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Selected Subjects

Air Pollution Control
Environmental Protection Agency

Animal Welfare
Food Safety and Inspection Service

Aviation Safety
Federal Aviation Administration

Coastal Zone
National Oceanic and Atmospheric Administration

Crop Insurance
Federal Crop Insurance Corporation

Food Labeling
Food and Drug Administration

Government Contracts
Immigration and Naturalization Service

Government Property Management
General Services Administration

Handicapped
Federal Election Commission

Health Care
Veterans Administration

Income Taxes
Internal Revenue Service

Margarine
Food Safety and Inspection Service

CONTINUED INSIDE

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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.

Selected Subjects

Marketing Quotas
Agricultural Stabilization and Conservation Service

Milk Marketing Orders
Agricultural Marketing Service

Minority Businesses
Minority Business Development Agency

National Banks
Comptroller of Currency

Organization and Functions (Government Agencies)
National Transportation Safety Board

Pesticide and Pests
Environmental Protection Agency

Potatoes
Agricultural Marketing Service

Price Support Programs
Commodity Credit Corporation

Quarantine
Animal and Plant Health Inspection Service

Radio
Federal Communications Commission

Railroads
Interstate Commerce Commission

Reporting and Recordkeeping Requirements
Veterans Administration

Water Pollution Control
Environmental Protection Agency

Contents

Federal Register
Vol. 49, No. 125
Wednesday, June 27, 1984

The President
EXECUTIVE ORDERS
26185 Amending the Generalized System of Preferences (EO 12483)

Executive Agencies

Agricultural Marketing Service
RULES
Potato research and promotion plan:
26202 Expenses and rate assessment
PROPOSED RULES
Milk marketing orders:
26239 Middle Atlantic et al.

Agricultural Stabilization and Conservation Service
PROPOSED RULES
Marketing quotas and acreage allotments:
26536 Tobacco, flue-cured

Agriculture Department
See also Agricultural Marketing Service; Agricultural Stabilization and Conservation Service; Animal and Plant Health Inspection Service; Commodity Credit Corporation; Federal Crop Insurance Corporation; Food Safety and Inspection Service; Forest Service; Soil Conservation Service.
NOTICES
26268 Agency information collection activities under OMB review

Animal and Plant Health Inspection Service
RULES
Plant quarantine, domestic:
26187 Pink bollworm; interim

Antitrust Division
NOTICES
Competitive impact statements and proposed consent judgments:
26319 Elgin Sweeper Co. et al.
26320 National Lead Co. et al.
26320 Owens-Corning Fiberglas Corp.

Architectural and Transportation Barriers Compliance Board
NOTICES
26272 Meetings

Bonneville Power Administration
NOTICES
26486 Customer service policy, final

Centers for Disease Control
NOTICES
Grants and cooperative agreements:
26306 Occupational safety and health for State, territorial, and local public health departments; capacity building

Commerce Department
See International Trade Administration; Minority Business Development Agency; National Oceanic and Atmospheric Administration.

Commodity Credit Corporation
RULES
Loan and purchase programs:
26203 Milk price support program
NOTICES
Loan and purchase programs:
26268 Peanuts

Comptroller of Currency
RULES
National banks:
26204 Assessment of fees

Defense Department
See also Engineers Corps.
NOTICES
Senior Executive Service:
26276 Performance Review Board; membership; correction

Employment and Training Administration
RULES
26208 Alien temporary agricultural employment in U.S.; labor certification process; adjustment to piece rates; effective date reinstated, etc.

Energy Department
See Bonneville Power Administration; Federal Energy Regulatory Commission; Hearings and Appeals Office, Energy Department.

Engineers Corps
NOTICES
Environmental statements; availability, etc.:
26276 Alameda County, Calif.

Environmental Protection Agency
RULES
Air pollutants, hazardous; national emission standards:
26230 California; authority delegations
26229 Nevada; authority delegation
Air pollution; standards of performance for new stationary sources:
26228 California; authority delegation (2 documents)
26522 Quality assurance and control revisions, methods 6 and 7
Pesticide programs:
26230 Pheromone attractants products, exemption; effective date confirmed
PROPOSED RULES
Water pollution; effluent guidelines for point source categories:
26352 Nonferrous metals manufacturing
NOTICES
Meetings:
26287 State-FIFRA Issues Research and Evaluation Group

Pesticide, food, and feed additive petitions:
26286 American Cyanamid Co.
26282 ICI Americas, Inc.
Pesticide programs:
26282 Rebuttable presumption against registration, etc.; lindane
Pesticides; emergency exemption applications:
26284 Cyromazine
Pesticides; experimental use permit applications:
26284 American Cyanamid Co. et al.
Pesticides; temporary tolerances:
26281 American Hoechst Corp.
26287 Pendimethalin
Waste management, solid:
26287 Ocean dumps; availability of inventory

Federal Aviation Administration
RULES
26207 Jet routes
26205–26207 Transition areas (3 documents)
PROPOSED RULES
26253 Transition areas
NOTICES
Environmental statements; availability, etc.:
26334 John Wayne Airport, Orange County, Calif.
26335 Exemption petitions; summary and disposition

Federal Communications Commission
PROPOSED RULES
Radio broadcasting:
26260 FM broadcast translator stations
Radio services, special:
26264 Private land mobile services; 800 MHz conventional and trunked stations, San Diego, Calif.
NOTICES
Hearings, etc.:
26292, 26293 Commoncarrier Corp. et at. (2 documents)
26293 Duffield Broadcasting Co. et al.
26294 Hi Band Broadcasting Co. et al.
26294 Jo'Mil Enterprises et al.
26295 KBOA, Inc., et al.
26295 KCBD Associates et al.
26292 Rose Development Co., Inc., et al.
26298 Schuyler-Littlefield Broadcasting Co. et al.
26300 Summit Communication, Inc., et al.
26292 Valdosta Television, Inc., et al.
Meetings:
26292 Radio Advisory Committee
World Administrative Radio Conference:
26301 1987 Space WARC Conference; inquiry

Federal Crop Insurance Corporation
RULES
Crop Insurance; various commodities:
26189 Grape
26192 Soybean
26197, 26201 Tobacco (2 documents)
PROPOSED RULES
Crop insurance; various commodities:
26238 Tobacco

Federal Deposit Insurance Corporation
NOTICES
26337 Meetings; Sunshine Act (3 documents)

Federal Election Commission
PROPOSED RULES
26244 Handicapped; nondiscrimination in agency programs

Federal Emergency Management Agency
NOTICES
Disaster and emergency areas:
26304 Missouri

Federal Energy Regulatory Commission
NOTICES
Hearings, etc.:
26277 American Distribution Co.
26278 Arizona Public Service Co.
26278 Bayou Interstate Pipeline System
26278 Delmarva Power & Light Co.
26279 Southwest Gas Corp.
26279 Utah Power & Light Co.
Small power production and cogeneration facilities; qualifying status; certification applications, etc.:
26278 Carolina Methane, Inc.
26279 Mutual Energy Co., Inc.

Federal Home Loan Bank Board
NOTICES
26338 Meetings; Sunshine Act

Federal Maritime Commission
RULES
Tariffs filed by common carriers in foreign commerce of U.S.:
26231 Intermodal tariff filing amendments; correction
NOTICES
26304 Agreements filed, etc.

Federal Railroad Administration
PROPOSED RULES
Railroad operating rules:
26266 Alcohol and drug use control in railroad operations; hearing rescheduled, etc.

Federal Reserve System
NOTICES
Bank holding company applications, etc.:
26305 American National Bankshares, Inc., et al.
26305 SouthTrust Corp.

Fiscal Service
NOTICES
Interest rates:
26335 Renegotiation Board and prompt payment rates

Fish and Wildlife Service
NOTICES
Environmental statements; availability, etc.:
26313 Southern sea otters off Pacific coast, translocate

Food and Drug Administration
RULES
Food for human consumption:
26541 Fruit or vegetable juice beverages, diluted; common or usual names; extension of effective date

NOTICES
Animal drugs, feeds, and related products:
26311 Proban Cythioate Oral Liquid, 1.6%; approval supplemental refusal and Commissioner's decision availability
Color additive petitions:
26311 Dow Corning Ophthalmics, Inc.
Food additive petitions:
26311 Halssen & Lyon

Food Safety and Inspection Service
PROPOSED RULES
Meat and poultry inspection:
26240 Electrical method of slaughter
26242 Margarine or oleomargerine; standards

Forest Service
NOTICES
Meetings:
26271 Medicine Bow National Forest Grazing Advisory Board
26271 South Kaibab Grazing Advisory Board

General Services Administration
PROPOSED RULES
Property management:
26259 Federal buildings fund, reimbursable services
NOTICES
26306 Agency information collection activities under OMB review

Health and Human Services Department
See Centers for Disease Control; Food and Drug Administration; Public Health Service.

Hearings and Appeals Office, Energy Department
NOTICES
Applications for exception:
26279, 26280 Cases filed (2 documents)
26279 Decisions and orders

Immigration and Naturalization Service
RULES
Transportation line contracts:
26203 Pro Air Services

Interior Department
See Fish and Wildlife Service; Land Management Bureau; Minerals Management Service.

Internal Revenue Service
RULES
Income taxes:
26208 Foreign oil and gas taxes; limitation on foreign tax credit
PROPOSED RULES
Income taxes:
26256 Foreign oil and gas taxes; foreign tax credit limitation; extraction and oil related income

International Trade Administration
NOTICES
Countervailing duties:
26273 Cotton shop towels from Peru
26272 Export trade certificate of review

International Trade Commission
NOTICES
Import investigations:
26317 Cardiac pacemakers and components
26317 Combination punch press and laser assemblies and components
26318 Headboxes and papermaking machine forming sections for continuous production of paper, and components
26318 Multicellular plastic film

Interstate Commerce Commission
RULES
Railroad car service orders:
26235 Chicago, Milwaukee, St. Paul & Pacific Railroad Co.; track use by various railroads
NOTICES
Railroad operation, acquisition, construction, etc:
26319 Gulf & Mississippi Railroad Corp.
26319 Texas City Terminal Railway Co.

Justice Department
See Antitrust Division; Immigration and Naturalization Service.

Labor Department
See Employment and Training Administration.

Land Management Bureau
RULES
Public land orders:
26231 Colorado
NOTICES
Airport leases:
26313 Nevada
Meetings:
26312 Canon City District Advisory Council
Sale of public lands:
26312 Colorado

Management and Budget Office
NOTICES
26528 Budget rescissions and deferrals; cumulative reports

Minerals Management Service
RULES
Outer Continental Shelf operations:
26225 Operations suspension; Gulf of Mexico; interim; correction
NOTICES
Environmental statements; availability, etc.:
26315 Diapair Field, Alaska OCS oil and gas lease sale, proposed
26316 Well-control, training and qualifications of personnel; list of approved schools

Minority Business Development Agency
PROPOSED RULES
26254 Group eligibility determination for assistance

National Oceanic and Atmospheric Administration
RULES
26502 National estuarine sanctuary program
PROPOSED RULES
Fishery conservation and management:
26267 Gulf of Mexico and South Atlantic Fishery Management Councils; hearing relocation

NOTICES
Meetings:
26276 Gulf of Mexico Fishery Management Council

National Transportation Safety Board
RULES
26232 Organization, functions and authority delegations

Nuclear Regulatory Commission
NOTICES
Applications, etc.:
26325 John C. Haynes Co.
26326 Philadelphia Electric Co.
26322 Richard L. Roudebush Veterans Administration Medical Center
26327 Superior Production Logging, Inc.
26321 Tennessee Valley Authority
26321 U.S. Testing Co., Inc.
26328 Virginia Electric & Power Co.
26329 Westinghouse Electric Corp.
Meetings:
26325 Reactor Safeguards Advisory Committee
26324 Reactor Safeguards Advisory Committee; proposed schedule

Postal Service
RULES
Domestic Mail Manual:
26227 Miscellaneous amendments

Public Health Service
NOTICES
Meetings:
26311, 26312 National Toxicology Program; Scientific Counselors Board (2 documents)

Securities and Exchange Commission
NOTICES
Meetings:
26330 Small Business Capital Formation, Government-Business Forum
26338 Meetings; Sunshine Act
Self-regulatory organizations; proposed rule changes:
26330 National Association of Securities Dealers, Inc.
26330 Pacific Clearing Corp.
26331 Pacific Stock Exchange, Inc.

Small Business Administration
NOTICES
Applications, etc.:
26332 Brentwood Captial Corp.
Disaster loan areas:
26332 California
26332 Kansas
26332 Missouri
26332 New Hampshire

Soil Conservation Service
NOTICES
Environmental statements; availability, etc.:
26271 Bonneville County Road Critical Area Treatment RC&D Measure, Idaho
26271 Mendenhall Ditch Co. Sprinkler Irrigation Project RC&D Measure, Idaho
26272 Thorn Creek Watershed, Idaho and Wash.

Transportation Department
See also Federal Aviation Administration; Federal Railroad Administration.
NOTICES
26333 Agency information collection activities under OMB review

Treasury Department
See also Comptroller of Currency; Fiscal Service; Internal Revenue Service.
NOTICES
Notes, Treasury:
26335 V–1986 series

Veterans Administration
RULES
Medical benefits:
26226 Alcohol and drug abusers; nondiscrimination in admission
Vocational rehabilitation and education:
26226 Report of State approving agency activities
NOTICES
26335 Advisory committees, annual reports; availability

Separate Parts in This Issue

Part II
26352 Environmental Protection Agency

Part III
26486 Department of Energy, Bonneville Power Administration

Part IV
26502 Department of Commerce, National Oceanic and Atmospheric Administration

Part V
26522 Environmental Protection Agency

Part VI
26528 Office of Management and Budget

Part VII
26536 Department of Agriculture, Agricultural Stabilization and Conservation Service

Part VIII
26541 Department of Health and Human Services, Food and Drug Administration

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Reader Aids
Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR
Executive Orders:
11888 (Amended by EO 12483)....26185
12483....26185

7 CFR
301....26187
411....26189
431....26192
435 (2 documents)....26197, 26201
1207....26202
1430....26203
Proposed Rules:
Ch. X....26239
435....26238
725....26536

8 CFR
238....26203

9 CFR
Proposed Rules:
313....26240
318....26242
319....26242

11 CFR
Proposed Rules:
6....26244

12 CFR
8....26204

14 CFR
71 (3 documents)....26205–26207
75....26207
Proposed Rules:
71....26253

15 CFR
921....26502
Proposed Rules:
1400....26254

20 CFR
655....26208

21 CFR
102....26541

26 CFR
1....26208
Proposed Rules:
1....26256

30 CFR
250....26225

38 CFR
17....26226
21....26226

39 CFR
111....26227

40 CFR
60 (4 documents)....26228, 26229, 26522
61 (2 documents)....26229, 26230
162....26230
Proposed Rules:
421....26352

41 CFR
Proposed Rules:
101–21....26259

43 CFR
Public Land Orders:
6549....26231

46 CFR
536....26231
580....26231

47 CFR
Proposed Rules:
74....26260
90....26264

49 CFR
800....26232
1033....26235
Proposed Rules:
218....26266
225....26266

50 CFR
Proposed Rules:
642....26267

Federal Register
Vol. 49, No. 125
Wednesday, June 27, 1984

Presidential Documents

Title 3—

The President

Executive Order 12483 of June 25, 1984

Amending the Generalized System of Preferences

By the authority vested in me as President by the Constitution and statutes of the United States of America, including Title V of the Trade Act of 1974, as amended (19 U.S.C. 2461 *et seq.*), as amended (the "Trade Act"), and sections 503 and 604 of the Trade Act (19 U.S.C. 2463 and 2483), and in order to adjust the original designation of eligible articles for purposes of the Generalized System of Preferences (GSP), it is hereby ordered as follows:

Section 1. The articles provided for in item 706.39 of the Tariff Schedules of the United States (TSUS) are hereby removed from the list of eligible articles for purposes of the GSP.

Sec. 2. Annex III of Executive Order No. 11888 of November 24, 1975, as amended, listing articles that are eligible for benefits of the GSP when imported from all designated beneficiary developing countries except those specified in general headnote 3(c)(iii) of the TSUS, is further amended by deleting item 706.39.

Sec. 3. General headnote 3(c)(iii) of the TSUS, listing articles that are eligible for benefits of the GSP except when imported from the beneficiary developing countries listed opposite those articles, is modified by deleting the following TSUS item number and countries: "706.39 . . . Hong Kong, Republic of Korea, and Taiwan".

Sec. 4. The amendments made by this Order shall be effective with respect to articles both: (1) imported on and after January 1, 1976, and (2) entered, or withdrawn from warehouse for consumption, on or after June 25, 1984.

Ronald Reagan

THE WHITE HOUSE,
June 25, 1984.

[FR Doc. 84-17344
Filed 6-26-84; 10:44 am]
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Rules and Regulations

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Vol. 49, No. 125
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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

Animal and Plant Health Inspection Service

[Docket No. 83-345]

7 CFR Part 301

Pink Bollworm Quarantine and Regulations

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: This document amends the Pink Bollworm Quarantine and Regulations by quarantining the States of Arkansas and Mississippi because of the pink bollworm and by designating certain areas within Desha County in Arkansas and Washington County in Mississippi as suppressive areas. This action is necessary as an emergency measure in order to prevent the artificial spread of the pink bollworm through the interstate movement of regulated articles. The effect of this action is to impose certain conditions on the interstate movement of regulated articles moved from suppressive areas.

