deducting the comparable preceding year interim period results. Disclosure shall be made of the periods combined and of the sales or revenues and income for any periods which were excluded from or included more than once in the condensed pro forma income statements (*e.g.*, an interim period that is included both as part of the fiscal year and the subsequent interim period)

(4) Whenever unusual events enter into the determination of the results shown for the most recently completed fiscal year, the effect of such unusual events should be disclosed and consideration should be given to presenting a pro forma condensed income statement for the most recent twelve-month period, in addition to those required in paragraph (c)(2)(i) of this section, if the most recent twelve-month period is more representative of normal operations.

§ 11.942 Presentation of financial forecast.

(a) A financial forecast may be filed in lieu of the pro forma condensed statements of income required by § 11.941(b)(1).

(1) The financial forecast shall cover a period of at least 12 months from the later of (i) the date of the most recent balance sheet included in the filing or (ii) the consummation date or estimated consummation date of the transaction.

(2) The forecasted statement of income shall be presented in the same degree of detail required by § 11.941(b)(3) for the pro forma condensed statements of income.

(3) Assumptions particularly relevant to the transaction and effects thereof should be clearly set forth.

(4) Historical condensed financial information of the bank and the business acquired or to be acquired, if any, shall be presented for at least a recent 12 month period in parallel columns with the financial forecast.

(b) Such financial forecast shall be presented in accordance with the guidelines established by the American Institute of Certified Public Accountants.

(c) Forecasted earnings-per-share data shall be substituted for pro forma per-share data.

(d) This section does not permit the filing of a financial forecast in lieu of pro forma information required by generally accepted accounting principles.

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October 30, 1985

Part IV

Department of the Treasury

Office of the Comptroller of the Currency

12 CFR Part 18

Disclosure of Financial and Other Information by National Banks; Proposed Rule

DEPARTMENT OF THE TREASURY

Office of The Comptroller of the Currency

12 CFR Part 18

[Docket No. 85-18]

Disclosure of Financial and Other Information by National Banks

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Notice of proposed rulemaking

SUMMARY: The Office of the Comptroller of the Currency ("Office") is proposing amendments to 12 CFR Part 18, its annual financial disclosures to shareholder regulation. The proposal would require all national banks to prepare periodic disclosure reports similar to those prepared by banks under the Securities Exchange Act of 1934 and to file those reports with the Office. Banks would also have to notify depositors and security holders that these reports are available and provide copies upon request without charge.

The periodic disclosure reports would include an annual report, quarterly reports, and current reports. The first required report would be the annual report for fiscal year 1986. The reports would contain narrative information about the bank, its management, results of operations, financial condition, and the existence of any enforcement actions. They would also contain financial statements covering multiple reporting periods to make it easier to compare changes in financial positions. In addition, they would contain information concerning bank fees, service charges and policies regarding funds availability.

Under the proposal, national banks would be subject to these disclosure requirements without exception. National banks that are already subject to 12 CFR Part 11 and those that are members of bank holding companies subject to periodic disclosure requirements of the Securities and Exchange Commission would be able to use existing reports, supplemented with certain information about the bank. The purpose of the proposal is to develop a disclosure program that would encourage banks to act prudently and thus complement efforts by this Office to promote bank safety and soundness, greater compliance with law, and reduction of risk to the insurance fund.

DATE: Written comments must be submitted on or before January 28, 1986.

ADDRESS: Comments should be directed to: Docket No. [85-18], Communications Division, 3rd Floor, Office of the Comptroller of the Currency, Attention: Lynnette Carter. Comments will be made available for inspection and photocopying.

Pursuant to the Paperwork Reduction Act of 1980, the collection of information requirements in the proposed rule have been submitted to the Office of Management and Budget. Comments specifically addressing those requirements should be directed to the Comptroller's Office at the above address and should be submitted to: Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, Attn: Desk Officer for Comptroller of the Currency.

FOR FURTHER INFORMATION CONTACT: Emily R. McNaughton, Commercial Examinations Division, Office of the Comptroller of the Currency, (202) 447-1165, Charles M. Horn, Securities and Corporate Practices Division, Office of the Comptroller of the Currency (202) 447-1954, or David G. Hayes, Legislative and Regulatory Analysis Division, Office of the Comptroller of the Currency (202) 447-1177.

SUPPLEMENTARY INFORMATION:

I. Executive Summary

This summary describes the content of the three bank reports being proposed: The annual, quarterly and current reports. The annual report would be divided into five parts containing information regarding:

Part I

- The bank's business.
- The bank's properties.
- Major litigation involving the bank, including administrative actions taken by OCC.
- The results of shareholder votes on significant matters.

Part II

- The trading market for bank securities and the bank's dividend policies.
- A five-year summary of key financial data.
- Management's discussion and analysis of financial condition and results of operations.
- Comparative financial statements.
- Disputes with accountants.

Part III

- Directors and executive officers.
- Executive compensation.
- Business relationships and insider transactions.

Part IV

- Fees and service charges.
- Funds availability.

Part V

- Exhibits and financial statement schedules.

The quarterly report would contain:

- Condensed financial statement.
- Management's discussion and analysis of major changes in financial condition and results of operations.
- Material litigation involving the bank, including administrative actions by OCC.
- Fees, service charges, and funds availability.

The current report would contain information about the following, when they occur:

- Change in control.
- Acquisition or disposition of significant assets.
- Change in accountant.
- Director resignation.
- Any event management deems material.

This preamble contains a lengthy discussion of the proposed revisions to Part 18. The discussion is organized in the following manner. Section II explains the background to the proposal, including the Office's advance notice of proposed rulemaking. Section III summarizes the contents of the proposed annual, quarterly and current reports. Section IV summarizes other provisions of the proposal. Section V contains a series of questions relating to the proposal on which the Office seeks comments. Section VI solicits comments on issues that could be addressed during possible hearings on the proposed regulation.

II. Background

A. Introduction

The Office, as the primary regulator for national banks, has the responsibility to foster the safety and soundness of the national bank system and to require national banks to maintain a high level of compliance with the law. This serves to promote greater public confidence in the banking system. In recent years, changes in the business of banking—including technological advances, deregulatory actions and economic developments—have necessitated that bank regulators seek different means to achieve these objectives more effectively. Among other things, this Office and other federal bank regulators are developing new examination techniques and procedures to use existing resources more efficiently.

Beyond making the examination process more efficient, the Office

believes that a periodic disclosure program, such as the one proposed for comment today, may facilitate informed decision-making by depositors and investors, as well as encourage banks to act more prudently. Improving public understanding of banks would reduce the likelihood that the market will overreact to incomplete information. Fostering more prudent banking practices would serve to strengthen the banking system and reduce risk to the insurance fund. In this way, the Office expects a disclosure program to complement its supervisory efforts and enhance public confidence in the banking system.

The disclosure program proposed is patterned after existing periodic disclosure requirements for national banks and bank holding companies under the Securities Exchange Act of 1934 ("Exchange Act"). Although the Exchange Act's periodic disclosure program provides information intended primarily for the benefit of investors, depositors may also benefit from these disclosures. In that regard, the Office believes that for the proposed reports to serve their intended purpose they should be written in an understandable manner and avoid legalistic and technical terminology.

Toward that end, the Office is soliciting comments from all interested persons and groups, particularly bank depositors and other users of financial reports. Comments are sought as to whether any proposed disclosures should be modified or eliminated, as well as whether any additional disclosures not proposed should be required, in order to facilitate informed decision making by depositors and shareholders. In addition, the Office is considering scheduling public hearings, as necessary, on the proposal to encourage maximum participation in the development of the Office's disclosure regulation.

The proposed revisions to Part 18 were developed on the basis of comments received on an advance notice of proposed rulemaking, discussed below.

B. Advance Notice of Proposed Rulemaking

On July 13, 1984, the OCC published its Advance Notice of Proposed Rulemaking on Disclosure of Financial and Other Information Regarding National Banks ("Advance Notice") (49 FR 28566, July 13, 1984). In the Advance Notice, the Office sought to solicit comment on a wide range of issues relevant to developing an improved disclosure program for national banks. In response to its request for comments, the OCC received 130 comment letters from banks, holding companies, individuals, trade and banking organizations. The principal comments are summarized below.

1. *Adequacy of information currently available.* Several banks and holding companies stated that currently there is ample information available for the general public to make informed decisions. Sources of information include the bank's Report of Condition and Income ("Call Report"), which is made quarterly to its regulator, and the Uniform Bank Performance Report ("UBPR"), which is a computer-generated report using Call Report data. Call Report and UBPR information, which is restricted to financial data, is available from the regulator upon request. Banks have this information and may provide it to the public if they so choose.

The Call Report is primarily a source of statistical data for the use of regulatory agencies. However, the Call Report does not present data to permit immediate comparisons of changes in financial positions over multiple reporting periods. Nor does it present narrative information about the bank or its management. In its existing form, therefore, the Call Report may be of limited value for depositors and shareholders who would benefit from such disclosures.

2. *Need for uniform disclosure requirements for all financial institutions.* Many commentators thought that there should be uniform disclosure requirements for all financial institutions. Concern was expressed that if national banks were subject to increased disclosure requirements, they would be at a competitive disadvantage compared to other institutions.

The Office shares concerns about possible competitive disadvantages and the desirability of having a uniform disclosure policy for all depository institutions. It believes, however, that those objectives are best served at this time by focusing public attention on a specific disclosure scheme that could serve as a model for all depository institutions. In addition, the Office does not believe that reasonable disclosure requirements necessarily would place national banks at a competitive disadvantage with other institutions. Bank customers may be more inclined to deal with financial institutions that make accurate and timely disclosures about their financial conditions and operations.

3. *Potential burdens.* Several commentators expressed concern that increased disclosure could be too burdensome. The proposal attempts to minimize burdens by building on information that banks currently make available to the public. For example, banks already present as part of the Call Report financial statements and schedules that would be included in the proposed periodic reports. In addition, Part 11 banks and banks in holding companies subject to SEC disclosure requirements would be able to use existing reports, supplemented in certain areas. Also, many banks voluntarily provide narrative reports to shareholders.

The Office, however, is mindful of the need to weigh the benefits of any regulation against its costs. In that connection, as part of the comment process, the Office is soliciting data, views and comments of all interested persons on the cost of complying with the disclosure requirements proposed today, as well as comments on how the proposal might be modified to be made more cost-effective.

4. *Public not capable of understanding information disclosed.* Another common comment was that the public would not understand the disclosures, particularly of more complex financial matters. The Office believes that shareholders and depositors are among the class of persons most likely to be interested in information disclosed by banks. The proposed disclosure regulation would give banks responsibility for presenting information in a manner that is understandable, taking into consideration the relevant facts and circumstances. Thus, by presenting information in proper context and in an understandable manner, banks should be able to keep misunderstandings to a minimum.

5. *Consistency with SEC disclosure requirements.* Several commentors suggested that, if the Office proposed specific disclosure requirements for national banks, such requirements be consistent with SEC disclosure provisions. The Office believes that uniformity of disclosure requirements may serve to promote better understanding of financial institutions. At the same time, however, the Office must independently determine whether particular disclosure provisions serve the regulatory objectives established by the Office in light of its statutory responsibilities.

The proposed revisions to Part 18 are patterned after the disclosure requirements of Part 11 which are themselves patterned after disclosure requirements adopted by the SEC under the Exchange Act. The proposed Part 18 incorporates by reference many of the substantive disclosure requirements and

definitional sections of Part 11. It should be noted that cross references are made to a reformatted Part 11. Commentors should refer to the final amendments to Part 11 published elsewhere in this issue. Copies of new Part 11 will be available from the Communications Division. For further information contact Dean DeBuck, Communications Division, Office of the Comptroller of the Currency (202) 447–1800.

6. *Disclosure Causing Runs on Banks.* Several commentators also expressed concern that disclosure of adverse information could cause a "run" on a bank. The OCC is sensitive to this concern. In some cases, however, depositor runs may be triggered by rumors or misleading information which can be fed by the absence of full and timely public information about the affected bank. Thus, improved disclosure and public understanding of banks could serve to decrease the likelihood that rumors would have a significant impact on banks.

In this regard, numerous national banks routinely disclose significant financial and other information, including information concerning enforcement actions taken against them by the OCC, pursuant to the Office's Exchange Act disclosure regulations at 12 CFR Part 11, and the Office's securities offering disclosure regulations at 12 CFR Part 16. Similarly, many national banks are owned or controlled by bank holding companies which, in turn, are subject to periodic disclosure requirements of the federal securities laws administered by the SEC. In such instances, bank holding companies may have to disclose adverse information, including material enforcement actions, concerning their major national bank subsidiaries, and, in fact, routinely make such disclosures where appropriate. In the OCC's experience, disclosures by national banks pursuant to these requirements have not triggered depositor runs on banks.

The Office hopes that by promoting an environment in which banks routinely make on-going public disclosures of significant information and events, the investing and depositing public will develop an increased understanding of how banks operate, the condition of the banking system, and the financial soundness of individual banking institutions. Through such an increased understanding, the Office hopes that banks will be less vulnerable to a loss of depositor confidence occasioned by rumors or false information. At the same time, the Office believes that improved public understanding of banking institutions will permit shareholders and depositors to make more rational decisions regarding their relationships with such institutions, including whether ultimately to terminate that relationship.

III. Proposed Content of Periodic Reports

A. Annual Report

As proposed, each national bank, beginning with the 1986 fiscal year, would have to prepare an annual report. The annual report would contain the narrative and financial information set forth in proposed section 490.

Information contained in the proposed annual report is intended for the benefit of shareholders, depositors and other users of financial information. Shareholders would be entitled to receive the report prior to the annual meeting of shareholders, as is currently provided in Part 18. Banks that voluntarily furnish annual reports to shareholders could incorporate by reference information contained in those reports. For banks that do not voluntarily furnish shareholder reports, the proposed report would be a primary source of information upon which shareholders could base decisions about the bank, its management and directors.

In evaluating the content of the proposed annual report, commentors are asked to consider whether depositors, including uninsured depositors, should also have access to the same information made available to shareholders. Commentors are also asked to consider whether any proposed items should be modified or eliminated, or whether additional disclosures not proposed should be required in the annual report to make the report more meaningful to depositors and shareholders. As discussed below, the information presented in the annual report would be divided into five parts.

Part I

This part of the annual report would contain information relating to the bank's business and properties, legal proceedings and matters submitted to the vote of shareholders. These requirements are summarized below.

1. *Description of business.* The bank would provide the information about its business that is set forth in 12 CFR 11.811. The bank would describe briefly the relevant aspects of its business, including its subsidiaries, and any significant developments or trends in such business occurring over the preceding five years. Items that would be discussed include:

(a) The bank's primary business locations and services.

(b) The competitive conditions and the positions of the bank's competitors.

(c) The amount of loans, by major categories, and the quality of bank assets. In addition, any concentration of credit (loans, investments or deposits with banks) should be discussed.

(d) Major customers of the bank, their relationship with the bank and material facts regarding their importance to the business of the bank.

(e) Seasonal nature of its business.

(f) Importance of, and risks attendant to foreign sources and applications of funds, if any.

(g) Number of employees, and

(h) Commercial, consumer, international, trust, and municipal trading services and other business activities of the bank.

(i) The bank's Community Reinvestment Act statement.

2. *Description of property.* This item would have the bank describe property it owns, as set forth in 12 CFR 11.812. It would include a brief description of the bank's property and any major encumbrances on such property.

3. *Legal proceedings.* Under this item, the bank would describe material legal proceedings to which it is a party. This item incorporates by reference the requirements of 12 CFR 11.813.

The proposal expressly requires banks to discuss, in the manner provided by 12 CFR 11.813, any administrative action taken by the Office which during the fiscal year resulted in a cease and desist order, formal agreement, memorandum of understanding, civil money penalty, removal, capital directive or other form of administrative action against the bank, any of its officers, directors, employees, agents or any person participating in the affairs of the bank. This also includes actions concluded by the Office against persons associated with the bank but who left the bank prior to the action being taken. The bank generally would summarize the facts and circumstances resulting in the administrative action taken by the Office, the result of that action, and any remedial steps taken by the bank.

The bank would also state whether the Office, during the year, had issued any notice of administrative action not discussed above. This would include any (i) notice of charges against the bank, or any director, officer, employee, agent, or other person participating in the affairs of the bank; (ii) notice of assessment of civil money penalty; (iii) notice of suspension or removal of a director or officer. The bank would summarize the substance of such notice.

4. *Submission of matters to a vote of security holders.* Under this item, a bank would discuss any material matter that was submitted to a vote of the bank's security holders during the fiscal year, either at an annual or special meeting of shareholders. This item is similar to requirements contained in 12 CFR 11.390, item 4, but does not incorporate by reference that section.

Part II

This part would consist of information essential to evaluating the financial condition of the bank, including verified financial statements, a summary of selected financial data appropriate for trend analysis and a meaningful discussion and analysis by management of financial condition and results of operations. These requirements are summarized below.

5. *Market price and dividends on bank's securities and related security-holder matters.* This item would require information about the trading market, if any, for the bank's securities and its dividend policy. This section incorporates by reference the provisions of 12 CFR 11.821.

6. *Selected financial data.* This item would require disclosure of certain comparative financial data for each of the last five fiscal years of the bank and any additional fiscal years necessary to keep the information from being misleading. It incorporates by reference the requirements of 12 CFR 11.831. The purpose of this item is to supply in a convenient and readable format selected financial data that highlight certain significant trends in the bank's financial condition and results of its operations.

The following items would be included in the table of financial data: net interest income; provision for loan and lease losses; income (loss) per share from continuing operations; total assets; long-term obligations and redeemable preferred stock; and cash dividends declared per common share. Banks may include additional items which they believe would enhance an understanding of, and would highlight, other trends in their financial condition and results of operations.

Banks would describe briefly, or cross reference a discussion of, factors such as accounting changes, business combinations or dispositions of business operations, that materially affect the comparability of selected financial data. Banks would discuss any material uncertainties that might cause the data not to be indicative of the bank's future financial condition or results of operations.