DATES: Effective date of the interim rule is June 27, 1984. Written comments concerning this interim rule must be received on or before August 27, 1984.

ADDRESSES: Written comments should be submitted to Thomas O. Gessel, Director, Regulatory Coordination Staff, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, 6505 Belcrest Road, Room 728 Federal Building, Hyattsville, MD 20782. Written comments received may be inspected at Room 728 of the Federal Building between 8:00 a.m. and 4:30 p.m. Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Michael J. Shannon, Staff Officer, Field Operations Support Staff, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, 6505 Belcrest Road, Room 663 Federal Building, Hyattsville, MD 20782, (301) 436-8295.

SUPPLEMENTARY INFORMATION:

Emergency Action

Harvey L. Ford, Deputy Administrator of the Animal and Plant Health Inspection Service for Plant Protection and Quarantine, has determined that an emergency situation exists which warrants publication of this interim rule without prior opportunity for public comment. Due to the possibility that pink bollworm could be artificially spread interstate to noninfested areas of the United States, a situation exists requiring immediate action to prevent the artificial spread of this pest.

Further, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this interim rule are impracticable and contrary to the public interest; and good cause is found for making this interim rule effective less than 30 days after publication of this document in the **Federal Register.** Comments will be solicited for 60 days after publication of this document, and a final document discussing comments received and any amendments required will be published in the **Federal Register** as soon as possible.

Background

The pink bollworm, *Pectinophora gossypiella* (Saunders), is one of the most destructive and widespread insect pests of cotton in the world. This insect spread to the United States from Mexico in 1917 and now occurs throughout most of the cotton-producing State west of the Mississippi River.

Prior to the effective date of this document, the Pink Bollworm Quarantine and Regulations (referred to below as Regulations; 7 CFR 301.52-1 through 301.52-10) quarantined the States of Arizona, California, Louisiana, New Mexico, Nevada, Oklahoma, and Texas because of the pink bollworm. The quarantine and regulations restrict the interstate movement of regulated articles from regulated areas in quarantined States in order to prevent the artificial spread of the pink bollworm.

Under the Regulations, an area must be designated as a "regulated area" if it is an area in which the pink bollworm has been found, or in which there is reason to believe that the pink bollworm is present, or which it is deemed necessary to regulate because of its proximity to infestation or its inseparability for quarantine enforcement purposes from infested localities. Regulated areas are classified as either "suppressive areas" or "generally infested areas". Suppressive areas are regulated areas in which eradication of the pink bollworm is undertaken as an objective. Generally infested areas are all regulated areas not designated as suppressive areas. Restrictions are imposed on the interstate movement of regulated articles from both generally infested areas and suppressive areas in order to prevent the artificial movement of the pink bollworm into noninfested areas, and to prevent the reinfestation of suppressive areas of the pink bollworm.

Specifically, § 301.52(b) (1) through (12) of the Regulations [7 CFR 301.52(b)(1)-(12)] lists articles which are regulated for the pink bollworm. Further, § 301.52-3 (a), (b), and (c) of the regulations [7 CFR 301.52-3 (a), (b), and (c)] permit the interstate movement of articles designated as regulated articles from regulated areas under the following conditions:

(a) From any regulated area, with certificate or permit issued and attached in accordance with §§ 301.52-4 and 301.52-7 if moved:

(1) From any regulated area into or through any point outside of the regulated areas; or

(2) From any generally infested area into or through any suppressive area; or

(3) Between any noncontiguous suppressive areas; or

(4) Between contiguous suppressive areas when it is determined by the inspector that the regulated articles present a hazard of the spread of the pink bollworm and the person in possession thereof has been so notified; or

(b) From any regulated area, without certificate or permit if moved;

(1) Under the provisions of § 301.52-2b which exempts certain articles from certificate and permit requirements; or

(2) From a generally infested area to a contiguous generally infested area; or

(3) From a suppressive area to a contiguous generally infested area; or

(4) Between contiguous suppressive areas unless the person in possession of the articles has been notified by an inspector that a

hazard of spread of the pink bollworm exists; or

(5) Through or reshipped from any regulated area if the articles originated outside of any regulated area and if the point of origin of the articles is clearly indicated, their identity has been maintained and they have been safeguarded against infestation while in the regulated area in a manner satisfactory to the inspector; or

(c) From any area outside the regulated areas, without a certificate or permit if the regulated articles are exempt under the provisions of § 301.52–2b or if the point of origin of such movement is clearly indicated on the articles or shipping document which accompanies the articles and if the movement is not made through any regulated area.

These regulations are designed to restrict the interstate movement of regulated articles from regulated areas in those circumstances where there would be a risk of spread of the pink bollworm. A certificate or limited permit is authorized to be issued based on treatment of a regulated article or based on a determination that movement of a regulated article without treatment would not result in the spread of the pink bollworm.

This document quarantines the States of Arkansas and Mississippi and designates certain areas in Arkansas or Mississippi as suppressive areas because of the pink bollworm. This action has been taken because inspectors of the U.S. Department of Agriculture and State officials of Arkansas and Mississippi have determined, based on recent surveys conducted in Arkansas and Mississippi, that there is reason to believe that the pink bollworm is present within the areas designated as suppressive areas in Arkansas and Mississippi. The following areas are designated as suppressive areas:

Arkansas

(1) *Generally infested area.* None.

(2) *Suppressive area.*

Desha County. That area of the county lying south and southwest of the Arkansas River.

Mississippi

(1) *Generally infested area.* None

(2) *Suppressive area.*

Washington County. That portion of sec. 11 and 14, T. 18 N., R. 7 W. lying northwest of old U.S. Highway 61.

That portion of sec. 12, T. 18 N., R. 7 W. lying west of county road 269 and that portion of said section lying south of county road 268 and northwest of old U.S. Highway 61.

That portion of sec. 8, T. 18 N., R. 7 W. lying east of county road 253 and north of the northern most Illinois Central Gulf Railroad track.

That portion of sec. 17, T. 18 N., R. 7 W. lying east of U.S. Highway 253.

That portion of sec. 22, T. 18 N., R. 7 W. lying north of U.S. Highway 82 and west of old U.S. Highway 61.

Sec. 32, 33, and 34, T. 19 N., R. 7 W.

Sec. 3, 4, 5, 9, 10, 15, and 16, T. 18 N., R. 7 W.

Executive Order 12291 and Regulatory Flexibility Act

This interim rule is issued in conformance with Executive Order 12291, and has been determined to be not a "major rule." Based on information compiled by the Department, it has been determined that this interim rule will have an estimated annual effect on the economy of less than $30,000; will not cause a major increase in cost or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; and will not cause significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this rulemaking action, the Office of Management and Budget has waived the review process required by Executive Order 12291.

Mr. Bert W. Hawkins, Administrator of the Animal and Plant Health Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities. This action affects the interstate movement of regulated articles from specified areas in Desha County in Arkansas and Washington County in Mississippi. There are hundreds of small entities that move such articles interstate from nonregulated areas in the United States. However, based on information compiled by the Department, it has been determined that fewer than 20 small entities move such articles interstate from the affected areas in Desha County, Arkansas, and Washington County, Mississippi. Further, the overall economic impact from this action is estimated to be less than $30,000.

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant diseases, Plant pests, Plants (agriculture), Quarantine, Transportation, Pink bollworm.

PART 301—DOMESTIC QUARANTINE NOTICES

§ 301.52 [Amended]

Accordingly, under the circumstances described above, §§ 301.52(a) and 301.52–2a of the regulations in "Subpart—Pink Bollworm", Chapter III, Title 7 of the Code of Federal Regulations (7 CFR 301.52(a) and 301.52–2a) are amended as follows:

1. In § 301.52(a) the States of Arkansas and Mississippi are added in alphabetical order to the list of States quarantined.

2. The list of regulated areas for Arkansas and Mississippi in § 301.52–2a are added in alphabetical order to read as follows:

§ 301.52–2a Regulated areas; suppressive and generally infested areas.

* * * * *

ARKANSAS

(1) *Generally infested area.* None.

(2) *Suppressive area.*

Desha County. That area of the county lying south and southwest of the Arkansas River.

* * * * *

MISSISSIPPI

(1) *Generally infested area.* None.

(2) *Suppressive area.*

Washington County. That portion of sec. 11 and 14, T. 18 N., R. 7 W. lying nothwest of old U.S. Highway 61.

That portion of sec. 12, T. 18 N., R. 7 W. lying west of county road 269 and that portion of said section lying south of county road 268 and northwest of old U.S. Highway 61.

That portion of sec. 8, T. 18 N., R. 7 W. lying east of county road 253 and north of the northern most Illinois Central Gulf Railroad track.

That portion of sec. 17, T. 18 N., R. 7 W. lying east of U.S. Highway 253.

That portion of sec. 22, T. 18 N., R. 7 W. lying north of U.S. Highway 82 and west of old U.S. Highway 61.

Sec. 32, 33, and 34, T. 19 N., R. 7 W.

Sec. 3, 4, 5, 9, 10, 15, and 16, T. 18 N., R. 7 W.

* * * * *

(Sec. 106, 71 Stat. 33; (7 U.S.C 150ee); Secs. 8, 9, 37 Stat. 318 as amended; (7 U.S.C. 161, 162); 7 CFR 2.17, 2.51, 371.2(c))

Done at Washington, D.C. this 22nd day of June 1984.

Harvey L. Ford,

Deputy Administrator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service.

[FR Doc. 84–17055 Filed 6–26–84; 8:45 am]

BILLING CODE 3410–34–M

Federal Crop Insurance Corporation

7 CFR Part 411

[Docket No. 1094S; Amdt. No. 3]

Grape Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) hereby amends the Grape Crop Insurance Regulations (7 CFR Part 411), effective for the 1984 and succeeding crop years, by (1) changing the policy to make it easier to read; (2) providing for insurance on grapes grown for processing as wine or juice; (3) adding a provision which permits determination of indemnities based on the acreage report rather than at loss adjustment time; (4) requiring a report of a stand if it is less than 90 percent of the original stand; (5) providing a coverage level if the insured does not select one; (6) adding a provision regarding the end of the insurance period of unharvested acreage as the date harvest should have started on the unit; (7) adding a 60-day claim for indemnity provision; (8) adding a section which allows for quality adjustment for grapes which do not meet the minimum requirements for processing of wine or juice and have a value of less than 75 percent of the market price; (9) adding a section regarding appraisals following the end of the insurance period for unharvested acreage; (10) adding a hail/fire provision for appraisals of uninsured causes; (11) changing the cancellation/termination dates to conform to farming practices; (12) providing that any change in the policy will be available in the service office by a certain date; (13) adding a definition of "service office;" (14) providing for unit determination when the acreage report is filed; (15) adding sections concerning "descriptive headings," "notices," and "determination"; and (16) redesignating Appendix B to Part 411 as Appendix A, listing the counties wherein Grape Crop Insurance is authorized to be offered.

In addition, FCIC issues a new subsection in the grape crop insurance regulations to contain the control numbers assigned by the Office of Management and Budget (OMB) to information collection requirements of these regulations. The intended effect of this rule is to update the policy for insuring grapes in accordance with Departmental Regulation 1512–1 (December 15, 1983), requiring a review of the regulations as to need, currency, clarity, and effectiveness, and to comply with OMB regulations requiring publication of OMB control numbers assigned to information collection requirements in these regulations.

EFFECTIVE DATE: July 27, 1984.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250, telephone (202) 447–3325.

SUPPLEMENTARY INFORMATION: This action has been reviewed under procedures established in Departmental Regulation 1512–1 (December 15, 1983). This action constitutes a review under such procedures as to the need, currency, clarity, and effectiveness of these regulations. The sunset review date established for these regulations is April 1, 1988.

Merritt W. Sprague, Manager, FCIC, has determined that this action (1) is not a major rule as defined by Executive Order No. 12291 (February 17, 1981), because it will not have an annual effect on the economy of $100 million or more, and (2) will not increase the Federal paperwork burden for individuals, small businesses, and other persons.

The title and number of the Federal Assistance Program to which these regulations apply are: Title—Crop Insurance; Number 10.450.

As set forth in the notice related to 7 CFR Part 3015, Subpart V (48 FR 29116, June 24, 1983), the Federal Crop Insurance Corporation's program and activities, are excluded from the provisions of Executive Order No. 12372 which requires intergovernmental consultation with State and local officials.

It has been determined that this action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Flexibility Analysis was prepared.

On Thursday, October 20, 1983, FCIC published a notice of proposed rulemaking to amend the Grape Crop Insurance Regulations (7 CFR Part 411), as outlined in the summary to this document. The public was given 60 days in which to submit written comments, data, and opinions on this proposed rule, but none were received. Therefore, the proposed rule as published is hereby adopted with minor clerical and nonsubstantive changes as a final rule, effective with the 1984 and succeeding crop years.

List of Subjects in 7 CFR Part 411

Crop insurance, grape.

PART 411—[AMENDED]

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby amends the Grape Crop Insurance Regulations, effective for the 1984 and succeeding crop years, in the following instances:

1. The Authority citation for 7 CFR Part 411 is:

Authority: Secs. 506, 516, Pub. L. 75–430, 52 Stat. 73, 77 as amended (7 U.S.C. 1506, 1516).

2. 7 CFR 411.3 is added to read as follows: 7 CFR 411.3 OMB control numbers.

The information collection requirements contained in these regulations (7 CFR Part 411) have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB Nos. 0563–0003 and 0563–0007.

3. 7 CFR 411.7(d) is revised to read as set forth below:

§ 411.7 The application and policy.

* * * * *

(d) The application for the 1984 and succeeding crop years is found at Subpart D of Part 400—General Administrative Regulations (7 CFR 400.37, 400.38; first published at 48 FR 1023, January 10, 1983) and may be amended from time to time for subsequent crop years. The provisions of the Grape Insurance Policy for the 1984 and succeeding crop years, are as follows:

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Grape—Crop Insurance Policy

(This is a continuous contract. Refer to Section 15.)

Agreement to Insure: We will provide the insurance described in this policy in return for the premium and your compliance with all applicable provisions.

Throughout this policy, "you" and "your" refer to the insured shown on the accepted Application and "we," "us" and "our" refer to the Federal Crop Insurance Corporation.

Terms and Conditions

1. Causes of loss.

a. The insurance provided is against unavoidable loss of production resulting from the following causes occurring within the insurance period:

(1) Adverse weather conditions;
(2) Fire;
(3) Wildlife;
(4) Earthquake;
(5) Volcanic eruption;
(6) Direct Mediterranean Fruit Fly damage; or
(7) Failure of the irrigation water supply from an unavoidable cause occurring after insurance attaches,

unless those causes are excepted, excluded, or limited by the actuarial table or section 9e(6). Direct Mediterranean Fruit Fly damage

shall be actual physical damage to the grapes on the unit which causes such grapes to be unmarketable and shall not include unmarketability of such grapes as a direct result of a quarantine, boycott, or refusal to accept the grapes by any entity without regard to actual physical damage to such grapes.

b. We shall not insure against any loss of production due to:

(1) The neglect, mismanagement or wrong doing of you, any member of your household, your tenants or employees;

(2) The failure to follow recognized good grape management practices;

(3) The impoundment of water by any governmental, public or private dam or reservoir project; or

(4) Any cause not specified in section 1a as an insured loss.

2. Crop, acreage, and share insured.

a. The crop insured will be any insurable variety of grapes which are grown for wine, juice, raisins, or canning on insured acreage, and for which a guarantee and premium rate are provided by the actuarial table.

b. The acreage insured for each crop year will be grapes grown on insurable acreage as designated by the actuarial table and in which you have a share, as reported by you or as determined by us, whichever we elect.

c. The insured share will be your share as landlord, owner-operator, or tenant in the insured grapes at the time insurance attaches.

d. We do not insure any acreage:

(1) On which the vines, after being set out, have not reached the number of growing seasons designated by the actuarial table;

(2) Which has not produced an average of 2 tons of grapes per acre; or

(3) With less than 90 percent of a stand of bearing vines based on the original planting, unless inspected by us and we agree in writing to insure such acreage, (the actuarial table may provide exceptions to this clause).

e. Where insurance is provided for an irrigated practice:

(1) You must report as irrigated only the acreage for which you have adequate facilities and water to carry out a good grape irrigation practice at the time insurance attaches; and

(2) Any loss of production caused by failure to carry out a good grape irrigation practice, except failure of the water supply from an unavoidable cause occurring after insurance attaches, will be considered as due to an uninsured cause. The failure or breakdown of irrigation equipment or facilities will not be considered as a failure of the water supply from an unavoidable cause.

f. We may limit the insured acreage to any acreage limitation established under any Act of Congress, if we advise you of the limit prior to the time insurance attaches.

3. Report of acreage, share, yield, and practice.

You must report on our form:

a. All the acreage of grapes in the county in which you have a share;

b. The practice;

c. Your share at the time insurance attaches;

d. The number of bearing vines (if less than 90 percent of a stand based on the original planting pattern); and

e. The most recent year's production for insurable acreage on each unit.