7. *Management's discussion and analysis of financial condition and results of operations.* Under this item, a bank would present a discussion and analysis of its financial conditions and results of operations. This item incorporates by reference 12 CFR 11.833. The discussion generally would relate to the periods covered by the financial statements called for in item 8, discussed below, of the proposed annual report. However, discussion of financial condition and results of operations over longer periods of time might be appropriate.

The discussion should provide information with respect to the bank's liquidity, asset quality, capital resources and results of operations and such other matters that the bank believes to be necessary to an understanding of its financial condition, changes in financial condition and results of operations. It should include discussion of trends, demands, events, etc. that would have a material impact on liquidity, capital resources or operations.

8. *Financial statements and supplementary data.* Under this item the bank would present consolidated balance sheets for the bank and its subsidiaries for each of the two most recent fiscal years, as well as statements of income and changes in financial position for each of the three most recent fiscal years. These financial statements would have to be prepared in accordance with the requirements of 12 CFR Part 11, which is incorporated by reference. The financial statement formats are basically the same as contained in the Report of Condition and Income filed quarterly with the Office.

The financial statements presented in the annual report would be subject to a verification requirement. This means that financial statements would be certified by an independent public accountant or signed by the bank's principal accounting officer and its auditor. See 12 CFR 11.102(dd). If the bank's financial statements were audited by an independent accountant, then the bank must use the certified financial statements and the accountant's report must accompany the financial statements.

9. *Disagreement on accounting and financial disclosure.* This item would require disclosure of disagreements with former accountants of the bank. It incorporates by reference information called for in 12 CFR 11.834. It applies only where the bank previously had changed accountants and reported a disagreement with such accountant within the past 24 months. The bank would state whether, during the fiscal year, there have been any material transactions or events similar to those involved in the reported disagreement that were accounted for in a manner different from that which the former accountant apparently would have concluded was required. The bank would also state the effect on the financial statements if the method which the former accountant had recommended had been followed.

Part III

This part consists of information relating to directors, executive officers and bank insiders. This includes information about their compensation, material transactions with the bank, business relationships involving the bank and indebtedness to the bank. Disclosure of such information may permit judgments to be made as to whether a bank is being managed in the best interest of its shareholders and depositors or in the self interest of bank insiders. Vigorous supervisory action against insider abuse and breaches of fiduciary duties owed by bank officers and directors serves to promote public confidence in the banking system.

Part III information is traditionally provided to shareholders whose proxies are solicited in advance of annual meetings or special meetings of banks or bank holding companies subject to Exchange Act disclosure requirements. Under the Office's merger procedures, the proxy and information statement disclosure requirements of 12 CFR Part 11 apply to merger, transactions involving any national bank. Information called for by Part III, discussed below, may also be relevant to shareholders and depositors in other circumstances.

10. *Directors and Executive Officers of the Bank.* Pertinent information regarding the bank's directors and executive officers would have to be disclosed under this item. It incorporates by reference 12 CFR 11.841, with one additional requirement relating to administrative actions initiated by federal or state financial institution regulatory agencies, in (d)(4) below. Disclosure would be required with respect to the following:

(a) *Identification of directors and executive officers.* The bank would have to list, and provide background information regarding, all directors and executive officers. The term "executive officer" is defined in 12 CFR 11.102(o) and would be incorporated by reference to proposed section 102 of this Part.

(b) *Identification of certain significant employees.* Where the bank employs persons such as special consultants or

attorneys who are not officers, but who make or are expected to make significant contributions to the business of the bank, the bank would identify such persons and provide some background information as in the case of officers.

(c) *Family relationships.* The bank would state the nature of any family relationships between any directors, or persons nominated or chosen by the bank to become a director. "Family relationships" means any relationship by blood, marriage, or adoption not more remote than first cousin.

(d) *Business experience.* The bank is to give a brief account of the business experience during the past five years of each director and executive officer. This would include the principal occupations and employment of such persons and information relating to the level of their professional competence. It should also identify any other directorship held by each director.

(e) *Material events.* For each director and executive officer, the bank would have to disclose whether any of the following events occurred during the past five years and if they are material:

(1) Such person filed or was served a petition under the Bankruptcy Acts or any state insolvency law, or a receiver was appointed for a business in which the person was an executive officer or general partner;

(2) Such person was convicted in a criminal proceeding or is a named subject of a pending criminal proceeding;

(3) Such person was found in a civil action, or by a government agency, to have violated any securities or banking law.

(4) Such person was the subject of any cease and desist order, agreement, memorandum of understanding, civil money penalty, removal or any other administrative action by any federal or state financial institution regulatory agency.

(f) *Committee.* The bank would state whether or not it has standing audit, nominating and compensation commitees of the Board of Directors, or committees performing similar functions. It would identify each committee member, state the number of committee meetings held by each such committee during the last fiscal year and describe briefly the functions performed by such committees.

(g) *Director attendance.* The bank would state the total number of meetings of the Board of Directors held during the last full fiscal year. It would also name each incumbent director who attended fewer than 75 percent of the aggregate of (1) the total number of meetings of the board of directors and (2) the total number of meetings held by all committees of the board on which that person served.

(h) *Resignation of directors.* Certain disclosures would be made where a director has resigned or declined to stand for re-election to the Board of Directors since the date of the last annual meeting of shareholders because of a disagreement with the bank on any matter relating to the bank's operations, policies or practices. If the director has furnished the bank with a letter describing such disagreement and has requested that the matter be disclosed, the bank would have to disclose the matter and summarize the director's description of the disagreement. If the bank believes that the description provided by the director is incorrect or incomplete, it could include a brief statement presenting its views of the disagreement.

(i) *Shares voted at last meeting.* The bank would disclose how voting stock was voted in the election of directors at the most recent meeting at which directors were elected.

11. *Executive compensation.* This item would provide for disclosure of compensation to the bank's executive officers. It incorporates by reference 12 CFR 11.842. It is suggested that the information be presented in tabular format for ease of reading. The following information would be covered:

(a) *Cash compensation, bonuses, and deferred compensation.*—This item would require disclosure of all cash compensation paid to the top five executives whose cash compensation during the last fiscal year exceeded $60,000. The top five executives would be identified by name and position. In addition, disclosure would be made of the aggregate cash compensation of all executives for services rendered during the bank's last fiscal year.

The bank would also disclose all cash bonuses to be paid for services rendered during the last fiscal year, and cash bonuses paid during the last fiscal year for services rendered in the previous fiscal year. In addition, it would have to disclose all cash compensation that would have been paid during the last fiscal year but was deferred.

(b) *Compensation pursuant to plans.*—(1) *In general.* The bank would describe all compensation plans, covering the named individuals and group specified in (a) above. It does not cover any group life, health, hospitalization, medical reimbursement or relocation plans that do not discriminate in favor of officers or directors of the bank and that are available generally to all salaried employees. The bank would have to summarize the material aspects of the plan, including (i) how the plan operates and who is covered by the plan; (ii) the criteria used to determine amounts payable, including any performance formula or measure; (iii) the time periods over which the measurement of benefits will be determined; and (iv) payment schedules.

(2) *Pension plans.* In addition, the bank would describe its defined benefit and actuarial plans, including estimates of annual benefits payable upon retirement to persons in specified compensation and years-of-service classifications.

(3) *Stock option and stock appreciation right plans.* The bank would also describe any stock option and stock appreciation right plans. Certain information would have to be provided where options were granted in the last fiscal year, including the amount of shares subject to option, average exercise price and market value at date of grant.

(c) *Other compensation.* The bank would describe, stating amounts, any other compensation not otherwise coverd above paid or distributed during the last fiscal year to the named individuals and group specified in paragraph (a) unless:

(1) In the case of any named individual, the aggregate amount of such other compensation is the lesser of $25,000 or 10 percent of the compensation reported in the paragraph (a); or

(2) In the case of the group, the aggregate amount of such compensation is the lesser of the $25,000 times the number of persons in the group or 10 percent of the compensation reported in paragraph (a).

(d) *Compensation of directors.* The bank would describe any standard arrangements, stating amounts, pursuant to which directors of the bank are compensated for all services as a director, including any additional amounts payable for committee participation or special assignments. It would also describe any other arrangements pursuant to which any of its directors was compensated during the bank's last fiscal year for services as a director.

(e) *Termination of employment and change of control arrangement.* The bank would describe any arrangement where the bank is obligated to compensate retired or terminated employees, or certain employees affected by a change in control of the bank, and the amount involved, including all periodic payments or installments, is in excess of $60,000.

12. *Security ownership of certain beneficial owners.* This item would require certain information about beneficial owners of the bank's securities. It incorporates by reference 12 CFR 11.843. The following information would have to be provided as of the most recent practicable date:

(a) The name, business address and relationship to the bank of any individual, group or entity who beneficially owns more than 5 percent of the bank's outstanding voting securities; and

(b) The amount of each outstanding class of the bank's equity securities beneficially owned by all directors and officers of the bank, as a group, without naming them.

The bank would also describe any arrangements, known to the bank which may at a subsequent date result in a change in control of the bank. This would not include ordinary default provisions relating to securities of the bank.

13. *Certain relationships and related transactions.* This item would require annual disclosure of information about insiders and insider transactions. It incorporates by reference the provisions of 12 CFR 11.844, except nominees for election as a director would not be covered. The item covers transactions involving management and others, certain business relationships and indebtedness of management. These are summarized below.

(a) *Transactions with management and others.* A brief description would be provided of certain transactions, other than loans, involving amounts exceeding $60,000, to which the bank was party, and in which any of the following persons had a material interest: (i) Any director or executive officer of the bank; (ii) any five-percent security holder; and (iii) any member of their immediate family. Family members covered include spouse, parents, children, siblings and in-laws. No information would have to be given as to any transaction where: (i) The rates or charges were determined at competitive bid, or fixed by law; (ii) the transaction involves services as a bank depository of funds, transfer agent, registrar, trustee or similar service; and (iii) the interest arises from ownership of bank securities and the person receives no extra or special benefits not shared in on a pro rata basis.

(b) *Cetain business relationships.* The bank would describe certain relationships regarding the bank, entities with which it does business, and directors. The description would identify the entity with which the bank has such a relationship, the name of the director affiliated with such entity and the nature of such director's affiliation. It would also describe the relationship between such entity and the bank and the amount of the business done between the bank and the entity during the bank's last full fiscal year or proposed to be done during the bank's current fiscal year. Six business relationships would be covered:

(1) The director is, or during the last fiscal year has been, an executive officer or ten-percent beneficial shareholder of any business or professional entity that has made, or will make, payments to the bank in excess of five percent of the bank's or other entity's consolidated gross revenues.

(2) The director is, or during the last fiscal year has been, an executive officer or ten-percent beneficial shareholder of any business or professional entity to which the bank has made, or will make, payments in excess of five percent of the bank's or other entity's consolidated gross revenues.

(3) The director is, or during the last fiscal year has been, an executive officer or ten-percent beneficial owner of any business or professional entity to which the bank was indebted in an aggregate amount in excess of five percent of the bank's total consolidated assets;

(4) The director is, or during the last fiscal year has been, a member of, or of counsel to, a law firm which the bank retained or proposes to retain;

(5) The director is, or during the last fiscal year has been, a partner of executive officer of any investment banking firm which has performed services for the bank other than as a participating underwriter in a syndicate;

(6) Any other relationships that the bank is aware of between a director and the bank that are substantially similar in nature and scope to those relationships identified above.

(c) *Indebtedness of management.* Disclosures relating to indebtedness of bank management would be required if certain conditions were met. No information need be given about extensions of credit to covered persons unless either: (i) The aggregate amount of extensions of credit outstanding at any time during the last fiscal year for all persons covered exceed 10 percent of the equity accounts of the bank or $5 million whichever is less; (ii) extensions of credit were not made on substantially the same terms as those prevailing at the time for comparable transactions; (iii) such extensions were not made in the ordinary course of business; or (iv) such extensions involve more than a normal risk of collectibility or other unfavorable features.

The following persons would be covered: (i) Each director or executive officer of the bank; (ii) each principal security holder (who owns five percent or more of any class of the bank's voting securities); (iii) any trust or other estate in which any executive officer or director has a substantial beneficial interest; (iv) any member of the immediate family of any such person; and (v) any corporation or organization (other than the bank or a majority-owned subsidiary or the bank) of which any executive officer or director is an officer or partner or is, directly or indirectly, the beneficial owner of ten percent or more of any class of equity securities.

If disclosure is required, the following information would be included in the annual report regarding indebtedness to the bank at any time during the covered period:

(1) The largest aggregate amount of indebtedness, including extensions of credit, overdrafts, endorsements or guarantees (in dollar amounts and as a percentage of total primary capital accounts at the time) outstanding at any time during such period;

(2) The amount outstanding as of the latest practicable date;

(3) The nature of the indebtedness and of the transaction in which it was incurred; and

(4) The rate of interest paid or charged thereon.

The disclosures regarding management indebtedness summarized above are those made under the Exchange Act requirements applicable to Part 11 banks. Comments are requested on whether, as an alternative to the Exchange Act requirements, disclosures required by 12 CFR Part 31 relating to extensions of credit to national bank insiders, should be made in the bank's annual report.

Part IV

In Part IV of the annual report, banks would provide certain information concerning deposit accounts, and fees and service charges that may be incurred by deposit account holders. Commentors are asked to evaluate whether information called for in this Part should be made available to depositors and other interested members of the public in a separate document or documents. Under proposed section 403 of this Part, regarding incorporation by reference, a bank that discloses its fees and service charges in a separate document could incorporate that information into the

annual report by reference to that document.

14. *Fees and service charges.* This item would require disclosure of current schedules of fees and charges that may be incurred by bank customers as a result of having a deposit account with the bank. This would include periodic maintenance fees, charges for processing checks, second searches and stop payment orders, only to name a few categories of fees being charged. Where a bank offers a package of services to customers at a fixed minimum price or at no cost, such as so-called basic banking services, such arrangements should also be disclosed. This information should be presented in a manner (including the use of a tabular format) that would facilitate comparison of charges or fees for similar services at other banks.

15. *Funds availability.* This item would have the bank disclose its current policies and procedure regarding the availability of customer funds placed in deposit accounts. This would include current procedures for transaction posting, and particularly whether withdrawals are posted before deposits. Also covered would be the bank's current procedures for timely notification of customers regarding account overdrafts. A bank would also disclose its policy regarding funds availability, including the amount of time before deposits are credited and when they are available for withdrawal.

Part V

In Part V of the annual report, banks would list all documents filed as part of the report. This would include all financial statements, exhibits required by 12 CFR 11.861, and a statement of whether any current reports have been filed during the last quarter of the year.

B. Quarterly Report

National banks would also prepare quarterly reports, beginning with the first quarter 1987. These reports would include the narrative and financial information set forth in proposed section 491.

The proposed quarterly report is a modified version of the quarterly report prepared by Part 11 banks. It would consist of five disclosure items, compared to eight items for the Part 11 quarterly report. These items cover (i) quarterly financial statements; (ii) management's discussion and analysis of financial condition and results of operation; (iii) legal proceedings; (iv) fees, service charges and funds availability; (v) other information; and (vi) exhibits. See proposed section 18.491 of this Part. Comments are requested on whether any proposed item should be modified or eliminated. Comments are requested on whether any additional disclosures not proposed should be required in the quarterly report. The disclosure items are discussed below.

1. *Financial statements.* This item would require a bank to include certain interim financial information and incorporates by reference the requirements of 12 CFR 11.917. Financial statements prepared for quarterly reports would complement financial statement disclosures contained in the annual report by focusing on material changes in financial conditions and results of operations during the quarter covered by the report.

(a) *Condensed statements.* Interim financial statements generally would follow form and content of presentation of financial statements in the Call Report. To help focus on material changes occuring during the quarterly period, the financial statements could be condensed.

(b) *Fair statement of operations.* The interim financial statements should reflect all adjustments which are, in the opinion of management, necessary to a fair statement of the results for the interim periods presented. A statement to that effect would be included.

(c) *Review by independent public accountant.* The quarterly financial information need not be reviewed by an independent public accountant prior to filing. If, however, a review of the data is made in accordance with the established professional standards and procedures for such a review, the bank may state that the independent accountant has performed such a review. If such a statement is made, the report of the independent accountant on such review would have to accompany the interim financial information.

2. *Management's discussion and analysis of financial conditions and results of operation.* This item would require management to provide in the quarterly report a discussion of the bank's financial conditions and results of operations for the interim period covered by the quarterly report. It incorporates by reference provisions of 12 CFR 11.833 relating to interim periods.

Management's discussion and analysis of the financial condition and results of operations should enable the reader to assess material changes in financial condition and results of operations over the reporting period and generally cover those items discussed in the bank's annual report.

3. *Legal proceedings.* This item incorporates by reference 12 CFR 11.813. It would require disclosure of material legal proceedings involving the bank in the reporting quarter.

This item expressly provides that each bank discuss, in the manner set forth in 12 CFR 11.813, any administrative action taken by the Office which during the fiscal year resulted in a any cease and desist order, formal agreement, memorandum of understanding, civil money penalty, removal, capital directive or any other administrative action against the bank, any of its officers, directors, employees or other persons participating in the affairs of the bank. This includes administrative actions against persons associated with the bank but who left prior to the action being taken.

The bank would also state whether the Office, during the quarter covered by the report, had issued any notice of administrative action not discussed above. This would include any notice of charges against it, or any director, officer, employee, agent, or other person participating in the affairs of the bank; (ii) notice of assessment of civil money penalty; or (iii) notice of suspension or removal of a director or officer. It would also have to summarize the substance of such notice.