You must designate separately any acreage that is not insurable. You must report if you do not have a share in any grapes grown in the county. This report must be submitted annually on or before the reporting date established by the actuarial table. All indemnities may be determined on the basis of information you have submitted on this report. If you do not submit this report by the reporting date, we may elect to determine by unit the insured acreage, share, and practice or we may deny liability on any unit. Any report submitted by you may be revised only upon our approval.

4. Production guarantees, coverage levels, and prices for computing indemnities.

a. The production guarantees, coverage levels, and prices for computing indemnities are contained in the actuarial table.

b. Coverage level 2 will apply if you do not elect a coverage level.

c. You may change the coverage level and price election on or before the closing date for submitting applications for the crop year as established by the actuarial table.

5. Annual premium.

a. The annual premium is earned and payable at the time insurance attaches. The amount is computed by multiplying the production guarantee times the price election, times the premium rate, times the insured acreage, times your share at the time insurance attaches, times the applicable premium adjustment percentage contained in the following table.

PREMIUM ADJUSTMENT TABLE [1]

[Percent adjustments for favorable continuous insurance experience]

	Numbers of years continuous experience through previous year															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15 or more
	Percentage adjustment factor for current crop year															
Loss ratio [2] through previous crop year																
.00 to .20	100	95	95	90	90	85	80	75	70	70	65	65	60	60	55	50
.21 to .40	100	100	95	95	90	90	90	85	80	80	75	75	70	70	65	60
.41 to .60	100	100	95	95	95	95	95	90	90	90	85	85	80	80	75	70
.61 to .80	100	100	95	95	95	95	95	95	90	90	90	90	85	85	85	80
.81 to 1.09	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

[Percent adjustments for unfavorable insurance experience]

	Numbers of loss years through previous year [3]															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
	Percentage adjustment factor for current crop year															
Loss ratio [2] through previous crop year																
1.10 to 1.19	100	100	100	102	104	106	108	110	112	114	116	118	120	122	124	126
1.20 to 1.39	100	100	100	104	108	112	116	120	124	128	132	136	140	144	148	152
1.40 to 1.69	100	100	100	108	116	124	132	140	148	156	164	172	180	188	196	204
1.70 to 1.99	100	100	100	112	122	132	142	152	162	172	182	192	202	212	222	232
2.00 to 2.49	100	100	100	116	128	140	152	164	176	188	200	212	224	236	248	260
2.50 to 3.24	100	100	100	120	134	148	162	176	190	204	218	232	246	260	274	288
3.25 to 3.99	100	100	105	124	140	156	172	188	204	220	236	252	268	284	300	300
4.00 to 4.99	100	100	110	128	146	164	182	200	218	236	254	272	290	300	300	300
5.00 to 5.99	100	100	115	132	152	172	192	212	232	252	272	292	300	300	300	300
6.00 and up	100	100	120	136	158	180	202	224	246	268	290	300	300	300	300	300

[1] For premium adjustment purposes, only the years during which premiums were earned shall be considered.

[2] Loss Ratio means the ratio of indemnity(ies) paid to premium(s) earned.

[3] Only the most recent 15 crop years shall be used to determine the number of "Loss Years". (A crop year is determined to be a "Loss Year" when the amount of indemnity for the year exceeds the premium for the year.)

b. Interest will accrue at the rate of one and one-half percent (1½%) simple interest per calendar month, or any part thereof, on any unpaid premium balance starting on the first day of the month following the first premium billing date.

c. Any premium adjustment applicable to the contract will be transferred to:

(1) The contract of your estate or surviving spouse in case of your death;

(2) The contract of the person who succeeds you if such person had previously participated in the vineyard operation; or

(3) Your contract if you stop vineyard operations in one county and start vineyard operations in another county.

d. If participation is not continuous, any premium will be computed on the basis of previous unfavorable insurance experience but no premium reduction under section 5a will be applicable.

6. Deductions for debt.

Any unpaid amount due us may be deducted from any indemnity payable to you or from any loan or payment due you under any Act of Congress or program administered by the United States Department of Agriculture or its Agencies.

7. Insurance period.

a. Insurance attaches each crop year on:

(1) February 1 in California;

(2) November 21 in Washington; and

(3) December 11 in all other states.

b. Insurance ends at the earliest of:

(1) Total destruction of the grapes on the unit;

(2) The date harvest should have started on the unit, on any acreage which is not harvested;

(3) Harvest;

(4) Final adjustment of a loss; or

(5) December 10 (November in Washington and California) of the calendar year in which the grapes are normally harvested.

c. In New York, Pennsylvania and Ohio, if you purchase any insurable acreage on or before January 5 of any crop year and if we inspect, consider acceptable, and agree in writing to insure such acreage, insurance will be considered to have attached to such acreage on the preceding December 11. In New York, Pennsylvania and Ohio, if you sell any acreage of grapes on or before January 5 of any crop year, insurance will not be considered to have attached to such acreage for that crop year.

8. Notice of damage or loss.

a. In case of damage or probable loss:

(1) You must give us written notice if during the period before harvest, the grapes on any unit are damaged and you decide not to further care for or harvest any part of them.

(2) You must give us notice:

(a) At least 15 days before the beginning of harvest if you anticipate a loss on any unit; or

(b) Immediately, if damages occurs within 15 days prior to harvest or during harvest.

(3) If you are going to claim an indemnity on any unit, notice must be given not later than 48 hours:

(a) After total destruction of the grapes on the unit;

(b) After discontinuance of harvest on the unit; or

(c) Before harvest would normally start if any acreage on the unit is not to be harvested.

(4) Unless notice has been given under subsection (3) above, and in addition to the other notices required by this section, if you are going to claim an indemnity on any unit, we must be given notice not later than 30 days after the earlier of:

(a) Harvest of the unit; or

(b) The calendar date for the end of the insurance period.

b. You must obtain written consent from us before you destroy any of the grapes which are not to be harvested.

c. We may reject any claim for indemnity if any of the requirements of this section or section 9 are not complied with.

9. Claim for indemnity.

a. Any claim for indemnity on a unit must be submitted to us on our form not later than 60 days after the earliest of:

(1) Total destruction of the grapes on the unit;

(2) harvest of the unit; or

(3) The calendar date for the end of the insurance period.

b. We will not pay indemnity unless you:

(1) Establish the total production of grapes on the unit and that any loss of production has been directly caused by one or more of the insured causes during the insurance period; and

(2) Furnish all information we require concerning the loss.

c. The indemnity will be determined on each unit by:

(1) Multiplying the insured acreage by the production guarantee;

(2) Subtracting therefrom the total production of grapes to be counted (see section 9e);

(3) Multiplying the remainder by the price election; and

(4) Multiplying this product by your share.

d. If the information reported by you results in a lower premium than the actual premium determined to be due, the indemnity will be reduced proportionately.

e. The total production to be counted for a unit will include all harvested and appraised production:

(1) Grape production:

(a) Which, due to insurable causes, does not meet the minimum sugar solids and/or quality requirements of the receiving processor and has a value of less than 75 percent of the market price for grapes meeting the minimum requirements or would not meet these requirements if properly handled, will be adjusted by:

(i) Dividing the value per ton of such grapes, by the highest price election available for such grapes; and

(ii) Multiplying the result (not to exceed 1) by the number of tons of such grapes.

(2) Appraised production to be counted will include:

(a) Unharvested production on harvested acreage and potential production lost due to uninsured causes and failure to follow recognized good grape management practices;

(b) Not less than the guarantee for any acreage which is abandoned, damaged solely by an uninsured cause or destroyed by you without our consent;

(c) Any appraised production on unharvested acreage.

(3) Any appraisal we have made on insured acreage will be considered production to count unless such appraised production:

(a) Is not harvested before the harvest of grapes becomes general in the county;

(b) Is harvested; or

(c) Is further damaged by an insured cause.

(4) If any grapes are harvested before normal maturity, the production of such grapes will be increased by the factor obtained by dividing the price per ton received for such grapes by the price per ton for fully matured grapes.

(5) The amount of production of any unharvested grapes may be determined on the basis of field appraisals conducted after discontinuance of harvest or the end of the insurance period.

(6) When you have elected to exclude hail and fire as insured causes of loss and the grapes are damaged by hail or fire, appraisals for uninsured causes will be made in accordance with Form FCI–78, "Request to Exclude Hail and Fire".

(7) The commingled production of units will be allocated to such units in proportion to our liability on the harvested acreage of each unit.

f. You must not abandon any acreage to us.

g. You may not bring suit or action against us unless you have complied with all policy provisions. If a claim is denied, you may sue us in the United States District Court under the provisions of 7 U.S.C. 1508(c). You must bring suit within 12 months of the date notice of denial is mailed to and received by you.

h. We will pay the loss within 30 days after we reach agreement with you or entry of a final judgment. In no event will we be liable for interest or damages in connection with any claim for indemnity, whether we approve or disapprove such claim.

i. If you die, disappear, or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved after insurance attaches for any crop year, any indemnity will be paid to the person(s) we determine to be beneficially entitled thereto.

j. If you have other fire insurance, fire damage occurs during the insurance period, and you have not elected to exclude fire insurance from this policy, we will be liable for loss due to fire only for the smaller of:

(1) The amount of indemnity determined pursuant to this contract without regard to any other insurance; or

(2) The amount by which the loss from fire exceeds the indemnity paid or payable under such other insurance. For the purposes of this section, the amount of loss from fire will be the difference between the fair market value of the production on the unit before the fire and after the fire.

10. Concealment of fraud.

We may void the contract on all crops insured without affecting your liability for premiums or waiving any right, including the right to collect any amount due us if, at any time, you have concealed or misrepresented any material fact or committed any fraud relating to the contract, and such voidance will be effective as of the beginning of the crop year with respect to which such act or omission occurred.

11. Transfer of right to indemnity or insured share.

If you transfer any part of your share during the crop year, you may transfer your right to an indemnity. The transfer must be on our form and approved by us. We may collect the premium from either you or your transferee or both. The transferee will have all rights and responsibilities under the contract.

12. Assignment of indemnity.

You may assign to another party your right to an indemnity for the crop year, only on our form and with our approval. The assignee will have the right to submit the loss notices and forms required by the contract.

13. Subrogation. (Recovery of loss from a third party.)

Because you may be able to recover all or a part of your loss from someone other than us, you must do all you can to preserve any such rights. If we pay you for your loss then your right of recovery will at our option belong to us. If we recover more than we paid you plus our expenses, the excess will be paid to you.

14. Records and access to farm.

You must keep, for two years after the time of loss, records of the harvesting, storage, shipment, sale or other disposition of all grapes produced on each unit including separate records showing the same information for production from any uninsured acreage. Any person designated by us will have access to such records and the farm for purposes related to the contract.

15. Life of contract: Cancellation and termination.

a. This contract will be in effect for the crop year specified on the application and may not be canceled for such crop year. Thereafter, the contract will continue in force for each succeeding crop year unless canceled or terminated as provided in this section.

b. This contract may be canceled by either you or us for any succeeding crop year by giving written notice on or before the cancellation date preceding such crop year.

c. This contract will terminate as to any crop year if any amount due us on this or any other contract with you is not paid on or before the termination date preceding such crop year for the contract on which the amount is due. The date of payment of the amount due:

(1) If deducted from an indemnity will be the date you sign the claim; or

(2) If deducted from payment under another program administered by the United States Department of Agriculture will be the date such payment was approved.

d. The cancellation and termination dates are:

State	Cancellation and termination dates
California	January 31.
Washington	November 20.
All other states	December 10.

e. If you die or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved, the contract will terminate as of the date of death, judicial declaration, or dissolution. *However*, if such event occurs after insurance attaches for any crop year, the contract will continue in force through the crop year and terminate at the end thereof. Death of a partner in a partnership will dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the persons will dissolve the joint entity.

f. The contract will terminate if no premium is earned for five consecutive years.

16. Contract changes.

We may change any terms and provisions of the contract from year to year. If your price election at which indemnities are computed is no longer offered, the actuarial table will provide the price election which you are deemed to have elected. All contract changes will be available at your service office by August 31 preceding the cancellation date for counties with a November 20 or December 10 cancellation date, and by October 31 preceding the cancellation date for all other counties. Acceptance of any changes will be conclusively presumed in the absence of any notice from you to cancel the contract.

17. Meaning of terms.

For the purposes of grape crop insurance:

a. "Actuarial table" means the forms and related material for the crop year approved by us which are available for public inspection in your service office, and which show the production guarantees, coverage levels, premium rates, prices for computing indemnities, practices, insurable and uninsurable acreage, and related information regarding grape insurance in the county.

b. "Contiguous land" means land which is touching at any point, except that land which is separated by only a public or private right-of-way shall be considered contiguous.

c. "County" means the county shown on the application and any additional land located in a local producing area bordering on the county, as shown by the actuarial table.

d. "Crop year" means the period beginning with the date insurance attaches and extending through normal harvest time and will be designated by the calendar year in which the grapes are normally harvested.

e. "Harvest" means picking the grapes from the vines.

f. "Insurable acreage" means the land classified as insurable by us and shown as such by the actuarial table.

g. "Insured" means the person who submitted the application accepted by us.

h. "Person" means an individual, partnership, association, corporation, estate, trust, or other business enterprise or legal entity, and wherever applicable, a State, a political subdivision of a State, or any agency thereof.

i. "Service office" means the office servicing your contract as shown on the application for insurance or such other approved office as may be selected by you or designated by us.

j. "Tenant" means a person who rents land from another person for a share of the grapes or a share of the proceeds therefrom.

k. "Ton" means 2000 pounds.

l. "Unit" means all insurable acreage of grapes in the county, located on contiguous land, on the date insurance attaches for the crop year:

(1) In which you have a 100 percent share; or

(2) Which is owned by one entity and operated by another entity on a share basis.

Land rented for cash, a fixed commodity payment, or any consideration other than a share in the grapes on such land will be considered as owned by the lessee. Land which would otherwise be one unit may be divided according to applicable guidelines on file in your service office or by written agreement between you and us. Units as herein defined will be determined when the acreage is reported. Errors in reporting such units may be corrected by us to conform to applicable guidelines when adjusting a loss. We may consider any acreage and share thereof reported by or for your spouse or child or any member of your household to be your bona fide share or the bona fide share of any other person having an interest therein.

18. Descriptive headings.

The descriptive headings of the various policy terms and conditions are formulated for convenience only and are not intended to affect the construction or meaning of any of the provisions of the contract.

19. Determinations.

All determinations required by the policy will be made by us. If you disagree with our determinations, you may obtain reconsideration of or appeal those determinations in accordance with Appeal Regulations.

20. Notices.

All notices required to be given by you must be in writing and received by your service office within the designated time unless otherwise provided by the notice requirement. Notices required to be given immediately may be by telephone or in person and confirmed in writing. Time of the notice will be determined by the time of our receipt of the written notice.

4. 7 CFR Part 411 is further amended by redesignating Appendix B as Appendix A.

Done in Washington, D.C., on May 7, 1984.

Dated: June 19, 1984.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

Approved by:

Edward Hews,

Acting Manager.

[FR Doc. 84-17023 Filed 6-26-84; 8:45 am]

BILLING CODE 3410-08-M

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7 CFR Part 431

[Docket No. 1088S; Amdt. No. 1]

Soybean Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) hereby amends the Soybean Crop Insurance Regulations (7 CFR Part 431), effective for the 1984 and succeeding crop years by: (1) Changing

the policy to make it easier to read; (2) adding a provision to permit determination of indemnities based on the acreage report rather than at loss adjustment time; (3) adding a provision to provide a coverage level if the insured does not select one; (4) providing that, in the event of a probable loss, a representative sample of the unharvested crop be left intact for 15 days after notice of loss is given; (5) revising the hail/fire provision for appraisals of uninsured causes of loss; (6) changing the cancellation/termination dates to conform with farming practices; (7) providing that any changes in the policy will be available in the service office by a certain date; (8) changing unit guidelines in certain instances; (9) providing for a reduction in guarantee for double cropped soybean; and (10) limiting the guarantee.

In addition, FCIC issues a new subsection in the soybean crop insurance regulations to contain the control numbers assigned by the Office of Management and Budget (OMB) to information collection requirements of these regulations. The intended effect of this rule is to update the policy for insuring soybeans in accordance with Departmental Regulation 1512–1, (December 15, 1983) requiring a review of the regulations as to need, currency, clarity, and effectiveness, and to comply with OMB regulations requiring publication of OMB control numbers assigned to information collection requirements in these regulations.

EFFECTIVE DATE: July 27, 1984.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 447–3325.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established in Departmental Regulation (December 15, 1983). This action constitutes a review under such procedures as to the need, currency, clarity, and effectiveness of these regulations. The sunset review date established for these regulations is April 1, 1988.

Merritt W. Sprague, Manager, FCIC, has determined that this action (1) is not a major rule as defined by Executive Order No. 12291 (February 17, 1981), because it will not have an annual effect on the economy of $100 million or more, and (2) will not increase the Federal paperwork burden for individuals, small businesses, and other persons.

The title and number of the Federal Assistance Program to which these regulations apply are: Title—Crop Insurance; Number 10.450.

As set forth in the notice related to 7 CFR Part 3015, Subpart V (48 FR 29116, June 24, 1983), the Federal Crop Insurance Corporation's program and activities, are excluded from the provisions of Executive Order No. 12372 which requires intergovernmental consultation with State and local officials.

It has been determined that this action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Flexibility Analysis was prepared.

On Wednesday, July 27, 1983, FCIC published a notice of proposed rulemaking in the **Federal Register** at 48 FR 34047, to amend the Soybean Crop Insurance Regulations. The public was given 60 days in which to submit written comments, data, and opinions, but none were received. On Thursday, March 8, 1984, a Supplemental Notice of Proposed Policy Rulemaking and Extension of Comment Period was published in the **Federal Register** at 49 FR 8620. The supplemental notice proposed to further amend the Soybean Crop Insurance Regulations by (1) offering soybean crop insurance only on the unit basis provided in the policy for insurance, with guidelines providing no further unit division in those states with a cumulative loss ratio of at least 1.30, and a cumulative premium income of at least $1 million; (2) providing for a reduction in guarantee of 15 percent (15%) on any practice of double-cropped soybeans; and (3) providing that soybeans will not be insured at more than 100 percent (100%) of the guarantee based on the county average yield. The public was given 15 additional days in which to submit comments on the proposed rule, but none were received. Therefore, both proposed rules as published and described above, are hereby adopted as a final rule effective with the 1984 and succeeding crop years, and are incorporated herein.

List of Subjects in 7 CFR Part 431

Crop insurance, Soybean.

Final Rule

PART 431—[AMENDED]

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby amends the Soybean Crop Insurance Regulations (7 CFR Part 431), effective for the 1984 and succeeding crop years, in the following instances:

1. The Authority citation for 7 CFR Part 431 is:

Authority: Secs. 506, 516, Pub. L. 75–430, 52 Stat. 73, 77 as amended (7 U.S.C. 1506, 1516).

2. 7 CFR 431.3 is added to read as follows:

§ 431.3 OMB control numbers.

The information collection requirements contained in these regulations (7 CFR Part 431) have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB Nos. 0563–0003 and 0563–0007.

3. 7 CFR 431.7(d) is revised to read as set forth below:

§ 431.7 The application and policy.

* * * * *

(d) The application for the 1984 and succeeding crop years is found at Subpart D of Part 400—General Administrative Regulations (7 CFR 400.37, 400.38; and may be amended from time to time for subsequent crop years. The provisions of the Soybean Insurance Policy for the 1984 and succeeding crop years, are as follows:

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Soybean—Crop Insurance Policy

(This is a continuous contract. Refer to Section 15.)

AGREEMENT TO INSURE: We will provide the insurance described in this policy in return for the premium and your compliance with all applicable provisions.

Throughout this policy, "you" and "your" refer to the insured shown on the accepted Application and "we," "us" and "our" refer to the Federal Crop Insurance Corporation.

Terms and Conditions

1. Causes of loss.

a. The insurance provided is against unavoidable loss of production resulting from the following causes occurring within the insurance period:

(1) Adverse weather conditions;
(2) Fire;
(3) Insects;
(4) Plant disease;
(5) Wildlife;
(6) Earthquake;
(7) Volcanic eruption; or
(8) Failure of the water supply from an unavoidable cause occurring after the beginning of planting, unless those causes are excepted, excluded, or limited by the actuarial table or section 9f(5).

b. We shall not insure against any loss of production due to:

(1) The neglect, mismanagement or wrong doing of you, any member of your household, your tenants or employees;

(2) The failure to follow recognized good soybean farming practices;

(3) The impoundment of water by any governmental, public or private dam or reservoir project; or

(4) Any cause not specified in section 1a as an insured loss.

2. Crop, acreage, and share insured.

a. The crop insured will be soybeans which are planted for harvest as beans and which are grown on insured acreage and for which a guarantee and premium rate are provided by the actuarial table.

b. The acreage insured for each crop year will be soybeans planted on insurable acreage as designated by the actuarial table and in which you have a share, as reported by you or as determined by us, whichever we will elect.

c. The insured share will be your share as landlord, owner-operator, or tenant in the insured soybeans at the time of planting.

d. We do not insure any acreage:

(1) Where the farming practices carried out are not in accordance with the farming practices for which the premium rates have been established;

(2) Which is irrigated and an irrigated practice is not provided by the actuarial table unless you elect to insure the acreage as nonirrigated by reporting it as insurable under section 3;

(3) Which is destroyed, we determine it is practical to replant to soybeans and such acreage is not replanted;

(4) Initially planted after the final planting date contained in the actuarial table, unless you sign an option form agreeing to coverage reduction;

(5) Of volunteer soybeans;

(6) Planted to a type or variety of soybeans not established as adapted to the area or excluded by the actuarial table;

(7) Planted with a crop other than soybeans; or

(8) Of a second soybean crop following a soybean crop harvested in the same crop year.

e. Where insurance is provided for an irrigated practice:

(1) You must report as irrigated only the acreage for which you have adequate facilities and water to carry out a good soybean irrigation practice at the time of planting; and

(2) Any loss of production caused by failure to carry out a good soybean irrigation practice, except failure to the water supply from an unavoidable cause occurring after the beginning of planting, will be considered as due to an uninsured cause. The failure or breakdown of irrigation equipment or facilities will not be considered as a failure of the water supply from an unavoidable cause.

f. Unless otherwise provided in the actuarial table, insurance will attach only on acreage initially planted in rows far enough apart to permit cultivation but, if such insured acreage is destroyed and replanted, whether in the same manner or by broadcasting, drilling, or in rows too close to permit cultivation, it will be regarded as insured acreage and not as acreage put to another use.

g. Acreage planted for the development or production of hybrid seed or for experimental purposes is not insured unless we agree in writing to insure such acreage.

h. We may limit the insured acreage to any acreage limitation established under any Act to Congress, if we advise you of the limit prior to planting.

3. Report of acreage, share, and practice.

You will report on our form:

a. All the acreage of soybeans in the county in which you have a share;

b. The practice; and

c. Your share at the time of planting.

You must designate separately any acreage that is not insurable. You must report if you do not have a share in any soybeans planted in the county. This report must be submitted annually on or before the reporting date established by the actuarial table. All indemnities may be determined on the basis of information you have submitted on this report. If you do not submit this report by the reporting date, we may elect to determine by unit the insured acreage, share, and practice or we may deny liability on any unit. Any report submitted by you may be revised only upon our approval.

4. Production guarantees, coverage levels, and prices for computing indemnities.

a. The production guarantees, coverage levels, and prices for computing indemnities are contained in the actuarial table.

b. Coverage level 2 will apply if you have not elected a coverage level.

c. You may change the coverage level and price election before the closing date for submitting applications for the crop year as established by the actuarial table.

5. Annual premium.

a. The annual premium is earned and payable at the time of planting. The amount is computed by multiplying the production guarantee times the price election, times the premium rate, times the insured acreage, times your share at the time of planting, times the applicable premium adjustment percentage contained in the following table.

PREMIUM ADJUSTMENT TABLE [1]

[Percent adjustments for favorable continuous insurance experience]

	Numbers of years continuous experience through previous year															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15 or more
Loss ratio [2] through previous crop year	Percentage adjustment factor for current crop year															
.00 to .20	100	95	95	90	90	85	80	75	70	70	65	65	60	60	55	50
.21 to .40	100	100	95	95	90	90	90	85	80	80	75	75	70	70	65	60
.41 to .60	100	100	95	95	95	95	95	90	90	90	85	85	80	80	75	70
.61 to .80	100	100	95	95	95	95	95	95	90	90	90	90	85	85	85	80
.81 to 1.09	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

[Percent adjustments for unfavorable insurance experience]

	Numbers of loss years through previous year [3]															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
Loss ratio [2] through previous crop year	Percentage adjustment factor for current crop year															
1.10 to 1.19	100	100	100	102	104	106	108	110	112	114	116	118	120	122	124	126
1.20 to 1.39	100	100	100	104	108	112	116	120	124	128	132	136	140	144	148	152
1.40 to 1.69	100	100	100	108	116	124	132	140	148	156	164	172	180	188	196	204
1.70 to 1.99	100	100	100	112	122	132	142	152	162	172	182	192	202	212	222	232
2.00 to 2.49	100	100	100	116	128	140	152	164	176	188	200	212	224	236	248	260
2.50 to 3.24	100	100	100	120	134	148	162	176	190	204	218	232	246	260	274	288
3.25 to 3.99	100	100	105	124	140	156	172	188	204	220	236	252	268	284	300	300
4.00 to 4.99	100	100	110	128	146	164	182	200	218	236	254	272	290	300	300	300
5.00 to 5.99	100	100	115	132	152	172	192	212	232	252	272	292	300	300	300	300
6.00 and up	100	100	120	136	158	180	202	224	246	268	290	300	300	300	300	300

[1] For premium adjustment purposes, only the years during which premiums were earned shall be considered.

[2] Loss Ratio means the ratio of indemnity(ies) paid to premium(s) earned.

[3] Only the most recent 15 crop years shall be used to determine the number of "Loss Years". (A crop year is determined to be a "Loss Year" when the amount of indemnity for the year exceeds the premium for the year.)

b. Interest will accrue at the rate of one and one-half percent (1½%) simple interest per calendar month, or any part thereof, on any unpaid premium balance starting on the first day of the month following the first premium billing date.

c. Any premium adjustment applicable to the contract will be transferred to:

(1) The contract of your estate or surviving spouse in case of your death;

(2) The contract of the person who succeeds you if such person had previously participated in the farming operation; or

(3) Your contract if you stop farming in one county and start farming in another county.

d. If participation is not continuous, any premium will be computed on the basis of previous unfavorable insurance experience but no premium reduction under section 5a will be applicable.

6. Deductions for debt.

Any unpaid amount due us may be deducted from any indemnity payable to you or from any loan or payment due you under any Act of Congress or program administered by the United States Department of Agriculture or its Agencies.

7. Insurance period.

Insurance attaches when the soybeans are planted and ends at the earliest of:

a. Total destruction of the soybeans;

b. Combining, threshing or removal from the field;

c. Final adjustment of a loss; on

d. The date immediately following planting as follows:

(1) Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Texas and Virginia, December 20;

(2) All other states, December 10.

8. Notice of damage or loss.

a. In case of damage or probable loss:

(1) You must give us written notice if:

(a) You want our consent to replant soybeans damaged due to any insured cause. (To qualify for a replanting payment, the acreage replanted must be at least the lesser of 10 acres or 10 percent of the insured acreage on the unit.);

(b) During the period before harvest, the soybeans on any unit are damaged and you decide not to further care for or harvest any part of them;

(c) You want our consent to put the acreage to another use; or

(d) After consent to put acreage to another use is given, additional damage occurs.

Insured acreage may not be put to another use until we have appraised the soybeans and given written consent. We will not consent to another use until it is too late to replant. You must notify us when such acreage is replanted or put to another use.

(2) You must give us notice at least 15 days before the beginning of harvest if you anticipate a loss on any unit.

(3) If probable loss is later determined, immediate notice must be given and a representative sample of the unharvested soybeans (at least 10 feet wide and the entire length of the field) must be left intact for a period of 15 days from the date of notice, unless we give you written consent to harvest the sample.

(4) In addition to the notices required by this section, if you are going to claim an indemnity on any unit, we must be given notice not later than 30 days after the earliest of:

(a) Total destruction of the soybeans on the unit;

(b) Harvest of the unit; or

(c) The calendar date for the end of the insurance period.

b. You may not destroy or replant any of the soybeans on which a replanting payment will be claimed until we give consent.

c. You must obtain written consent from us before you destroy any of the soybeans which are not to be harvested.

d. We may reject any claim for indemnity if any of the requirements of this section or section 9 are not complied with.

9. Claim for indemnity.

a. Any claim for indemnity on a unit must be submitted to us on our form not later than 60 days after the earliest of:

(1) Total destruction of the soybeans on the unit;

(2) Harvest of the unit; or

(3) The calendar date for the end of the insurance period.

b. We will not pay any indemnity unless you:

(1) Establish the total production of soybeans on the unit and that any loss of production has been directly caused by one or more of the insured causes during the insurance period; and

(2) Furnish all information we require concerning the loss.

c. The indemnity will be determined on each unit by:

(1) Multiplying the insured acreage by the production guarantee;

(2) Subtracting therefrom the total production of soybeans to be counted (see section 9f);

(3) Multiplying the remainder by the price election; and

(4) Multiplying this result by your share.

d. If the information reported by you results in a lower premium than the actual premium determined to be due, the indemnity will be reduced proportionately.

e. The indemnity will be reduced by the amount of any replanting payment.

f. The total production to be counted for a unit will include all harvested and appraised production.

(1) Mature soybean production:

(a) Which otherwise is not eligible for quality adjustment and which grades No. 4 or better will be reduced .12 percent for each .1 percentage point of moisture in excess of 14.0 percent; or

(b) Which, due to insurable causes, does not grade No. 4 or better in accordance with the Official United States Grain Standards, will be adjusted by:

(i) Dividing the value per bushel of such soybeans, by the price per bushel of U.S. No. 2 soybeans; and

(ii) Multiplying the result by the number of bushels of such soybeans.

The applicable price for No. 2 soybeans will be the local market price on the earlier of: the day the loss is adjusted or the day such soybeans were sold.

(2) Appraised production to be counted will include:

(a) Unharvested production on harvested acreage and potential production lost due to uninsured causes and failure to follow recognized good soybean farming practices;

(b) Not less than the guarantee for any acreage which is abandoned or put to another use without our prior written consent or damaged solely by an uninsured cause;

(c) Any appraised production on unharvested acreage.

(3) Any appraisal we have made on insured acreage for which we have given written consent to be put to another use will be considered production unless such acreage:

(a) Is not put to another use before harvest of soybeans becomes general in the county;

(b) Is harvested; or

(c) Is further damaged by an insured cause before the acreage is put to another use.

(4) We may determine the amount of production of any unharvested soybeans on the basis of field appraisals conducted after the end of the insurance period.

(5) When you have elected to exclude hail and fire as insured causes of loss and the soybeans are damaged by hail or fire, appraisals will be made in accordance with Form FCI–78, "Request to Exclude Hail and Fire".

(6) The commingled production of units will be allocated to such units in proportion to our liability on the harvested acreage of each unit.

g. A replanting payment may be made on any insured soybeans replanted after we have given consent and the acreage replanted is at least the lesser of 10 acres or 10 percent of the insured acreage for the unit.

(1) No replanting payment will be made on acreage:

(a) On which our appraisal exceeds 90 percent of the guarantee;

(b) Initially planted prior to the date we determine reasonable; or

(c) On which a replanting payment has been made during the current crop year.

(2) The replanting payment per acre will be your actual cost per acre for replanting, but will not exceed 3 bushels multiplied by the price election the product of which is multiplied by your share.

If the information reported by you results in a lower premium than the actual premium determined to be due, the replanting payment will be reduced proportionately.

(3) Any replanting payment will be considered as an indemnity.

h. You must not abandon any acreage to us.

i. You may not bring suit or action against us unless you have complied with all policy provisions. If a claim is denied, you may sue us in the United States District Court under the provisions of 7 U.S.C. 1508(c). You must bring suit within 12 months of the date notice of denial is mailed to and received by you.

j. We will pay the loss within 30 days after we reach agreement with you or entry of a final judgment. In no instance shall we be liable for interest or damages in connection with any claim for indemnity, whether we approve or disapprove such claim.

k. If you die, disappear, or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved after the soybeans are planted for any crop year, any indemnity will be paid to

the person(s) we determine to be beneficially entitled thereto.

l. If you have other fire insurance, fire damage occurs during the insurance period, and you have not elected to exclude fire insurance from this policy, we will be liable for loss due to fire only for the smaller of:

(1) The amount of indemnity determined pursuant to this contract without regard to any other insurance; or

(2) The amount by which the loss from fire exceeds the indemnity paid or payable under such other insurance. For the purposes of this section, the amount of loss from fire will be the difference between the fair market value of the production on the unit before the fire and after the fire.

10. Concealment or fraud.

We may void the contract on all crops insured without affecting your liability for premiums or waiving any right, including the right to collect any amount due us if, at any time, you have concealed or misrepresented any material fact or committed any fraud relating to the contract, and such voidance will be effective as of the beginning of the crop year with respect to which such act or omission occurred.

11. Transfer of right to indemnity on insured share.

If you transfer any part of your share during the crop year, you may transfer your right to an indemnity. The transfer must be on our form and approved by us. We may collect the premium from either you or your transferee or both. The transferee will have all rights and responsibilities under the contract.

12. Assignment of indemnity.

You may assign to another party your right to an indemnity for the crop year, only on our form and with our approval. The assignee will have the right to submit the loss notices and forms required by the contract.

13. Subrogation. (Recovery of loss from a third party.)

Because you may be able to recover all or a part of your loss from someone other than us, you must do all you can to preserve any such rights. If we pay you for your loss then your right of recovery will at our option belong to us. If we recover more than we paid you plus our expenses, the excess will be paid to you.

14. Records and access to farm.

You must keep, for two years after the time of loss, records of the harvesting, storage, shipment, sale or other disposition of all soybeans produced on each unit including separate records showing the same information for production from any uninsured acreage. Any person designated by us will have access to such records and the farm for purposes related to the contract.