4. *Fees, service charges and funds availability.* Under this item, banks would disclose any changes in information provided in items 14 and 15 of Part IV of the proposed annual report. This covers a bank's current schedule of fees and service charges, and its policies and procedures regarding funds availability. If there have been no changes from disclosures made on the annual report, no information need be presented. This report may incorporate by reference separate schedules or documents prepared by the bank for distribution to depositors that set forth new schedules or changes to existing schedules.

5. *Other information.* This would be an optional item. The bank could provide information not previously reported on another report, including a current report.

6. *Exhibits and current reports.* This item incorporates by reference 12 CFR 11.861 and identifies which exhibits would have to be included in the quarterly report.

C. Current Report

The occurrence of certain specific events would be deemed of such importance to require that the bank promptly report that event on a current report. A current report would be filed, in accordance with 12 CFR 11.391, within 15 days of the occurrence of any

one or more of the events discussed below. Comments are requested on whether any proposed items should be modified or eliminated. Comments are also requested on whether additional disclosures not proposed should be required in the current report. For example, should the current report be used to inform depositors and shareholders of OCC administrative actions, changes in management or the occurrence other specific events that would have an impact on the bank's financial condition or operations?

1. *Changes in control of the bank.* The bank would disclose the name of persons acquiring control and other relevant information relating to the transaction, including the identity of the person(s) from whom control was acquired.

2. *Acquisition or disposition of assets.* Certain disclosures would be made if the bank or its majority-owned subsidiaries acquired or disposed of a significant amount of assets, other than in the ordinary course of business. This would include a brief description of assets involved; the nature and amount of consideration involved; how consideration was determined; identity of person(s) involved; and the nature of any material relationship between such person(s) and the bank, its affiliates, directors, or officers. The bank would also explain how newly acquired assets are intended to be used.

3. *Changes in bank's certifying accountant.* When an independent accountant who was engaged to audit the bank's financial statement either resigns or is dismissed by the bank, the following information would be furnished in the current report:

a. The date of such resignation or dismissal;

b. Whether there were any disagreements with the former accountant in the last two years regarding accounting principles, financial statement disclosure, or auditing scope of procedure, and the nature of such disagreement and whether it would have been referenced in the accountant's report if the disagreement had not been resolved in the accountant's favor;

c. Whether the former accountant's report for the last two years contained an adverse opinion, disclaimer of opinion or was qualified as to uncertainty, audit scope or accounting principles;

d. A letter from the former accountant addressed to the Office as to whether the former accountant agrees with the bank's statement; and

e. Whether the decisions to change accountants was recommended or approved by the Board of Directors or audit committee.

4. *Resignations of the bank's directors.* Certain disclosures would be made where a director resigns or declines to stand for reelection due to a disagreement with the board and has furnished a letter detailing such disagreement. The bank would summarize the director's description of the disagreement and, if the bank believes the description to be incorrect, it may include a brief statement to that effect.

5. *Other materially important events.* The bank may report under this caption any event which is not otherwise called for, but the bank feels is material.

6. *Financial statements and exhibits.* Any relevant financial statements or exhibits would be included.

IV. Summary of Proposed Requirements Regarding the Preparation, Filing and Distribution of Periodic Reports.

A. Format of reports

As a general matter, narrative information required to be included in an annual, quarterly or current report may be presented in any format deemed suitable by the bank. Financial statements and schedules would be presented in accordance with prescribed formats. Formats for financial statements and schedules follow existing Call Report formats, as in the case of Part 11. See proposed sections 490, 491, and 492.

B. Material information

The periodic reports have specific disclosure items, discussed in Section III, above. In addition, there would be a general requirement that periodic reports contain any material information, in addition to the information expressly required, to make the reports not misleading, in light of the circumstances under which they are made. See proposed section 401.

The term "material" is defined in Part 11 and would be modified slightly to reflect the broader class of persons intended to benefit from the disclosure requirements of proposed Part 18. See proposed section 102(a). The test of materiality would cover information about which an average prudent depositor or investor ought reasonably to be informed. Comments are requested on whether the materiality standard should be used or whether some other standard would be more appropriate for bank disclosure purposes.

C. Non Disclosure Examination Reports

Proposed Section 203 would provide that nothing in this Part authorizes the disclosure of any report of examination prepared by the Office, or any portions of the contents thereof, except as permitted under the Office's regulations governing the disclosure of such information. See 12 CFR 4.16–4.14. Generally, banks and their associates are prohibited from disclosing examination report information, other than to specific classes of persons, unless expressly permitted to do so by the Office. Proposed section 203 is intended to clarify that Part 18 does not affect the Office's general policy prohibiting the disclosure of confidential supervisory information.

In this regard, however, the Office is considering new disclosure methods by which its supervision process may be enhanced. Among other things, the Office is considering whether disclosure of composite or individual "CAMEL" ratings (numerical supervisory ratings assigned by the Office to describe the overall performance and condition of a bank, as well as bank's performance in each of several major areas: capital adequacy, asset quality, management, earnings and liquidity), to national banks would provide useful supervisory information to bank management. To the extent that the Office determines to disclose such information to banks, it will have to consider collateral public disclosure issues raised by these actions, such as whether "CAMEL" ratings should be publicly disclosed, or must be disclosed under the federal securities laws. Commentators specifically are invited to comment on this section of the Office's proposed Part 18, as well as on the initiatives and issues discussed above.

D. Preparation of reports

The preparation requirements are set forth in proposed sections 301(a) (annual report), 302(a) (quarterly report) and 303 (current report). The first required report would be the annual report for fiscal year 1986. All national banks are subject to the preparation requirement. In the case of national banks subject to 12 CFR Part 11, this requirement would be satisfied by compliance with the provisions, of Part 11. In the case of national banks that are part of a bank holding company subject to Exchange Act periodic disclosure provisions, the preparation requirement would be satified by the holding company complying with the provisions of that Act and supplementing the holding company's report, where appropriate, with disclosures of administrative actions taken by the Office, a copy of appropriate financial statements from the bank's Call Report and other

material information regarding the bank. See proposed section 305.

E. Filing of reports

Part 18 reports would have to be filed by the bank with this Office. The filing requirements are contained in proposed sections 301(b) (annual report), 302(b) (quarterly report) and 303 (current report). In addition, bank periodic reports filed with the Office would be available for inspection and copying by the public. See proposed section 104. National banks that are part of holding companies subject to the Exchange Act periodic disclosure requirements would file those reports, supplemented where necessary.

F. Notification requirement

Part 18 would impose a notification requirement on banks. Banks would have to notify depositors and security holders of the availability of the bank's periodic reports. Two methods of providing notice to depositors and security holders are being proposed. The first notice procedure proposed is an annual notice-by-mail requirement. See proposed section 3049a). Under this requirment the notice to shareholders may be included in the notice of annual meetings sent to shareholders or sent at some earlier date. The notice to despositors would have to be sent within 30 days after the end of the fiscal year. The second notice procedure is a notice-posting requirement. See proposed section 304(b). Both notice provisions would require banks to advice depositors and security holders of the availability of periodic reports and how to obtain those reports, free of charge. Finally, there is a requirement that all fees, charges, basis banking services, and funds availability information be posted in the lobby of the main office and all branches. See proposed section 304(f)(1). The bank could post this information in the lobby or post a notice that the information is available upon request. In addition, the bank would furnish notice of any changes relating to fees, service charges, basic banking services and funds available information at least 30 days before becoming effective. See proposed section 304(d)(2).

G. Delivery requirement

Banks would be required to deliver periodic reports to persons requesting those reports. See proposed section 304(c). It is anticipated that delivery could be made my mail to those shareholders and depositors who have notified the bank of their desire to receive reports. In addition, the bank may want to make reports available in its principal offices and branches.

H. Prohibited Conduct

Reports filed under Part 18 would be subject to review producers to determine compliance with the requirements of that Part, just as in the case of Part II fillings. Revised Part 18 would prohibit the filing of false or misleading reports. In addition, the bank could not represent that the Office has passed on the adequacy or completeness of the reports.

The Office would be empowered to take administrative action against any officer, director, employee, agent, or other person participating in the affairs of the bank who, directly or indirectly, caused a report to be false or misleading. See proposed section 201. The proposal would define the phrase "person participating in the affairs of a bank". See proposed section 201(b). That definition would include any bank holding company, or any officer, director, employee, agent, auditor or independent accountant of that holding company, with respect to any report, document or financial statement filed pursuant to section 305 of Part 18. It would also include any person who provides information contained in, or assists in the preparation of any report, document or financial statement required to be filed pursuant to Part 18.

A safe harbor from liability under section 201 would be available in the case of financial projections or management's plans and objectives for future operations presented in reports. See proposed section 202. This is to encourage bank management to present information about the bank's future plans and expected financial condition.

V. Issues for Comment

Set forth below are some issues on which the Office solicits comments.

Content and Structure of Reports

1. Should any proposed disclosures in the annual, quarterly or current reports be modified or eliminated? If so, which ones and why?

2. Should any additional disclosures be made in the proposed reports? If so, what disclosures and why?

3. Is it necessary to have three distinct reports (annual, quarterly and currently)? Could the informational needs of securities holders and depositors be satisfied, e.g., with an annual report that was supplemented by current reports which, during the year, reported material changes from the bank's annual report, including changes in its financial condition?