15. Life of contract: Cancellation and termination.

a. This contract will be in effect for the crop year specified on the application and may not be canceled for such crop year. Thereafter, the contract will continue in force for each succeeding crop year unless canceled or terminated as provided in this section.

b. This contract may be canceled by either you or us for any succeeding crop year by giving written notice on or before the cancellation date preceding such crop year.

c. This contract will terminate as to any crop year if any amount due us on this or any other contract with you is not paid on or before the termination date preceding such crop year for the contract on which the amount is due. The date of payment of the amount due:

(1) if deducted from an indemnity will be the date you sign the claim; or

(2) if deducted from payment under another program administered by United States Department of Agriculture will be the date such payment was approved.

d. The cancellation and termination dates are:

State and county	Cancellation and termination dates
Jackson, Victoria, Goliad, Bee, Live Oak, McMullen, La Salle, and Dimmit Counties, Texas and all Texas counties lying south thereof.	Feb. 15.
Alabama; Arizona; Arkansas; California; Florida; Georgia; Louisiana; Mississippi; Nevada; North Carolina; South Carolina and El Paso, Hudspeth, Culberson, Reeves, Loving, Winkler, Ector, Upton, Reagan, Sterling, Coke, Concho, McCulloch, San Saba, Mills, Hamilton, Bosque, Johnson, Tarrant, Wise, Cooke Counties, Texas and all Texas counties lying south and east thereof to and including Maverick, Zavala, Frio, Atascosa, Karnes, Gonzales, Lavaca, Wharton and Matagorda Counties, Texas.	Mar. 31.
All other Texas counties and all other states.	Apr. 15.

e. If you die or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved, the contract will terminate as of the date of death, judicial declaration, or dissolution. *However*, if such event occurs after insurance attaches for any crop year, the contract will continue in force through the crop year and terminate at the end thereof. Death of a partner in a partnership will dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the persons will dissolve the joint entity.

f. The contract will terminate if no premium is earned for five consecutive years.

16. Contract changes.

We may change any terms and provisions of the contract from year to year. If your price election at which indemnities are computed is no longer offered, the actuarial table will provide the price election which you are deemed to have elected. All contract changes will be available at your service office by December 31, preceding the cancellation date for counties with an April 15 cancellation date and by November 30 preceding the cancellation date for all other counties. Acceptance of any changes will be conclusively presumed in the absence of any notice from you to cancel the contract.

17. Meaning of terms.

For the purposes of soybean crop insurance:

a. "Actuarial table" means the forms and related material for the crop year approved by us which are available for public inspection in your service office, and which show the production guarantees, coverage levels, premium rates, prices for computing indemnities, practices, insurable and uninsurable acreage, and related information regarding soybean insurance in the county.

b. "County" means the county shown on the application and any additional land located in a local producing area bordering on the county, as shown by the actuarial table.

c. "Crop year" means the period within which the soybeans are normally grown and will be designated by the calendar year in which the soybeans are normally harvested.

d. "Harvest" means the completion of combining or threshing of soybeans on the unit.

e. "Insurable acreage" means the land classified as insurable by us and shown as such by the actuarial table.

f. "Insured" means the person who submitted the application accepted by us.

g. "Person" means an individual, partnership, association, corporation, estate, trust, or other business enterprise or legal entity, and wherever applicable, a State, a political subdivision of a State, or any agency thereof.

h. "Replanting" means performing the cultural practices necessary to replant insured acreage to soybeans.

i. "Service office" means the office servicing your contract as shown on the application for insurance or such other approved office as may be selected by you or designated by us.

j. "Tenant" means a person who rents land from another person for a share of the soybeans or a share of the proceeds therefrom.

k. "Unit" means all insurable acreage of soybeans in the county on the date of planting for the crop year:

(1) In which you have a 100 percent share; or

(2) Which is owned by one entity and operated by another entity on a share basis.

Land rented for cash, a fixed commodity payment, or any consideration other than a share in the soybeans on such land will be considered as owned by the lessee. Land which would otherwise be one unit may be divided according to applicable guidelines on file in your service office or by written agreement with us. We will determine units as herein defined when the acreage is reported. Errors in reporting units may be corrected by us to conform to applicable guidelines when adjusting a loss. We may consider any acreage and share thereof reported by or for your spouse or child or any member of your household to be your bona fide share or the bona fide share of any other person having an interest therein.

18. Descriptive headings.

The descriptive headings of the various policy terms and conditions are formulated for convenience only and are not intended to affect the construction or meaning of any of the provisions of the contract.

19. Determinations.

All determinations required by the policy will be made by us. If you disagree with our determinations, you may obtain reconsideration of or appeal those

determinations in accordance with Appeal Regulations.

20. Notices.

All notices required to be given by you must be in writing and received by your service office within the designated time unless otherwise provided by the notice requirement. Notices required to be given immediately may be by telephone or in person and confirmed in writing. Time of the notice will be determined by the time of our receipt of the written notice.

Done in Washington, D.C., on May 7, 1984.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

Dated: June 19, 1984.

Approved by:

Edward Hews,

Acting Manager.

[FR Doc. 84-17020 Filed 6-26-84; 8:45 am]

BILLING CODE 3410-08-M

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7 CFR Part 435

[No. 1096S; Amendment No. 3]

Tobacco (Quota Plan) Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) hereby amends the Tobacco (Quota Plan) Crop Insurance Regulations (7 CFR Part 435), effective for the 1984 and succeeding crop years: by (1) Changing the policy to make it easier to read; (2) eliminating reference to tobacco types 14 and 13 regarding support price establishment, stalk inspection requirements, etc.; (3) adding volcanic eruption as an insured cause of loss; (4) adding a provision regarding insurability of irrigated acreage where no irrigated practice is established on the actuarial table; (5) adding a provision permitting the determination of indemnities based on the acreage report rather than at time of loss adjustment; (6) providing for a coverage level when the insured does not select one; (7) providing procedures for reporting a probable loss; (8) adding a 60-day claim for indemnity provision; (9) adding a hail/fire provision for appraisals of uninsured causes; (10) adding a section regarding appraisals following the end of the insurance period for unharvested acreage; (11) changing the cancellation/termination dates to conform to farming practices; (12) providing that any change in the policy will be available in the service office by a certain date; (13) adding a definition for "service office;" (14) providing for a unit determination when the acreage report is filed; (15) adding sections concerning "descriptive headings" "determinations" and "notices;" and (16) redesignating Appendix B to Part 435 as Appendix A.

In addition, FCIC issues a new subsection in the tobacco (Quota Plan) crop insurance regulations to contain the control numbers assigned by the Office of Management and Budget (OMB) to information collection requirements of these regulations. The intended effect of this rule is to update the policy for insuring tobacco (Quota Plan) in accordance with Departmental Regulation 1512-1, requiring a review of the regulations as to need, currency, clarity, and effectiveness, and to comply with OMB regulations requiring publication of OMB control numbers assigned to information collection requirements in these regulations.

EFFECTIVE DATE: July 27, 1984.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 447-3325.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established in Departmental Regulation 1512-1 (December 15, 1983). This action constitutes a review under such procedures as to the need, currency, clarity, and effectiveness of these regulations. The sunset review date established for these regulations is April 1, 1988.

Merritt W. Sprague, Manager, FCIC, has determined that this action (1) is not a major rule as defined by Executive Order No. 12291 (February 17, 1981), because it will not have an annual effect on the economy of $100 million or more, and (2) will not increase the Federal paperwork burden for individuals, small businesses, and other persons.

The title and number of the Federal Assistance Program to which these regulations apply are: Title—Crop Insurance; Number 10.450.

As set forth in the notice related to 7 CFR Part 3015, Subpart V (48 FR 29116, June 24, 1983), the Federal Crop Insurance Corporation's program and activities, are excluded from the provisions of Executive Order No. 12372 requiring intergovernmental consultation with State and local officials.

This action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Impact Statement was prepared.

On Thursday, November 17, 1983, FCIC published a notice of proposed rulemaking to amend the Tobacco (Quota Plan) Crop Insurance regulations (7 CFR Part 435) as outlined in the summary to this document. The public was given 60 days in which to submit written comments, data, and opinions on the proposed rule, but none were received. Therefore, the proposed rule with minor style changes is hereby adopted as a final rule, effective for the 1984 and succeeding crop years.

List of Subjects in 7 CFR Part 435

Crop insurance, Tobacco (Quota Plan).

Final Rule

PART 435—[AMENDED]

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby amends the Tobacco (Quota Plan) Crop Insurance Regulations, effective for the 1984 and succeeding crop years, in the following instances:

1. The Authority citation for 7 CFR Part 435 is:

Authority: Secs. 506, 516, Pub. L. 75-430, 52 Stat. 73, 77 as amended (7 U.S.C. 1506, 1516).

2. 7 CFR 435.3 is added to read as follows:

§ 435.3 OMB control numbers.

The information collection requirements contained in these regulations (7 CFR Part 435) have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB Nos. 0563-0003 and 0563-0007.

3. 7 CFR 435.7(d) is revised to read as set forth below:

§ 435.7 The application and policy.

* * * * *

(d) The application for the 1984 and succeeding crop years is found at Subpart D of Part 400—General Administrative Regulations (7 CFR 400.37, 400.38; first published at 48 FR 1023, January 10, 1983) and may be amended from time to time for subsequent crop years. The provisions of the Tobacco (Quota Plan) Insurance Policy for the 1984 and succeeding crop years, are as follows:

Department of Agriculture

Federal Crop Insurance Corporation

Quota Plan of Tobacco Crop Insurance Policy

(This is a continuous contract. Refer to Section 15.)

AGREEMENT TO INSURE: We will provide the insurance described in this policy

in return for the premium and your compliance with all applicable provisions.

Throughout this policy, "you" and "your" refer to the insured shown on the accepted Application and "we," "us" and "our" refer to the Federal Crop Insurance Corporation.

Terms and Conditions

1. Causes of loss.

a. The insurance provided is against unavoidable loss of production resulting from the following causes occurring within the insurance period:

(1) Adverse weather conditions;
(2) Fire;
(3) Insects;
(4) Plant disease;
(5) Wildlife;
(6) Earthquake;
(7) Volcanic eruption; or
(8) Failure of the water supply from an unavoidable cause occurring after the beginning of planting,

unless those causes are excepted, excluded, or limited by the actuarial table or section 9d(6).

b. We do not insure against any loss of production due to:

(1) The neglect, mismanagement, or wrong doing of you, any member of your household, your tenants or employees;

(2) The failure to follow recognized good tobacco farming practices;

(3) Damage resulting from the impoundment of water by any Governmental, public or private dam or reservoir project; or

(4) Any cause not specified in section 1a as an insured loss.

2. Crop, acreage, insured poundage quota, and share insured.

a. The crop insured will be tobacco of the type shown as insurable by the actuarial table, which is grown on insured acreage, and for which a premium rate is provided by the actuarial table.

b. The acreage insured for each crop year will be an insurable type of tobacco planted on insurable acreage and in which you have a share, as reported by you or as determined by us, whichever we elect.

c. The insured share will be your share as landlord, owner-operator, or tenant in the insured tobacco at the time of planting.

d. We do not insure any acreage:

(1) Where the farming practices carried out are not in accordance with the farming practices for which the premium rates have been established;

(2) On which the tobacco was destroyed for the purpose of conforming with any other program administered by the United States Department of Agriculture;

(3) Which is destroyed, it is practical to replant to tobacco, and such acreage is not replanted;

(4) Initially planted after the final planting date contained in the actuarial table, unless you agree to coverage reduction on our form;

(5) Planted to tobacco of a discount variety under provisions of the tobacco price support program;

(6) Planted to a type or variety of tobacco not established as adapted to the area or excluded by the actuarial table;

(7) Designated as uninsurable by the actuarial table; or

(8) Planted for experimental purposes.

e. The insured poundage quota for each crop year will be the effective poundage marketing quota applicable to the unit as provided under ASCS Tobacco Marketing Quota Regulations for the crop year plus any additional poundage you intend to produce on the unit that crop year, as reported by you or as determined by us, whichever we will elect. *However:*

(1) The insured poundage quota will not include any amount which would be subject to a marketing quota penalty under ASCS Tobacco Marketing Quota Regulations;

(2) The poundage marketing quota may be reduced for any carryover tobacco to be marketed under the poundage quota applicable to the unit when such poundage reduction is clearly specified by you in filing the acreage and quota report;

(3) The insured poundage quota will never exceed the pounds obtained by multiplying the insured acres by the applicable farm yield per acre; and

(4) Unless otherwise provided by the actuarial table, for any crop year in which tobacco poundage marketing quota regulations are not in effect, the insured poundage quota will be the pounds obtained by multiplying the applicable farm yield per acre times the lower of the reported or insured acreage on the unit.

f. Where insurance is provided for an irrigated practice:

(1) You will report as irrigated only the acreage for which you have adequate facilities and water to carry out a good tobacco irrigation practice at the time of planting; and

(2) Any loss of production caused by failure to carry out a good tobacco irrigation practice, except failure of the water supply from an unavoidable cause occurring after the beginning of planting, will be considered as due to an uninsured cause. The failure or breakdown of irrigation equipment or facilities will not be considered as a failure of the water supply from an unavoidable cause.

Insurance will not attach on an irrigated basis to acreage otherwise insurable on such basis unless it is reported and designated as irrigated at the time the acreage is reported.

g. We may limit the insured acreage to any acreage limitation established under any Act of Congress, if we advise you of the limit prior to planting.

3. Report of acreage, share, and poundage quota.

You must report on our form:

a. All the acreage of insurable types of tobacco in the county in which you have a share;

b. Your share at the time of planting; and

c. The effective poundage marketing quota applicable to the unit as provided under ASCS Tobacco Marketing Quota Regulations plus any additional poundage you intend to produce on the unit in that crop year. Such poundage marketing quota may be reduced for any carryover tobacco to be marketed under the poundage quota applicable to the unit provided such poundage reduction is clearly specified in filing the acreage and quota report. The quota so reported will not be subject to change by you.

You must designate separately any acreage that is not insurable. You must report if you do not have a share in any tobacco planted in the county. This report must be submitted annually on or before the reporting date established by the actuarial table. All indemnities may be determined on the basis of information you have submitted on this report. If you do not submit this report by the reporting date, we may elect to determine by unit the insured acreage, share, and practice or we may deny liability on any unit. Any report submitted by you may be revised only upon our approval.

4. Amounts of insurance and coverage levels.

a. The coverage levels are contained in the actuarial table.

b. The amount of insurance for a unit will be the dollar amount determined by multiplying the insured poundage quota for the unit by the percentage guarantee for the applicable coverage level established by the actuarial table and multiplying this product by the current year's support price for type 31 tobacco (rounded to the nearest cent) less six cents per pound for warehouse charges.

c. Coverage level 2 will apply if you do not elect a coverage level.

d. You may change the coverage level on or before the closing date for submitting applications for the crop year as established by the actuarial table.

5. Annual premium.

a. The annual premium is earned and payable at the time of planting. The amount is computed by multiplying the amount of insurance for the unit times the premium rate, times your share at the time of planting, times the applicable premium adjustment percentage contained in the following table.

PREMIUM ADJUSTMENT TABLE [1]

[Percent adjustments for favorable continuous insurance experience]

Loss ratio [2] through previous crop year	Numbers of years continuous experience through previous year															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15 or more
	Percentage adjustment factor for current crop year															
.00 to .20	100	95	95	90	90	85	80	75	70	70	65	65	60	60	55	50
.21 to .40	100	100	95	95	90	90	90	85	80	80	75	75	70	70	65	60
.41 to .60	100	100	95	95	95	95	95	90	90	90	85	85	80	80	75	70
.61 to .80	100	100	95	95	95	95	95	95	90	90	90	90	85	85	85	80
.81 to 1.09	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

[Percent adjustments for unfavorable insurance experience]

Loss ratio [2] through previous crop year	Numbers of loss years through previous year [3]															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
	Percentage adjustment factor for current crop year															
1.10 to 1.19	100	100	100	102	104	106	108	110	112	114	116	118	120	122	124	126
1.20 to 1.39	100	100	100	104	108	112	116	120	124	128	132	136	140	144	148	152
1.40 to 1.69	100	100	100	108	116	124	132	140	148	156	164	172	180	188	196	204
1.70 to 1.99	100	100	100	112	122	132	142	152	162	172	182	192	202	212	222	232
2.00 to 2.49	100	100	100	116	128	140	152	164	176	188	200	212	224	236	248	260
2.50 to 3.24	100	100	100	120	134	148	162	176	190	204	218	232	246	260	274	288
3.25 to 3.99	100	100	105	124	140	156	172	188	204	220	236	252	268	284	300	300
4.00 to 4.99	100	100	110	128	146	164	182	200	218	236	254	272	290	300	300	300
5.00 to 5.99	100	100	115	132	152	172	192	212	232	252	272	292	300	300	300	300
6.00 and up	100	100	120	136	158	180	202	224	246	268	290	300	300	300	300	300

[1] For premium adjustment purposes, only the years during which premiums were earned shall be considered.
[2] Loss Ratio means the ratio of indemnity(ies) paid to premium(s) earned.
[3] Only the most recent 15 crop years shall be used to determine the number of "Loss Years". (A crop year is determined to be a "Loss Year" when the amount of indemnity for the year exceeds the premium for the year.)

b. Interest will accrue at the rate of one and one-half percent (1½%) simple interest per calendar month, or any part therof, on any unpaid premium balance starting on the first day of the month following the first premium billing date.

c. Any premium adjustment applicable to the contract will be transferred to:

(1) The contract of your estate or surviving spouse in case of your death;

(2) The contract of the person who succeeds you if such person had previously participated in the farming operation; or

(3) Your contract if you stop farming in one county and start farming in another county.

d. If participation is not continuous, any premium will be computed on the basis of previous unfavorable insurance experience but no premium reduction under section 5a will be applicable.