4. The proposal contains a general requirement, in section 401, that banks disclose "material" events. Should some standard other than a materiality standard of disclosure be used?

5. The proposal would require all notices of OCC administrative action, e.g., notice of charges, and all OCC adminstrative actions be disclosed. Are there circumstances when such notices or actions should not be disclosed? Should only "material" actions be disclosed?

6. The proposal would require disclosure of bank fees and service charges as well as its policies and procedures regarding funds availability. Should other consumer-related disclosures be included? Should the annual report be structured to permit depositors or shareholders to request specific parts of the report, e.g., Part II information regarding financial condition or Part IV information regarding fees, service charges and funds availability, rather than the entire annual report?

Exemptions

7. What possible exemptions should be considered, including:

- Exemptions from the requirement to prepare and file reports, e.g., based on bank asset size or number of uninsured depositors;
- Exemptions from the requirement to notify depositors of the availability of reports, e.g., based on the size of deposits; and
- Exemptions from the requirement to furnish depositors or security holders reports without charge?

Non Disclosure of Supervisory Information

8. Should national banks be expressly prohibited from disclosing confidential supervisory information, such as examination reports? See proposed sectoin 203?

9. Should the Office consider allowing banks to make selective disclosure of some examination report information, such as CAMEL ratings?

10. Would safety and soundness concerns make disclosure of CAMEL ratings inadvisable.

11. Are there particular classes of persons (e.g., rating agencies, underwriters, fidelity insurers), to which supervisory information *ought* to be disclosed on a limited basis?

Cost/Benefit Analysis

12. What is the estimated cost of complying with the proposal?

13. What are the benefits of the proposal and how are they measured

against the cost of complying with the proposal? In particular, what are the benefits or efficiencies:

• To the OCC examination program and overall supervision of national banks;

• To the deposit insurance fund, including the reduction of risks to the fund; and

• To the public in general in evaluating the condition of banks?

14. How could the proposal be modified to be more cost effective?

Implementation

Assuming some form of revisions to Part 18 were adopted:

15. What is an adequate lead time to implement the proposal?

16. Should certain requirements be phased in over a period of time? If so, how?

17. What could the Office do to assist national banks, e.g., furnish guides on how to prepare reports?

VI. Public Hearings on the Proposed Regulation

To encourage maximum participation and input from the public in the development of the OCC's disclosure regulation, the Office is considering scheduling one or more days of public hearings near the end of the comment period. In order to prepare for these hearings the Office would appreciate receiving comments as soon as possible on specific issues which should be addressed at such hearings, and the names, addresses, and telephone numbers of interest parties who would like to make a presentation at these hearings and the particular issue(s) with which they are concerned.

Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act, the Comptroller of the Currency certifies that this proposed regulation will not have a significant economic impact on a substantial number of small banks. In response to existing requirements such as the consolidated reports of condition and income, all national banks currently prepare the vast majority of financial information that would be mandated. Most banks now provide their shareholders with written annual reports containing management's assessment of past trends and future prospects. Most small banks do not undertake, in any extensive way, many of the activities that would be disclosed under this proposal. Nevertheless, the OCC is especially interested in estimates of the costs to banks of these additional requirements and requests from all interested parties submission of such estimates and associated documentation.

Executive Order 12291

The Comptroller has determined that this is not a major rule as defined by Executive Order 12291, largely for the reasons given in the preceding section and these additional considerations. A major rule is one that would likely result in an annual effect on the economy of $100 million or more, cause a major increase in costs or prices, or have significant effects on such factors as competition, employment and productivity. OCC does not believe that its proposal meets any of those criteria. That judgment rests on estimates of the number of banks affected (about 4500), the average number of hours per year each bank is likely to spend on preparing the required reports (about 100), the number of persons with a clear and significant economic interest in those reports (for example, there are the approximately 1.4 million persons who own national bank stock or who have uninsured deposits in national banks), and the out-of-pocket costs of producing and mailing the reports to those persons. Burden-hour estimates were derived from a small sample of banks filing with the Office pursuant to Part 11. Estimates out-of-pocket costs were based in part on an examination of the size and contents of Part 11 filings. On the basis of those estimates, the OCC projects that the total cost to all national banks would be less than $100 million. National banks are urged to present their own views and supporting data on the cost of this proposal so that the OCC can base a final judgment on the most accurate and relevant information available.

List of Subjects in 12 CFR Part 18

National banks, Disclosure, Reporting and recordkeeping requirements.

Proposal of Amendments

For the reasons set forth in the preamble, it is proposed that 12 CFR Part 18 be revised in its entirety as follows:

PART 18—PERIODIC DISCLOSURE TO BANK DEPOSITORS AND SECURITY HOLDERS

Subpart A—General Provisions

Sec.

18.101 Purpose.
18.102 Definitions.
18.103 Filing of material with the Comptroller of the Currency.
18.104 Availability of material for public inspection.

Subpart B—Prohibited Conduct

18.201 Conduct relating to required reports and financial statements.
18.202 Safe harbor provisions for forward-looking statements.
18.203 Disclosure of examination of reports.

Subpart C—Annual and Other Reports

18.301 Annual report.
18.302 Quarterly report.
18.303 Current report.
18.304 Notice and delivery requirement.
18.305 Alternative disclosures satisfying Part 18 requirement.

Subpart D—Contents of Reports

General Requirements as to Content

18.401 Additional information.
18.402 Information not available.
18.403 Incorporation by reference.
18.404 Signatures.

Specific of Reports

18.490 Content of annual report.
18.491 Content of quarterly report.
18.492 Content of current report.
18.493 Exhibits.

Authority: 12 U.S.C. 93a, 161, and 1818.

Subpart A—General Provisions

§ 18.101 Purpose.

The purpose of this part is to provide depositors, security holders and other members of the public with accurate, reliable and timely information upon which to evaluate national banks, their financial condition and operations on a periodic basis. The requirements of this Part will promote more uniform and consistent disclosure of information to the public and thus strengthen public understanding of, and confidence in, national banks. The Office believes that a better informed public will serve as an incentive for bank management to act prudently. This should serve to complement this Office's supervisory efforts to promote bank safety and soundness and greater compliance with law. The Office also believes that informed decision making, by fostering prudent banking practices, serves to reduce risk to the insurance fund.

§ 18.102 Definitions.

Unless the content otherwise requires, for the purposes of this part, the terms used herein shall have the same meaning given in 12 CFR 11.102, except as provided below.

(a) The term "material" when used to qualify a requirement for the furnishing of information as to any subject, limits the information required to those matters as to which an average prudent depositor or investor ought reasonably to be informed.

(b) the term "security holder" means the holder of record of any common

stock, preferred stock or other equity security issued by a national bank, or the right to subscribe to any of the foregoing, or subordinated note or debenture issued by a national bank. For the purpose of this part the following are not deemed to be a security: any deposit, participation, letter of credit, or other form of bank indebtedness incurred in the ordinary course of business.

§ 18.103 Filing of material with the Comptroller of the Currency.

(a) Each national bank required to prepare a report pursuant to this Part shall file with the Comptroller three copies of that report, including all papers and documents filed as part of the report (other than exhibits).

(b) All materials required to be filed with the Comptroller of the Currency pursuant to this part shall be filed at the District Office for the District in which the national bank is located. Material may be filed by delivery to the Comptroller through the mail or otherwise.

§ 18.104 Availability of material for public inspection.

All reports, schedules and exhibits filed pursuant to this part shall be available for inspection and copying at the District Office for the District where the national bank is located.

Subpart B—Prohibited Conduct

§ 18.201 Conduct relating to required reports and financial statements.

(a) No officer, director, employee, agent, or other person participating in the affairs of a national bank, shall, directly or indirectly,

(1) Falsify or cause to be falsified any report, document or financial statement, or information required to be filed pursuant to this part;

(2) Omit or cause to be omitted from any report, document or financial statement required to be filed pursuant to this part any material information as may be necessary to make such report, document or financial statement, or information to be contained in such report, document or financial statement, not false and misleading; or

(3) Represent that the Office of the Comptroller of the Currency, or any employee there of, has passed upon the accuracy or completeness of any report, document, financial statement or information to be filed pursuant to this Part.

(b) For purposes of this part, a person "participating in the affairs of a national bank" shall include (but not be limited to):

(1) A bank holding company, or any officer, director, employee, agent, auditor or independent accountant thereof, with respect to any report, document or financial statement filed pursuant to §18.305;

(2) Any person who provides information contained in, or directly or indirectly assists in the preparation of, any report, document or financial statement required to be filed pursuant to this part.

§18.202 Safe harbor provisions for forward-looking statements.

(a) A statement within the coverage of paragraph (b) of this section which is made by or on behalf of a bank, or by an outside reviewer retained by the bank, shall be deemed not to be a fraudulent statement (as defined in paragraph (d) of this section), unless it is shown that such statement was made or reaffirmed without a reasonable basis or was disclosed other than in good faith.

(b) This section applies to—

(1) A forward-looking statement (as defined in paragraph (c) of this section) made in any report made publicly available, or any document filed with the Comptroller, pursuant to this part; and

(2)(i) A statement reaffirming the forward-looking statement referred to in paragraph (b)(1) of this section subsequent to the date the document was filed or the report was made publicly available, or

(ii) A forward-looking statement made prior to the date the document was filed or the date the report was made publicly available within a reasonable time after the making of such forward-looking statement, or

(iii) Information relating to the effects of "changing prices" on the bank presented voluntarily or pursuant to 12 CFR 11.833, "Management's discussion and analysis of financial condition and results of operations," or 12 CFR 11.832, "Supplemental financial information" if disclosed in a report or document filed with the Comptroller pursuant to this part.

(c) For the purpose of this section the term "forward-looking statement" shall mean and shall be limited to:

(1) A statement containing a projection of revenues, income (loss), earnings (loss) per share, capital expenditures, dividends, capital structure or other financial items;

(2) A statement of management's plan and objectives for future operations;

(3) A statement of future economic performance contained in management's discussion and analysis of operations and financial condition; or

(4) A statement of the assumption underlying of relating to any of the statements described in paragraphs (c)(1), (2), or (3) of this section.

(d) For the purpose of this section the term "fraudulent statement" shall mean any statement which is an untrue statement of a material fact, a statement false or misleading with respect to any material fact, an omission to state a material fact necessary to make a statement made not misleading, or which constitutes the employment of a manipulative, deceptive, or fraudulent, device, contrivance, scheme, transaction, act, practice, course or business or an artifice to defraud.

§18.203 Disclosure of examination reports.

Nothing in this part shall authorize the disclosure by any person or entity of any report of examination prepared by the Office, or any portions of the contents thereof, except as permitted in accordance with the provisions of 12 CFR Part 4.

Subpart C—Annual and Other Reports

§ 18.301 Annual report.

(a) Each national bank shall prepare an annual report for each fiscal year beginning with fiscal year 1986. The report shall conform to the requirements set forth in § 18.490.

(b) The annual report shall be filed with the Comptroller within 90 days after the close of the fiscal year or at the same time it is mailed to shareholders in advance of the annual meeting of shareholders, whichever comes first.

§ 18.302 Quarterly reports.

(a) Each national bank shall prepare a quarterly report for each fiscal quarter commencing with fiscal year 1987, except that no report need be filed for the fiscal quarter that coincides with the end of the fiscal year of the bank. The report shall conform to the requirements set forth in section 491 of this Part.

(b) The quarterly report shall be filed with the Comptroller not later than 45 days after the end of such quarterly period.

§ 18.303 Current report.

Each national bank shall prepare and file with the Comptroller a current report within 15 days after the occurrence of the earliest event required to be reported, unless substantially the same information as required by that form has been previously reported by the bank. The report shall conform to the requirements set forth in § 18.492 of this Part.

§ 18.304 Notice and delivery requirements.

Each national bank required to file reports pursuant to this Part shall:

(a)(1) Annually, by mail, notify each of its depositors and security holders of the availability of annual, quarterly and current reports required by this subpart. In the case of depositors, the bank shall send the notice within 30 days after the end of the bank's fiscal year. In the case of shareholders, the bank shall send the notice no later than the time it sends to shareholders the notice of annual meeting of shareholders.

(2) The notice shall include or be accompanied by a statement indicating that the bank's annual, quarterly and current reports will be furnished upon request to the depositor or security holder without charge. The bank need not undertake to furnish without charge copies of exhibits to these reports, provided that reports furnished without charge are accompanied by a list briefly describing all exhibits contained in such report and indicating that the bank will furnish any exhibit upon payment of a specified reasonable fee which shall be limited to the bank's reasonable expenses in furnishing such exhibit. The notice shall indicate a reasonable method for the depositor or security holder to request such reports;

(b) Prominently display in its home office and branch locations a notice that advises depositors that reports required by this subpart are available, at no charge, upon request. The bank need not undertake to furnish without charge copies of exhibits to these reports, provided that reports furnished without charge are accompanied by a list briefly describing all exhibits contained in such report and indicating that the bank will furnish any exhibit upon payment of a specified reasonable fee which shall be limited to the bank's reasonable expenses in furnishing such exhibit. The notice shall include such additional information, or be accompanied by a means reasonably calculated to permit depositors to request bank reports; and

(c) Furnish, without charge, one copy of each report required by this subpart to each of the bank's depositors or security holders who request such reports. No report shall be required to be furnished pursuant to this subpart prior to the end of fiscal year 1986.

(d)(1) Prominently display in its home office and branch locations information required by Part IV of the annual report (12 CFR 18.490, part IV), or a notice that such information is available upon request without charge to depositors and prospective depositors.

(2) The bank shall also provide notice of changes in the information required by Part IV of the annual report 30 days before any such change becomes effective. Notice of such changes shall be furnished, by mail, to each existing customer having a deposit account to which the change relates. Notice shall also be provided by posting such changes in the lobby of its home office and branches, or a notice that such changes are available to depositors and prospective depositors upon request without charge.

§ 18.305 Alternative reports satisfying Part 18 requirements.

The requirement to prepare and file an annual, quarterly and current report set forth in §§ 18.301, 18.302 and 18.303, respectively, shall be deemed to be satisfied,

(a) In the case of a national bank having a class of securities registered pursuant Section 12 of the Securities Exchange Act of 1934, when such bank's annual report on Form F–2, quarterly report on Form F–4 and current report on Form F–3, respectively, is prepared and filed with the Office;

(b) In the case of a national bank that is a subsidiary of a bank holding company having a class of securities registered pursuant to section 12 of the Securities Exchange Act of 1934, when such holding company's annual report on Form 10–K, quarterly report on Form 10–Q and current report on Form 8–K, is prepared and filed with this Office, provided that, such annual and quarterly reports are supplemented, where appropriate, with

(1) Information concerning OCC administrative actions, an defined in paragraph (c) of this section;

(2) A copy of the bank's relevant financial statements and schedules from the Call Report; and

(3) A discussion of any material events relating to the bank as would be required by § 18.401.

(c) Information concerning OCC administrative action includes:

(1) Information similar to that required by 12 CFR 11.813 as to any administrative action taken by the Office which during the reporting period resulted in a cease and desist order, formal agreement, memorandum of understanding, civil money penalty, removal, suspension, capital directive or any other form of administrative action involving the bank or any officer, director, employee, agent, or any other person participating in the affairs of the bank; and

(2) A statement as to whether the Office, during the reporting period, has issued any notice of administrative action not discussed in (1) above, including any (i) notice of charges against the bank, or any director, offices, employee, agent or other persons participating in the affairs of the bank; (ii) notice of assessment of civil money penalty; or (iii) notice of suspension or removal of a director or officer. Such statement shall include a summary of the notice of administrative action.

Subpart D—Content of Reports

General Requirements as to Content

§ 18.401 Additional information.

In addition to the information expressly required to be included in a statement or report, there shall be added such further material information, if any, as may be necessary to make the required statements, in light of the circumstances under which they are made, not misleading.

§ 18.402 Information not available.

Information need only be provided under the conditions set forth in 12 CFR 11.721

§ 18.403 Incorporation by Reference.

Matters contained in a statement or report filed pursuant to this Part may be incorporated by reference, to the extent permitted under 12 CFR 11.723 and 12 CFR 11.732 in the case of exhibits to any statement or report. In addition, for the purpose of part IV of the annual report (12 CFR 18.490, part IV) and of item 4 of the quarterly report (12 CFR 18.491, item 4), any document that sets forth the information required by such part or item may be incorporated by reference; provided that the document (or portions thereof) incorporated by reference is filed as an exhibit to the report.

§ 18.404 Signatures.

Reports required to be filed pursuant to this Part shall be signed by the bank, and on behalf of the bank by its principal executive officer or officers, its principal financial officer, its controller or principal accounting officer, and by at least the majority of the board of directors. The name of each person who signs the report shall be typed or printed beneath his or her signature. Any person who occupies more than one of the specified positions shall indicate each capacity in which that person signs the report.

Specific Reports

§ 18.490 Content of Annual Report.

General Instructions

(a) *Preparation of Report.* The information required to be included in the annual report may be presented in

any format deemed suitable by the bank, except as provided below with respect to the format of financial statements and schedules. The report must be easily readable and not presented in a manner that is misleading.

(b) *Requirements as to contents.* For further instructions as to the content of the annual report, refer to §§ 18.401–18.404.

Part I

Item 1. Business

Furnish the information required by 12 CFR 11.811. The bank need not furnish information called for by section 11.811(g) concerning compliance with environmental protection requirements. Also furnish the information required to be included in the bank's Community Reinvestment Act statement prepared in accordance with 12 CFR 25.4.

Item 2. Properties

Furnish the information required by 12 CFR 11.812

Item 3. Legal Proceedings

(a) Furnish the information required by 12 CFR. 11.813

(b) As to any proceeding that was terminated during the fourth quarter of the fiscal year covered by this report, furnish information similar to that required by section 11.813, including the date of termination and a description of the disposition thereof with respect to the bank and its subsidiaries.