6. Deductions for debt.

Any unpaid amount due us may be deducted from any indemnity payable to you or from any loan or payment due you under any Act of Congress or program administered by the United States Department of Agriculture or its Agencies.

7. Insurance period.

Insurance attaches when the tobacco is planted and ends at the earliest of:

a. Total destruction of the tobacco;

b. Weighing-in at the tobacco warehouse;

c. Removal of the tobacco from the unit (except for curing, grading, packing or immediate delivery to the tobacco warehouse);

d. Final adjustment of a loss; or

e. February 28, immediately following the normal harvest period.

8. Notice of damage or loss.

a. In case of damage or probable loss:

(1) You must give us written notice if:

(a) During the period before harvest, the tobacco on any unit is damaged and you decide not to further care for or harvest any part of it;

(b) You want our consent to put the acreage to another use; or

(c) After consent to put acreage to another use is given, additional damage occurs.

Insured acreage may be put to another use until we have appraised the tobacco and given written consent. We will not consent to another use until it is too late to replant. You must notify us when such acreage is put to another use.

(2) You must give us notice at least 15 days before the beginning of harvest if you anticipate a loss on any unit.

(3) If probable loss is later determined, immediate notice will be given. Where harvest of the unit is to be completed within 7 days of the date notice of probable loss is given, a representative sample of the tobacco (at least 10 feet wide and the entire length of the field) must be left intact for a period of 15 days from the date of notice, unless we give you written consent to harvest the sample.

(4) Notice must be given immediately if any tobacco is destroyed or damaged by fire during the insurance period.

(5) Where tobacco is not to be sold through auction warehouses and an indemnity is to be claimed, notice must be given to allow us sufficient time to inspect the cured tobacco prior to its sale or other disposition.

(6) In addition to the notices required by this section, if you are going to claim an indemnity on any unit, we must be given notice not later than 30 days after the earliest of:

(a) Total destruction of the tobacco on the unit;

(b) The date marketing or other disposal of the insured tobacco on the unit is completed; or

(c) The calendar date for the end of the insurance period.

b. You must obtain written consent from us before you destroy any of the tobacco which is not to be harvested.

c. We may reject any claim for indemnity if any of the requirements of this section or section 9 are not complied with.

9. Claim for indemnity.

a. Any claim for indemnity on a unit must be submitted to us on our form not later than 60 days after the earliest of:

(1) Total destruction of the tobacco on the unit;

(2) The date marketing or other disposal of the insured tobacco on the unit is completed; or

(3) The calendar date for the end of the insurance period.

b. We will not pay any indemnity unless you:

(1) Establish the total production of tobacco on the unit and that any loss of production has been directly caused by one or more of the insured causes during the insurance period; and

(2) furnish all information we require concerning the loss.

c. The indemnity will be determined on each unit by:

(1) Subtracting from the amount of insurance for the unit, the value of the total production of tobacco to be counted (see section 9d); and

(2) Multiplying the remainder by your share.

d. The value of the total production to be counted for a unit will include the value of all harvested and appraised production:

(1) Production to count will include:

(a) The gross returns (less six cents per pound for warehouse charges) from tobacco sold on the warehouse floor;

(b) The fair market value of the tobacco sold other than on the warehouse floor:

(c) The fair market value of the tobacco harvested and not sold;

(d) The fair market value of any unharvested tobacco as if such tobacco were harvested and cured; and

(e) The appraised value of lost production caused by poor farming practices or uninsured causes of loss using the current year's support price per pound (less six cents per pound for warehouse charges). *However*, if a price support program is not in effect, such appraised production will be valued at the market price for the current crop year.

(2) To enable us to determine the fair market value of tobacco not sold through auction warehouses, we will be given the opportunity to inspect such tobacco before it is sold, contracted to be sold, or otherwise disposed of and, if the best offer you receive for any such tobacco is considered by us to be inadequate, to obtain additional offers on your behalf.

(3) The value of appraised production to be counted will include:

(a) The value of unharvested production on harvested acreage and potential production lost due to uninsured causes and failure to follow recognized good tobacco farming practices;

(b) Not less than the average amount of insurance per insured acre in the unit for any acreage which is abandoned or put to another use without our prior written consent or damaged solely by an uninsured cause;

(c) Not less than 35 percent of the average amount of insurance per insured acre in the unit for all other unharvested acreage.

(4) Any appraisal we have made on insured acreage for which we have given written consent to be put to another use will be considered production unless such acreage:

(a) Is not put to another use before harvest of tobacco becomes general in the county;

(b) Is harvested; or

(c) Is further damaged by an insured cause before the acreage is put to another use.

(5) We may determine the amount of production of any unharvested tobacco on the basis of field appraisals conducted after the end of the normal harvest period.

(6) When you have elected to exclude hail and fire as insured causes of loss and the tobacco is damaged by hail or fire, appraisals for uninsured causes shall be made in accordance with Form FCI-78, "Request to Exclude Hail and Fire".

(7) The commingled production of units will be allocated to such units in proportion to our liability on the harvested acreage of each unit.

e. You must not abandon any acreage to us.

f. You may not bring suit or action against us unless you have complied with all policy provisions. If a claim is denied, you may sue us in the United States District Court under the provisions of 7 U.S.C. 1508(c). You must bring suit within 12 months of the date notice of denial is mailed to and received by you.

g. We will pay the loss within 30 days after we reach agreement with you or entry of a final judgment. In no instance will we be liable for interest or damages in connection with any claim for indemnity, whether we approve or disapprove such claim.

h. If you die, disappear, or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved after the tobacco is planted for any crop year, any indemnity will be paid to the person(s) we determine to be beneficially entitled thereto.

i. If you have other fire insurance, fire damage occurs during the insurance period, and you have not elected to exclude fire insurance from this policy, we will be liable for loss due to fire only for the smaller of:

(1) The amount of indemnity determined pursuant to this contract without regard to any other insurance; or

(2) The amount by which the loss from fire exceeds the indemnity paid or payable under such other insurance. For the purposes of this section the amount of loss from fire will be the difference between the fair market value of the production on the unit before the fire and after the fire.

10. Concealment or fraud.

We may void the contract on all crops insured without affecting your liability for premiums or waiving any right, including the right to collect any amount due us if, at any time, you have concealed or misrepresented any material fact or committed any fraud relating to the contract, and such voidance will be effective as of the beginning of the crop year with respect to which such act or omission occurred.

11. Transfer of right to indemnity on insured share.

If you transfer any part of your share during the crop year, you may transfer your right to an indemnity. The transfer must be on our form and approved by us. We may collect the premium from either you or your transferee or both. The transferee will have all rights and responsibilities under the contract.

12. Assignment of indemnity.

You may assign to another party your right to an indemnity for the crop year, only on our form and with our approval. The assignee shall have the right to submit the loss notices and forms required by the contract.

13. Subrogation. (Recovery of loss from a third party.)

Because you may be able to recover all or a part of your loss from someone other than us, you must do all you can to preserve any such rights. If we pay you for your loss then your right of recovery will at our option belong to us. If we recover more than we paid you plus our expenses, the excess will be paid to you.

14. Records and access to farm.

You will keep, for two years after the time of loss, records of the harvesting, storage, shipment, sale or other disposition of all tobacco produced on each unit including separate records showing the same information for production from any uninsured acreage. Any person designated by us will have access to such records and the farm for purposes related to the contract.

15. Life of Contract: Cancellation and termination.

a. This contract will be in effect for the crop year specified on the application and may not be canceled for such crop year. Thereafter, the contract will continue in force for each succeeding crop year unless canceled or terminated as provided in this section.

b. This contract may be canceled by either you or us for any succeeding crop year by giving written notice on or before the cancellation date preceding such crop year.

c. This contract will terminate as to any crop year if any amount due us on this or any other contract with you is not paid on or before the termination date preceding such crop year for the contract on which the amount is due. The date of payment of the amount due:

(1) If deducted from an indemnity will be the date you sign the claim; or

(2) If deducted from payment under another program administered by the United States Department of Agriculture will be the date such payment was approved.

d. The cancellation and termination dates are April 15 for all states.

e. If you die or are judicially incompetent, or if you are an entity other than an individual and such entity is dissolved, the contract will terminate as of the date of death, judicial declaration, or dissolution. *However*, if such event occurs after insurance attaches for any crop year, the contract will continue in force through the crop year and terminate at the end thereof. Death of a partner in a partnership will dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the persons will dissolve the joint entity.

f. The contract will terminate if no premium is earned for five consecutive years.

16. Contract changes.

We may change any terms and provisions of the contract from year to year. All contract changes will be available at your service office by December 31 preceding the cancellation date. Acceptance of any changes will be conclusively presumed in the absence of any notice from you to cancel the contract.

17. Meaning of terms.

For the purposes of quota tobacco crop insurance:

a. "Actuarial table" means the forms and related material for the crop year approved by us which are available for public inspection in your service office, and which show the coverage levels, premium rates, practices, insurable and uninsurable acreage, and related information regarding tobacco insurance in the county.

b. "ASCS" means the Agricultural Stabilization and Conservation Service of the United States Department of Agriculture.

c. "Carryover tobacco" means any tobacco on hand from the previous year's production.

d. "County" means the county shown on the application and any additional land located in a local producing area bordering on the county, as shown by the actuarial table.

e. "Crop year" means the period within which the tobacco is normally grown and will be designated by the calendar year in which the tobacco is normally harvested.

f. "Effective farm marketing quota" means the farm marketing quota as established and recorded by ASCS.

g. "Farm yield" means the yield per acre used by ASCS in establishing the basic farm marketing poundage quota for the tobacco farm, unless we have established a yield for the farm by the actuarial table.

h. "Harvest" means:

(1) The completion of cutting of tobacco on any acreage; and

(2) From which acreage at least 20 percent of the amount of tobacco in pounds per acre (obtained by multiplying the applicable insured poundage quota for the unit by the applicable percentage of guarantee shown in the actuarial table for such acreage and dividing this result by the insured acreage in the unit) is cut.

i. "Insurable acreage" means that acreage planted to an insurable type of tobacco excluding any acreage designated as noninsurable by the actuarial table.

j. "Insured" means the person who submitted the application accepted by us.

k. "Market Price" for a crop year means the average auction price for the applicable type (less six cents per pound for warehouse charges) in the belt or area. The market price will be filed with the actuarial table.

l. "Person" means an individual, partnership, association, corporation, estate, trust, or other business enterprise or legal entity, and wherever applicable, a State, a political subdivision of a State, or any agency thereof.

m. "Planting" means transplanting the tobacco plant from the bed to the field.

n. "Rounded" means rounding up for ½ and above and rounding down for less than ½.

o. "Service office" means the office servicing your contract as shown on the application for insurance or such other approved office as may be selected by you or designated by us.

p. "Support price per pound" means the average price support level per pound for the insured type of tobacco as announced by the United States Department of Agriculture under the tobacco price support program. For any crop year in which a price support for the insured type is not in effect, the market price for that crop year will be used in lieu thereof.

q. "Tenant" means a person who rents land from another person for a share of the tobacco or a share of the proceeds therefrom.

r. "Unit" means all insurable acreage in the county of an insurable type of tobacco planted on a farm or farms for which a single poundage marketing quota for the insurable type of tobacco is established on the date of planting for the crop year:

(1) In which you have a 100 percent share; or

(2) Which is owned by one entity and operated by another entity on a share basis.

If a tobacco price support program is not in effect for the insurable type of tobacco for any crop year, the words "planted on a farm or farms for which a single poundage quota for the insurable type of tobacco is established" shall be disregarded. Land rented for cash, a fixed commodity payment, or any consideration other than a share in the tobacco on such land will be considered as owned by the lessee. Poundage quotas leased and combined with other quotas under a leasing arrangement providing compensation to the lessor on some other basis than a specified share in the production from a unit shall be considered to be the 100 percent interest of the lessee. Land which would otherwise be one unit may be divided according to applicable guidelines on file in your service office or by written agreement with us. Units as herein defined will be determined when the acreage is reported. Errors in reporting units may be corrected by us to conform to applicable guidelines when adjusting a loss. We may consider any acreage and share thereof reported by or for your spouse or child or any member of your household to be your bona fide share or the bona fide share of any other person having an interest therein.

18. Descriptive headings.

The descriptive headings of the various policy terms and conditions are formulated for convenience only and are not intended to affect the construction or meaning of any of the provisions of the contract.

19. Determinations.

All determinations required by the policy will be made by us. If you disagree with our determinations, you may obtain reconsideration of or appeal those determinations in accordance with Appeal Regulations.

20. Notices.

All notices required to be given by you must be in writing and received by your service office within the designated time unless otherwise provided by the notice requirement. Notices required to be given immediately may be by telephone or in person and confirmed in writing. Time of the notice will be determined by the time of our receipt of the written notice.

4. The appendix to § 435.7 is revised.

Appendix B [Redesignated as] Appendix A

5. Appendix B is redesignated as Appendix A.

Done in Washington, D.C., on May 7, 1984.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

Dated: June 19, 1984.

Approved by:

Edward Hews,

Acting Manager.

[FR Doc. 84-17021 Filed 6-26-84; 8:45 am]

BILLING CODE 3410-08-M

7 CFR Part 435

[Docket No. 1095S]

Tobacco (Quota Plan) Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: This action makes final Amendment No. 2 to the Tobacco (Quota Plan) Crop Insurance Regulations, effective for the 1982 and succeeding crop years. The amendment to these regulations was implemented by the Federal Crop Insurance Corporation (FCIC) on an interim basis to allow insureds sufficient time to consider changes in the regulations for insuring tobacco insured under the quota plan of insurance. The intended effect of this action is to confirm the interim rule as published.

EFFECTIVE DATE: June 27, 1984.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 447-3325.

SUPPLEMENTARY INFORMATION: On March 30, 1982, FCIC published an interim rule in the **Federal Register** at 47 FR 13320, amending the Tobacco (Quota Plan) Crop Insurance Regulations (7 CFR Part 435), effective for the 1982 and succeeding crop years. The public was given 60 days after publication of the interim rule in which to submit comments, data, and opinions on the rule and the rule was scheduled for review in order to provide for any amendments made necessary by such public comment, but no comments were received.

Merritt W. Sprague, Manager, FCIC, has determined that this action (1) is not a major rule as defined by Executive Order No. 12291 (February 17, 1981), because it will not have an annual effect on the economy of $100 million or more, and (2) will not increase the Federal paperwork burden for individuals, small businesses, and other persons.

The title and number of the Federal Assistance Program to which these regulations apply are: Title—Crop Insurance; Number 10.450.

As set forth in the notice related to 7 CFR Part 3015, Subpart V (48 FR 29116, June 24, 1983), the Federal Crop Insurance Corporation's program and activities, are excluded from the provisions of Executive Order No. 12372 which requires intergovernmental consultation with State and local officials.

This action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Flexibility Analysis was prepared.

This action has been reviewed under USDA procedures established in Departmental Regulation No. 1512–1 (December 15, 1983). This action constitutes a review under such procedures as to the need, currency, clarity, and effectiveness of these regulations. The sunset review date established for these regulations is April 1, 1987.

List of Subjects in 7 CFR Part 435

Crop insurance, Tobacco (quota plan).

PART 435—[AMENDED]

Accordingly, under the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Interim Rule, amending the Tobacco (Quota Plan) Crop Insurance Regulations as published in the **Federal Register** at 47 FR 13320 on March 30, 1982, is hereby adopted as final.

Done in Washington, D.C., on May 7, 1984.

Dated: June 19, 1984.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

Approved by:

Edward Hews,

Acting Manager.

[FR Doc. 84–17022 Filed 6–26–84; 8:45 am]

BILLING CODE 3410–08–M

Agricultural Marketing Service

7 CFR Part 1207

Potato Research and Promotion Plan, Amendment of Rules and Regulations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This amends the Rules and Regulations issued pursuant to the Potato Research and Promotion Plan. The Plan authorizes a national potato promotion program. The amendment authorizes the Potato Board, the industry agency which administers the program, to levy an assessment rate of two cents per hundredweight of potatoes handled to fund program operations, and requires that administrative expenses of the program incurred by the Department be reimbursed. The provisions effectuate a recent amendment of the Plan which provided for these changes.

EFFECTIVE DATE: June 27, 1984.

FOR FURTHER INFORMATION CONTACT: Kurt Kimmel, Vegetable Branch, F&V, AMS, USDA, Washington, D.C. 20250, (202) 447–2681.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act.

Information collection requirements contained in this regulation (7 CFR Part 1207) have been approved by the Office of Management and Budget under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB #0581–0093.

This rule has been reviewed under Secretary's memorandum 1512–1 and Executive Order 12291 and has been designated a "nonmajor" rule. Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA). William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action would not have a significant economic impact on a substantial number of small entities.

The Potato Board is the administrative agency established by the Potato Research and Promotion Plan (7 CFR Part 1207). The plan is effective under the Potato Research and Promotion Act, as amended (7 U.S.C. 2611–2627).

Recently, the Act and the Plan were amended to change the maximum authorized rate of assessment from one cent per hundredweight to one-half of one percent of the past ten year U.S. average price received for potatoes by growers, and to provide for reimbursement of the Department for administrative expenses. Although a 2.3 cent assessment rate is currently authorized, the Board recommended assessing growers two cents per hundred weight at its March 16 annual meeting. It concluded this would be sufficient to fund an effective and appropriate program of marketing research, promotion, advertising and export development and the Rules and Regulations are proposed to be amended accordingly.

The amendment also adds a new "§ 1207.508 USDA costs" specifying the responsibilities of the Potato Board to reimburse the Department for administrative expenses incurred in the conduct of its duties as authorized in the Plan, and determined by the Secretary. It further specifies that such expenses shall be reimbursed promptly upon billing by the Department. This provision merely implements those requirements in the Act and Plan.

After consideration of all relevant matters, including the amendments to the Act and Plan which authorize these provisions, it is found that the following amendment should be approved.

It is further found that good cause exists for not postponing the effective date of this section until 30 days after publication in the **Federal Register** (5 U.S.C. 553) in that (1) this amendment should become effective as soon as possible so that the Potato Board may implement its promotion program for FY 1985, which begins July 1, 1984, (2) this amendment does not impose any additional requirements on handlers or producers, and (3) potato producers and handlers have been notified that authorization for these changes was being considered since October 20, 1983, when a notice of hearing to consider these changes was issued.

These provisions will effectuate a recent amendment of to the Plan which provided for these changes.

List of Subjects in 7 CFR Part 1207

Administrative practice and procedure, Advertising, Agricultural research, Potatoes.

PART 1207—[AMENDED]

The amendment is as follows:

1. Add a new § 1207.508 to read:

§ 1207.508 USDA costs.

Pursuant to § 1207.341 of the Plan the Board shall pay those administrative costs incurred by the U.S. Department of Agriculture for the conduct of its duties under the Plan as are determined periodically by the Secretary. Payment shall be due promptly after billing for such costs.

2. Revise § 1207.510 *Levy of assessment* to read:

§ 1207.510 Levy of assessment.

During the effective period of this subpart, an assessment of two cents per hundredweight shall be levied on all potatoes for ultimate consumption as human food and seed. Potatoes used for other nonhuman food purposes, including starch, are exempted from assessment but subject to the safeguard provisions of § 1207.515 of this subpart. No more than one such assessment shall be made on any potatoes. No assessments shall be levied on potatoes grown by producers of less than five acres of potatoes.

(Title III of Pub. L. 91–670; 84 Stat. 2041; 7 U.S.C. 2611–2627; as amended)

Dated: June 22, 1984, to become effective upon publication.

Charles R. Brader,

Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 84–17107 Filed 6–26–84; 8:45 am]

BILLING CODE 3410–02–M

Commodity Credit Corporation

7 CFR Part 1430

1983–84 Milk Price Support Program

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: This final rule amends regulations (7 CFR 1430.320 *et seq.*) governing the reduction from milk proceeds authorized by the Dairy and Tobacco Adjustment Act of 1983 (Pub. L. 98–180) by reassigning certain administrative functions under the regulations from the Executive Vice President, Commodity Credit Corporation (CCC), and the Controller, CCC, to the Vice-President of CCC who also serves as the Administrator of the Agricultural Marketing Service (AMS) of the Department of Agriculture (USDA) and to the Director of the Dairy Division, AMS. These functions are being consolidated in order to provide for more effective program operations.

EFFECTIVE DATE: June 26, 1984.

FOR FURTHER INFORMATION CONTACT: David Cauthon, Fiscal Divisoin, ASCS–USDA, 6716-South Building, P.O. Box 2415, Washington, D.C. 20013, (202–382–8263).

SUPPLEMENTARY INFORMATION: This rule has been reviewed in accordance with Executive Order 12291 and Departmental Regulation 1521–1 and has been classified as "not major." It has been determined that this rule wil not result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The title and number of the federal assistance program to which this notice applies are: Title—Commodity Loans and Purchases: Number—10.051 as found in the Catalog of Federal Domestic Assistance.

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

This notice is not expected to have any significant impact on the quality of the human environment. In addition, this action will not adversely affect environmental factors such as wildlife habitat, water quality, air quality, or land use and appearance. Accordingly, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

Section 201(d) of the Agricultural Act of 1949, which was amended by the Dairy and Tobacco Adjustment Act of 1983, provides that, effective for the period December 1, 1983, through March 31, 1985, the Secretary of Agriculture is required to collect a fifty-cent reduction from the proceeds of all milk produced in the forty-eight contiguous States of the continental United States and marketed by producers for commercial use. Regulations (7 U.S.C. 1430.320 *et seq.*) implementing the deduction program were published on January 3, 1984 (49 FR 2). The regulations required payment of the reduction to CCC, an instrumentality of the Department of Agriculture (USDA). The regulations contemplated and provided that some program functions would be handled directly by CCC while other program functions would be handled for CCC by USDA's Agricultural Marketing Service (AMS). In order to provide for more effective program operations, it has been determined that there should be a consolidation of normal program operations, other than setoffs and withholdings, with AMS. In order to accomplish this, the regulations are amended in this rule by reassigning certain functions in the regulations from the Executive Vice President, CCC, and the Controller, CCC, to the Vice President of CCC who also serves as the Administrator of AMS, and to the Director of AMS's Dairy Division. These reassignments relate to subpoenas, penalties, and administrative review of disputes. The consolidation of these functions should improve program service by centralizing the public's dealings under the program, in most instances, with one agency. Also, since AMS has handled and will continue to handle staff work for billings and audits, the consolidation should help expedite the consideration and disposition of assessment and penalty disputes arising in connection with the program.

Since the purpose of these amendments relate to agency management and procedure, it has been determined that no further public rulemaking is required. Accordingly, this rule shall become effective upon the date of filing with the Director, Office of the Federal Register.

List of Subjects in 7 CFR Part 1430

Milk, Agriculture, Dairy support programs, Dairy products.

Final Rule

PART 1430—[AMENDED]

Accordingly, 7 CFR Part 1430 is amended as follows:

§§ 1430.322, 1430.326 and 1430.329 [Amended]

1. 7 CFR 1430.322, 1430.326 and 1430.329 are amended by removing the words "Executive Vice President, CCC" and inserting in lieu thereof the words "Vice-President, CCC, who is the Administrator, Agricultural Marketing Service" wherever they appear.

§ 1430.329 [Amended]

2. 7 CFR 1430.329 is further amended by: (a) Removing in the first sentence the words "Controller, CCC" and inserting in lieu thereof the words "Director of the Dairy Division who shall be a CCC Claims Official for such purposes"; and (b) removing in the second sentence the word "Controller" and inserting in lieu thereof the words "Director of the Dairy Division".

Authority: (Section 201(d) of the Agricultural Act of 1949, as amended (7 U.S.C. 1446); Commodity Credit Corporation Charter Act, as amended (15 U.S.C. 714 *et seq.*)).

Signed at Washington, D.C., on June 20, 1984.

Richard E. Lyng,

Acting Secretary of Agriculture.

[FR Doc. 84–17148 Filed 6–26–84; 8:45 am]

BILLING CODE 3410–05–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 238

Contracts With Transportation Lines; Addition of Pro Air Services

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This rule amends the listing of carriers which have entered into agreements with the Service for the preinspection of their passengers and crews at locations outside the United States by adding the name of Pro Air Services.

EFFECTIVE DATE: June 11, 1984.

FOR FURTHER INFORMATION CONTACT: Loretta J. Shogren, Director, Policy Directives and Instructions, Immigration and Naturalization Service, 425 I Street, NW., Washington, D.C. 20536, Telephone: (202) 633–3048.

SUPPLEMENTARY INFORMATION: The Commissioner of Immigration and Naturalization entered into an agreement with Pro Air Services on June 11, 1984 to provide for the preinspection of its passengers and crews as provided by section 238(b) of the Immigration and Naturalization Act, as amended (8 U.S.C. 1228(b)). Preinspection outside the United States facilities processing passengers and crews upon arrival at a U.S. port of entry and is a convenience to the traveling public.

Compliance with 5 U.S.C. 553 as to notice of proposed rulemaking and delayed effective date is unnecessary because the amendment merely adds an air carrier's name to the present listing and is editorial in nature.

This order constitutes a notice to the public under 5 U.S.C. 552 and is not a rule within the definition of section 1(a) of E.O. 12291.

List of Subjects in 8 CFR Part 238

Air carriers, Airlines, Aliens, Government contracts, Inspections.

Accordingly, Chapter I of Title 8 of the Code of Federal Regulations is amended as follows:

PART 238—CONTRACTS WITH TRANSPORTATION LINES

§ 238.4 [Amended]

Section 238.4 is amended by adding the name "Pro Air Services" under "At Nassau".

(Secs. 103 and 238 of the Immigration and Nationality Act, as amended; (8 U.S.C. 1103 and 1228))

Dated: June 21, 1984.

Andrew J. Carmichael, Jr.,

Associate Commissioner, Examinations, Immigration and Naturalization Service.

[FR Doc. 84-17052 Filed 6-26-84; 8:45 am]

BILLING CODE 4410-10-M

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

12 CFR Part 8

[Docket No. 84-19]

Assessment of Fees; National Banks; District of Columbia Banks

AGENCY: Comptroller of the Currency, Treasury.

ACTION: Final rule.

SUMMARY: The Office of the Comptroller of the Currency ("Office") is revising the semiannual assessment schedule for national banks, District of Columbia banks, and federally licensed branches and agencies. The revision increases by 12 percent the assessment fees to be paid by such entities on or before July 31, 1984 and January 31, 1985. The increase is necessary for the Office to continue its effective supervision of the national banking system.

EFFECTIVE DATE: June 27, 1984.

FOR FURTHER INFORMATION CONTACT: Peter Struck, Manager, Economic and Policy Analysis Division, (202) 447-1924 or Chari Anhouse, Attorney, Legal Advisory Services Division, (202) 447-1880, Office of the Comptroller of the Currency, 490 L'Enfant Plaza East, SW., Washington, DC 20219.

SUPPLEMENTARY INFORMATION: The Office was created by Federal legislation for the purpose of regulating the national banking system. Under the National Bank Act, 12 U.S.C. 1 *et seq.*, it has a responsibility to take every necessary and appropriate step to ensure that all national banks are in compliance with the varied laws enacted by Congress and the States.

On May 10, 1984, the Office published a notice of proposed rulemaking (Docket No. 84-15) in the **Federal Register**, 49 FR 19828, concerning the assessment schedule to be applicable to all national banks. This Office is authorized by 12 U.S.C. 482 and 12 U.S.C. 3102 to assess national banks, District of Columbia banks, and federal branches and agencies of foreign banks in order to recover examination and related expenses. Section 482 requires that these assessments be made in proportion to a bank's assets or resources and that the rate of assessments be the same for all banks of the same asset size. The current assessment schedule fulfills this statutory requirement. *First National Bank of Milaca* v. *Heimann*, 572 F.2d 1244 (8th Cir. 1978).

Concurrent with the filing of the notice of proposed rulemaking concerning § 8.2 with the **Federal Register**, the Office sent a Banking Bulletin containing the proposal to the chief executive officer of each national bank. The purpose of that Banking Bulletin, dated May 9, 1984, was to ensure that each national bank received direct and timely notice of the proposed changed and to explain the reasons for the change in detail.

As stated in the proposal, the principal reason for the assessment increase is that Office expenses have been rising at a faster rate than Office revenues. Indeed, since the last assessment schedule revision in 1976, expenses have increased 90 percent, while assessment revenues have increased 67 percent. As a consequence, the Office experienced a $7.4 million dificit in 1983 and faces a larger deficit in 1984. This situation is attributable to several factors. Primary among these factors are:

- An increase in the number of national banks requiring special supervisory attention as a result of the recent recession.
- An increase in regulatory responsibilities that have required expanded supervisory activities; and,
- A slowdown in assessment revenue growth due to inflation. The current assessment schedule provides for declining marginal assessment rates, consistent with declining marginal examination costs, as bank size increases. Over time, therefore, growth in bank assets generates proportionately smaller increases in Office revenue. However, when asset growth and Office costs rise due to inflation, the economies of scale in the examination process are not realized and assessments cover a decreasing portion of examination costs.

Comments

Comments on the proposal were solicited both by the **Federal Register** notice of proposed rulemaking and by the issuance of the Banking Bulletin to each national bank. It was requested that comments be received no later than June 11, 1984. In response, 28 comments, all opposed to the proposal as drafted, were received from national banks. Several specific concerns were raised by the commenters. The commenters generally believed that the additional costs incurred by the Office to examine banks requiring special supervisory attention should not be paid by clean, well-run banks, that the Office should recommend statutory change to allow assessments to be related directly to the actual cost of an examination, and that there is need for better control over Office costs.

Twenty-three of the 28 commenters focused primarily on the issue that well-run banks must pay the cost of special supervisory attention of problem banks. Three of those commenters also believed that banks entering nontraditional activities should pay additional costs associated with those activities. Specifically, most suggested that the assessment schedule should be based on the direct costs attributable to examining a particular bank, not its asset size. It was implied that such a method would eliminate any inequities in allocating supervision costs to banks.

This Office is aware of the situation identified by these commenters. As the statute currently reads, the Office is not authorized to charge a higher assessment to banks that are

experiencing difficulties. Revising the assessment schedule to a direct cost basis would require an amendment to 12 U.S.C. 482, and a statutory change was suggested by four commenters. Although a statutory change is not feasible as an alternative to the current proposal, the Office intends to review its long-term revenue needs and statutory change will be considered as part of that review.

Nine commenters questioned whether the Office had been diligent enough in controlling costs. As explained in the proposal, in the face of increased responsibilities, the Office has prudently restructured its operation to employ resources more effectively and to provide better service. In fact, it has been estimated that without the restructuring, the Office would have needed a much larger staff to carry out its responsibilities. Moreover, to limit the scope of its operations or cease to meet its responsibilities solely because of cost considerations would be inconsistent with the Office's mission to foster the safety and soundness of the national banking system.

In the same vein, a few of these commenters thought Office expenses should be lower because their institutions are receiving full scale, comprehensive examinations less frequently. These comments refer to the Office's restructured examination priority schedule that allows on-site examinations less frequently for smaller, well-run banks and more frequently for large and/or special supervision banks. However, in conjunction with the examination priority schedule came a commitment to move toward more off-site monitoring of bank performance. This required a large initial investment in systems and computer hardware that will produce cost savings for both banks and the Office in the years ahead.

After careful consideration of the issues raised by the commenters, it is clear that most of the commenter suggestions require changes in the law. The current deficit position of the Office requires prompt action. Therefore, the Office, in order to meet its revenue requirements on an interim basis, is imposing a 12 percent increase in the assessment fees to be paid by national banks on or before July 31, 1984, and on or before January 31, 1985. Because it affects banks of similar asset size in the same manner, and it is necessary for the Office to recover its costs, the revision fulfills the requirements of 12 U.S.C. 482.

Reason for Immediate Effective Date

This final rule was made effective immediately in order to provide adequate lead time for national banks to calculate their July 31, 1984 assessment fee payments, and to eliminate any confusion about the amount due. Unnecessary burden, including additional communication, the preparation of an additional check, and possibly interest expense could be borne by a bank that does not apply the procedure required in this final rule to its July 31, 1984 assessment fee calculation.

Executive Order 12291

The Office has examined the impact of this final rule and estimates that the aggregate effect on the economy will be slightly over $8 million in 1984 and 1985. This amount represents the difference in expected assessment revenues between the current schedule with and without the increase. Because the aggregate amount will be spread among all national banks, D.C. banks, and federal branches and agencies of foreign banks, the expected impact of the rule on those banks' earnings is minimal. Institutions of similar size will incur the same increase. Thus, the effect of the revision is unlikely to put competing institutions at a disadvantage with one another or with other competing suppliers of financial services. Finally, this final rule is not expected to have a significantly adverse effect on the ability of U.S.-domiciled national banks to compete with foreign entities. This is due to the fact that, generally, only the largest of institutions in the national banking system compete directly with foreign banks. The effect of the rule on their earnings is slight. Accordingly, this Office has concluded that the rule does not meet any of the conditions set forth in Executive Order 12291 for designation as a major rule. Consequently, a regulatory impact statement was not prepared.

Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act (Pub. L. No. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), it is certified that the assessment fee increase will not have a significant impact on a substantial number of small entities. The regulation does not impose additional reporting or recordkeeping requirements on any bank subject to the jurisdiction of this Office, nor does it have a substantial impact on smaller banks. This Office anticipates that the necessary increase in fees payable by any individual bank is sufficiently small as to have no appreciable effect on the individual bank's financial stability. Consequently, a regulatory flexibility statement was not prepared.

List of Subjects in 12 CFR Part 8

National banks, Assessment of fees.