(c) Furnish information similar to that required by 12 CFR 11.813 as to any administrative action taken by the Office which during the fiscal year resulted in a cease and desist order, formal agreement, memorandum of understanding, civil money penalty, removal, suspension, capital directive or any other form of administrative action involving the bank or any officer, director, employee, agent, or any person participating in the affairs of the bank.

(d) State whether the Office, during the fiscal year, has issued any notice of administrative action not discussed in (c) above, including any (i) notice of charges against the bank, or any director, officer, employee, agent, or other persons participating in the affairs of the bank; (ii) notice of assessment of civil money penalty; or (iii) notice of suspension or removal of a director of officer. Summarize the substance of such notice.

Item 4. Submission of Matters to a Vote of Security Holders

Discuss any material matter that was submitted during the fiscal year covered by this report to a vote of security holders, including the results of the vote and its significance to the bank.

Part II

Item 5. Market Price and Dividends on Bank's Securities and Related Security Holder Matters

Furnish the kind of information required by 12 CFR 11.821 with respect to each class of the bank's outstanding equity security outstanding.

Item 6. Selected Financial Data

Furnish the information required by 12 CFR 11.831.

Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations

Furnish the information required by 12 CFR 11.833. Also furnish information relating to the quality of the bank's assets. Include information as to the concentration of assets and quality of assets within each category of concentration. Discuss material changes in asset quality within each category of concentration during the reporting period.

Item 8. Financial Statements and Supplementary Data

Furnish financial statements meeting the requirements of Subpart I of 12 CFR Part 11 [excluding separate financial statements of business acquired or to be acquired (12 CFR 11.940)], and the supplementary financial information required by 12 CFR 11.832. Financial statements of the bank and its subsidiaries consolidated (as required by 12 CFR 11.503) shall be filed under this item. Other financial statements and schedules required under Subpart I may be filed as "Financial Statement Schedules" pursuant to Item 14—Exhibits, Financial Statement Schedules, and Reports on Quarterly Reports—of this form.

Item 9. Disagreement on Accounting and Financial Disclosure

Furnish the information required by 12 CFR 11.834.

Part III

Item 10. Directors and Executive Officers of the Bank

Furnish the information required by 12 CFR 11.841. Information does not have to be furnished with respect to section 11.841 (e)(3) or (e)(4) regarding injunitive actions against directors and executive officers. Furnish information as to whether any director or executive officer is, or in the past five years was, subject to any administrative action taken by any federal or state financial institution regulatory agency.

Item 11. Executive Compensation

Furnish the information required by 12 CFR 11.842.

Item 12. Security Ownership of Certain Beneficial Owners and Management

Furnish the information required by 12 CFR 11.843.

Item 13. Certain Relationships and Related Transactions

Furnish the information required by 12 CFR 11.844, with the following exceptions. No information need be furnished with respect to nominees for election as a director.

Part IV

Item 14. Fees and service charges

Furnish information concerning the fees and charges currently in effect for services provided by the bank for customers with respect to deposit accounts. If the bank offers a package of services for a fixed minimum fee, or at no cost, furnish information on such services, including any restrictions or conditions on eligibility for service.

Item 15. Funds availability

State the bank's current policies and procedure regarding the following:

(a) Funds availability, including the amount of time before deposits are credited and when they are made available for withdrawal;

(b) Transaction posting, particularly whether withdrawals are posted before deposits; and

(c) Customer notification regarding overdrafts.

Part V

Item 16. Exhibits, Financial Statement Schedules, and Reports Current Reports

(a) List the following documents filed as a part of the report:

1. All financial statements.

2. Those financial statement schedules required to be filed by Item 8 of this form.

3. Those exhibits required to be filed by 12 CFR 11.861 and by paragraph (c) below.

Where any financial statement, financial statement schedule, or exhibit is incorporated by reference, the incorporation by reference shall be set forth in the list required by this item. For purposes of all rules concerning incorporation by reference, a financial statement schedule shall constitute and "exhibit."

(b) Reports on a current report. State whether any reports on a current report have been filed during the last quarter of the period covered by this report, listing the items reported, any financial statements filed and the dates of such reports.

(c) Banks shall file, as exhibits to this form, the exhibits required by 12 CFR 11.861.

§ 18.491 Content of quarterly report.

General Instructions

a. *Preparation of Quarterly Report.* The information required to be included in the quarterly report may be presented in any format deemed suitable by the bank, except as provided below with respect to the format of financial statements. The report must be easily readable and not presented in a manner that is misleading.

b. *Requirements as to Content.* For further instructions as to the content of the quarterly report, refer to §§ 18.401–18.405.

Part I—Financial Information

Item 1. Financial Statements.

Provide the information required by 12 CFR 11.917.

Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations

Furnish the information required by 12 CFR 11.833.

Part II—Other Information

Item 3. Legal Proceedings.

(a) Furnish the information required by § 11.813. As to such proceedings which have been terminated during the period covered by the report, provided similar information, including the date of termination and description of the disposition thereof with respect to the registrant and its subsidiaries.

(b) Except as provided below, a legal proceeding need only be reported in the quarterly report filed for the quarter in which it first becomes a reportable event or a material development. Subsequent quarterly report filings in the same fiscal year in which a legal proceeding or a material development is reported should reference any previous report in that year.

(c) Furnish information similar to that required by 12 CFR 11.813 as to any administrative action taken by this Office which during the period covered by the report that resulted in the enfry of a cease and desist order, agreement, memorandum of understanding, civil money penalty, removal, capital directive, or any other form of administrative action involving the bank or any officer, director or employee of the bank, or any person participating in the affairs of the bank.

(d) State whether the Office, during the quarter covered by this report, has issued any notice of administrative action not discussed in (c) above, including any (i) notice of charges against the bank, or any director, officer, employee, agent, or other person participating in the affairs of the bank; (ii) notice of assessment of civil money penalty; or (iii) notice of suspension or removal of a director or officer. Summarize the substance of such notice.

Item 4. Fees, service charges and funds availability

Furnish information called for by Part IV of the annual report (12 CFR 18.490, Part IV) concerning fees and service charges currently in effect for services offered by the bank to depositors. Also furnish information called for regarding bank policies and practices that impact on the availability of funds to depositors. If information contained in the annual report is current, no information need be furnished in the quarterly report.

Item 5. Other Information.

The bank may, at its option, report under this item any information, not previously reported in a current report, or required by this form. If disclosure of such information is made under this item, it need not be repeated in a report on current report or in a subsequent quarterly reports.

Item. 6. Exhibits and Current Reports.

(a) Furnish and exhibits required by 12 CFR 11.861.

(b) Current reports. State whether any current reports have been filed during the quarter for which this report is filed, and list the items reported, financial statements filed, and the dates of any such reports.

§ 18.492 Contents of current report.

General Instructions

(a) *Preparation of report.* The information required to be included in the current report may be presented in any format deemed suitable by the bank, but must be easily readable and not presented in a manner that is misleading. All items which are not required to be answered in a particular report may be omitted and no reference thereto need be made to them in the report.

(b) *Events to be reported.* A current report is required to be filed upon the occurrence of any one or more of the events specified. Reports are to be filed within 15 days after the occurrence of the earliest event required to be reported. If the letter from the independent accountant to be furnished pursuant to Item 4(d) is unavailable at the time of filing, it shall be filed within thirty days thereafter. If substantially the same information as that required by this form has been previously reported by the bank, an additional report of the information on this form need not be made.

(c) Requirements as to content. For further instructions as to the content of the current report, refer to §§ 18.401–18.405.

Information To Be Included In Report

Item 1. Changes in Control of Bank

Furnish the information required by item 1 of Form F-3, 12 CFR 11.391.

Item 2. Acquisition or Disposition of Assets

Furnish the information required by item 2 of Form F-3, 12 CFR 11.391.

Item 3. Changes in Bank's Certifying Accountant

Furnish the information required by item 4 of Form F-3, 12 CFR 11.391.

Item 4. Resignations of Bank's Directors

Furnish the information required by item 5 of Form F-3, 12 CFR 11.391.

Item 5. Other Materially Important Events

The Bank may, at its option, report under this item any event, with respect to which information is not otherwise called for by this form, which the bank deems of material importance to depositors or security holders.

Item 6. Financial Statements and Exhibits

List below the financial statements, pro forma financial information and exhibits, if any, filed as a part of this report.

Financial Statements of Businesses Acquired

(1) For any business acquisition required to be described in answer to Item 2 above, financial statements of the business acquired shall be filed for the periods specified in 12 CFR 11.915.

(2) The financial statements shall be prepared pursuant to Subpart I, except that supporting schedules need not be filed. A manually signed accountant's report should be provided pursuant to 12 CFR 11.903.

Pro Forma Financial Information

(1) For any transaction required to be described in answer to Item 2 above, furnish any pro forma financial information that would be required pursuant to 12 CFR Part 11, Subpart I.

§ 18.493 Exhibits

The exhibits shall be furnished in accordance with the provisions of 12 CFR 11.861.

Dated: October 24, 1985.

H. Joe Selby,

Acting Comptroller of the Currency.

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