For the reasons set forth above, 12 CFR Part 8 is amended as follows:

1. The authority citation for 12 CFR Part 8 reads as follows:

Authority: R.S. 5240, as amended, 12 U.S.C. 481, 482, 12 U.S.C. 3102, and sec. 3, 47 Stat. 1566, 26 D.C. Code 102.

2. Section 8.2 is amended by adding a new paragraph (c) to read as follows:

§ 8.2 Semiannual assessment.

* * * * *

(c) The assessement fee due to be paid on or before July 31, 1984, and January 31, 1985, under paragraphs (a) and (b) of this section shall be 112 percent of the amount computed under those paragraphs.

Dated: June 13, 1984.

C. T. Conover,

Comptroller of the Currency.

[FR Doc. 84-17110 Filed 6-26-84; 8:45 am]

BILLING CODE 4810-33-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 83-AGL-23]

Alteration of Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this Federal action is to establish a separate transition area for Mt. Vernon, Ohio, and to redescribe and reduce the airspace currently designated for Knox County Airport (formerly Mt. Vernon Airport). A Notice of Proposed Rulemaking (NPRM) was published in the **Federal Register** on December 29, 1983 (48 FR 57311), to alter this transition area. Subsequent to its publication, an additional area was identified for inclusion to accommodate amended instrument approach procedure requirements. This action cancels the previously published NPRM.

The intended effect of this action is to insure segregation of the aircraft using approach procedures in instrument weather conditions from other aircraft operating under visual weather conditions in controlled airspace.

EFFECTIVE DATE: August 30, 1984.

FOR FURTHER INFORMATION CONTACT: Edward R. Heaps, Airspace, Procedures, and Automation Branch, Air Traffic Division, AGL-530, FAA, Great Lakes Region, 2300 East Devon Avenue, Des

Plaines, Illinois 60018, telephone (312) 694–7360.

SUPPLEMENTARY INFORMATION: This action redescribes the airspace associated with Knox County Airport to accommodate existing airspace requirements. The new description removes the current airspace designation from the Columbus, Ohio, transition area and establishes a separate transition area for Knox County Airport in order to simplify both descriptions. The new description also reduces the radius of designated airspace by 1.5 miles from 8 miles to 6.5 miles and designates an additional amount of controlled airspace approximately 7 miles by 6.5 miles located southwest of Knox County Airport excluding the portion overlying the Newark, Ohio, transition area. Additionally, the description corrects the name of the associated airport from Mt. Vernon Airport to Knox County Airport.

Minimum descent altitudes may be established below the floor of the 700-foot controlled airspace.

Aeronautical maps and charts will reflect the defined areas which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

History

On page 14969 of the **Federal Register** dated April 16, 1984, the FAA proposed to amend § 71.181 of the Federal Aviation Regulations (14 CFR Part 71) so as to alter the transition area near Mt. Vernon, Ohio. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of the Notice of Proposed Rulemaking.

Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.181 of Part 71 of the Federal Aviation Regulations was published in FAA Order 7400.6, Part 1, dated January 3, 1984.

List of Subjects in 14 CFR Part 71

Transition areas, Aviation safety.

Adoption of the Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 G.M.T., August 30, 1984, as follows:

Mt. Vernon, OH

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Knox County Airport (lat. 40°19'42" N., long. 82°31'22" W.); within 3.5 miles either side of the 197° bearing from the airport extending to the Appleton, Ohio, VORTAC (lat. 40°09'04" N., long. 82°35'18" W.), excluding that portion overlying the Newark, Ohio, transition area.

(Secs. 313(a), 314(a), 601 through 610, and 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430, and 1502); 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983))

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, it is certified that this—(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. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Des Plaines, Illinois, on June 15, 1984.

Paul K. Bohr,

Director, Great Lakes Region.

[FR Doc. 84–17033 Filed 6–26–84; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 84–AGL–2]

Designation of Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final Rule.

SUMMARY: The nature of this Federal action is to designate a new controlled airspace area near Lexington, Ohio, to accommodate a new VOR/DME Runway 26 instrument approach procedure into Perry County Airport. This designation is based on a request from the Perry County Airport officials to provide that facility with instrument approach capability.

EFFECTIVE DATE: August 30, 1984.

FOR FURTHER INFORMATION CONTACT: Edward R. Heaps, Airspace, Procedures, and Automation Branch, Air Traffic Division, AGL–530, FAA, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694–7360.

SUPPLEMENTARY INFORMATION: The floor of the controlled airspace in this area will be lowered from 1200' above ground to 700' above ground. The development of the proposed instrument procedure requires that the FAA lower the floor of the controlled airspace to insure that the procedure will be contained within controlled airspace. The minimum descent altitude for this procedure may be established below the floor of the 700-foot controlled airspace.

Aeronautical maps and charts will reflect the area of the instrument procedure which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

History

On page 10939 of the **Federal Register** dated March 23, 1984, the FAA proposed to amend § 71.181 of the Federal Aviation Regulations (14 CFR Part 71) so as to establish a new 700-foot controlled airspace transition area near New Lexington, Ohio. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of the Notice of Proposed Rulemaking.

Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.181 of Part 71 of the Federal Aviation Regulations was published in FAA Order 7400.6, Part 1, dated January 3, 1984.

List of Subjects in 14 CFR Part 71

Transition areas, Aviation safety.

Adoption of the Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 G.m.t., August 30, 1984, as follows:

New Lexington, OH

That airspace extending upward from 700 feet above the surface within a 7.5-mile radius of the Perry County Airport (lat. 39°41'29" N., long. 82°11'52" W.)

(Sec. 313(a), 314(a), 601 through 610, and 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430, and 1502); 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, it is certified that this—(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. Since this is

a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Des Plaines, Illinois, on June 15, 1984.

Paul K. Bohr,

Director, Great Lakes Region.

[FR Doc. 84-17036 Filed 6-26-84; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 84-AGL-1]

Alteration of Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this Federal action is to alter the Sturgis, Michigan, transition area to accommodate a new MLS Runway 18 instrument approach procedure to Kirsch Municipal Airport and to revise/reduce the airspace currently designated for the transition area.

The intended effect of this action is to insure segregation of the aircraft using approach procedures in instrument weather conditions from other aircraft operating under visual weather conditions in controlled airspace.

EFFECTIVE DATE: August 30, 1984.

FOR FURTHER INFORMATION CONTACT: Edward R. Heaps, Airspace, Procedures, and Automation Branch, Air Traffic Division, AGL-530, FAA, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694-7360.

SUPPLEMENTARY INFORMATION: The development of a new MLS instrument approach procedure requires that the FAA alter the designated airspace to insure that the procedure will be contained within controlled airspace. The additional airspace designated will be an area approximately 3 miles by 2 miles, located northeast of the airport. The minimum descent altitudes for this procedure may be established below the floor of the 700-foot controlled airspace.

The new procedure has also necessitated redesigning the transition area to return a portion of controlled airspace determined unnecessary to a noncontrolled status. The portion being returned will be an area approximately 7.5 miles by 7 miles, located northeast of the airport.

Aeronautical maps and charts will reflect the defined areas which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

History

On page 14968 of the **Federal Register** dated April 16, 1984, the FAA proposed to amend § 71.181 of the Federal Aviation Regulations (14 CFR Part 71) so as to alter the transition area near Sturgis, Michigan. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of the Notice of Proposed Rulemaking.

Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.181 of Part 71 of the Federal Aviation Regulations was published in FAA Order 7400.6, Part 1, dated January 3, 1984.

List of Subjects in 14 CFR Part 71

Transition areas, Aviation safety.

Adoption of the Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 GMT, August 30, 1984; as follows:

Sturgis, MI

That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of the Kirsch Municipal Airport (lat. 41°48'35" N., long. 85°26'10" W.); within 3 miles west of the 341° bearing from the airport and 5 miles east of the 341° bearing from the airport extending from the 5.5-mile radius area to 8 miles northwest of the airport.

(Sections 313(a), 314(a), 601 through 610, and 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430, and 1502); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, it is certified that this—(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. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Des Plaines, Illinois, on June 15, 1984.

Paul K. Bohr,

Director, Great Lakes Region.

[FR Doc. 84-17037 Filed 6-26-84; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 75

[Airspace Docket No. 83-AAL-9]

Establishment of J-529, Fort Yukon, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes new Jet Route J-529 between Fort Yukon, AK, and Shingle Point nondirectional beacon (NDB), Yukon territory, Canada. This new jet route is part of a planned new polar route across Canada. This action designates controlled airspace in a area where no FAA radar coverage exists and improves flight planning.

EFFECTIVE DATE: August 30, 1984.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace and Air Traffic Rules Branch (ATT-230), Airspace—Rules and Aeronautical Information Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8783.

SUPPLEMENTARY INFORMATION:

History

On March 21, 1984, the FAA proposed to amend Part 75 of the Federal Aviation Regulations (14 CFR Part 75) to establish new Jet Route J-529 between Fort Yukon, AK, and Shingle Point NDB, Yukon Territory, Canada (49 FR 10552). The International Airline Transportation Association (IATA) requested a new polar route across canadian territory and the FAA is cooperating with the Canadian Government by implementing the initial phase of the route in the Fort Yukon area. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal

were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 75.100 of Part 75 of the Federal Aviation Regulations was republished in Handbook 7400.6 dated January 3, 1984.

The Rule

This amendment to Part 75 of the Federal Aviation Regulations establishes new Jet Route J-529 between Fort Yukon, AK, and Shingle Point NDB, Yukon Territory, Canada. This jet route is a segment of a new polar route across Canada. This action designates controlled airspace in an area where no FAA radar coverage exists and improves flight planning.

List of Subjects in 14 CFR Part 75

Jet routes, Aviation safety.

Adoption of the Amendment

PART 75—[AMENDED]

Accordingly, pursuant to the authority delegated to me, § 75.100 of Part 75 of the Federal Aviation Regulations (14 CFR Part 75) is amended, effective 0901 GMT, August 30, 1984, as follows:

J-529 [New]

From Fort Yukon, AK, via 049° radial; to Shingle Point NDB, YT, Canada. The airspace within Canada is excluded.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); (49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983)); and 14 CFR 11.69)

Note.—The FAA has determined that this regulation only involves an established body of technical regulatons 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. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on June 19, 1984.

John W. Baier,

Acting Manager, Airspace—Rules and Aeronautical Information Division.

[FR Doc. 84-17034 Filed 6-26-84; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Part 655

Labor Certification Process for the Temporary Employment of Aliens in Agriculture: Adjustments to Piece Rates

AGENCY: Employment and Training Administration, Labor.

ACTION: Withdrawal of rule-related notice and reinstatement of effective date.

SUMMARY: On September 14, 1983, the Department of Labor published a rule-related notice on piece rates adjustment in the temporary alien agricultural labor certification program. The Order requiring the notice was vacated, and it is withdrawn.

EFFECTIVE DATE: September 2, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. Harry L. Sheinfeld. Telephone: 202-523-7836.

SUPPLEMENTARY INFORMATION: On September 2, 1983, the Department of Labor (DOL) published in the **Federal Register** a final rule revising 20 CFR 655.207 (b) and (c), effective on publication. 48 FR 40168. Section 655.207(c) relates to the adjustment of piece rates for employment covered by the temporary alien agricultural labor certification program.

On September 8, 1983, the U.S. District Court for the District of Columbia suspended indefinitely the effective date of revised § 655.207(c), pending further order of the court, and ordered that notice of the Order's terms be published in the **Federal Register.** *NAACP, Jefferson County Branch* v. *Donovan,* Civ. No. 82-2315. The rule-related notice was published at 48 FR 41154 (September 14, 1983).

On June 12, 1984, the U.S. Court of Appeals for the District of Columbia Circuit vacated

the district court's order of September 8, 1983 in its entirety, and thereby reinstate[d] the regulation promulgated by DOL on September 2, 1983. *See* 48 FR 40,168 (1983) (to be codified at 20 CFR 655.207).

NAACP, Jefferson County Branch v. *Donovan,* Nos. 83-1919 and 83-2165, Slip Opinion at 14.

Accordingly, the rule-related notice published by DOL at 48 41154 (September 14, 1983) is hereby withdrawn; and the final rule revising 20 CFR 655.207(c) published September 2, 1983 (48 FR 40168) and effective on that date is reinstated on September 2, 1983.

Signed at Washington, D.C., this 20th day of June 1984.

Patrick J. O'Keefe,

Deputy Assistant Secretary for Employment and Training.

[FR Doc. 84-17015 Filed 6-26-84; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 7961]

Income Tax: Taxable Years Beginning After December 31, 1953; Limitation on Foreign Tax Credit for Foreign Oil and Gas Taxes

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to the limitation on the foreign tax credit with respect to taxes paid on foreign oil related income. Changes to the applicable tax law were made by the Tax Reduction Act of 1975, the Tax Reform Act of 1976, and the Revenue Act of 1978. The regulations would provide the public with the guidance needed to comply with these Acts and would affect all taxpayers claiming a foreign tax credit for taxes paid with respect to foreign oil related income. This document does not reflect the changes made in section 907 by the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA).

DATES: These regulations apply to taxable years ending after December 31, 1974, and beginning before January 1, 1983.

FOR FURTHER INFORMATION CONTACT: Mary Frances Pearson of the Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224, Attention: CC:LR:T, 202-566-9050.

SUPPLEMENTARY INFORMATION:

Background

On November 17, 1980, the **Federal Register** published proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 907 of the Internal Revenue Code of 1954 (45 FR 75695). These amendments were proposed to conform the regulations to section 601(a) of the Tax Reduction Act of 1975 (89 Stat. 54), section 1035 of the Tax Reform Act of 1976 (90 Stat. 1630), and section 301(b)(14) of the Revenue Act of 1978 (92 Stat. 2822). A public hearing was held on

May 29, 1981. After consideration of all comments from interested persons regarding the proposed regulations, they are adopted with revisions. This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

General Explanation

The United States imposes an income tax on its citizens, residents, and corporations on a worldwide basis. The U.S. system prevents international double taxation through the allowance of a foreign income tax credit. Such a system accords the country where income is earned the first right to tax it. The United States taxes this same income only to the extent the U.S. tax exceeds the foreign income tax on the income.

The foreign tax credit mechanism raises a number of problems. One problem is that not every payment made to a foreign country constitutes a creditable tax. Only a foreign income tax is creditable against the U.S. income tax. Whether a particular foreign payment constitutes an income tax is frequently difficult to determine. This difficulty is especially true in the case of the development of a foreign country's natural resources which the foreign sovereign owns. In these cases the distinction between creditable income taxes and other deductible payments, such as royalties, bonuses, other consideration for the right to a mineral concession, or a purchase price for the minerals, can become blurred.

Other problems arise under the section 904 limitation. Generally, section 904 limits the foreign tax credit to a taxpayer's pre-credit U.S. tax on worldwide income and further limits the credit to the U.S. tax on foreign-source taxable income, *i.e.*, the tax base of the foreign income under U.S. law. If for a taxable year the foreign taxes imposed on the income base as determined under foreign law exceed the U.S. taxes imposed on that income base determined under U.S. law, the unused foreign tax credits, or excess credits, may be used in certain other taxable years in which the U.S. tax exceeds the foreign taxes on foreign-source income.

Currently, section 904 allows the averaging of low-tax foreign income and high-tax foreign income, referred to as the overall limitation. Under the overall limitation, the U.S. tax on income from sources in a low-tax country may be reduced by foreign taxes that exceed the U.S. tax on income from a high-tax country. Section 904 limits the benefits of the overall limitation to a certain extent through the creation of separate limitations which require the separation of foreign income into various classes of foreign-source income. The foreign taxes paid on one class may not reduce the U.S. tax imposed on another class.

Problem

Prior to the enactment of section 907, the U.S. oil companies operating in foreign countries were accumulating large amounts of unused foreign tax credits attributable to foreign oil and gas extraction activities. Under section 904, the oil companies could only use foreign taxes as credits against their U.S. tax liability to the extent of the U.S. tax computed on foreign-source taxable income. In 1974, the Treasury Department estimated that the excess credits generated in that year might exceed $16 billion. H. Rept. No. 93–1502, 93d Cong., 2d Sess. 62 (1974). These excess credits were attributable to a number of reasons explained below.

The foreign countries imposing the taxes retained the rights to the oil in the ground. The sovereign could demand a royalty payment, impose an income tax, or collect royalties and taxes. When U.S. corporations began their foreign oil operations, they usually paid the sovereign only a royalty because there frequently was no general income tax system in producing countries. When the sovereigns later sought to increase their revenue, they structured income tax systems. The foreign income taxes grew while the royalty payments remained relatively modest. The U.S. oil companies would be in better after-tax positions with higher foreign income taxes as contrasted with higher royalties, since the former are creditable against U.S. taxes while the latter are only deductible in arriving at the U.S. tax base. Since foreign governments acted as sovereigns in imposing taxes and as proprietors in collecting royalties, what producers claimed as creditable income taxes may have been in fact deductible royalties.

Another reason for excess credits was the existence in oil producing countries of stated tax rates in excess of the U.S. tax rates. Furthermore, besides increasing their stated tax rates, some foreign countries found ways to increase the effective tax rates by increasing the income base under foreign law upon which the stated foreign tax rate applied. The producing country could limit deductions that are allowed in the United States and they could overstate the gross income of the oil companies by basing the tax on an artificially high posted or tax reference price rather than the market price.

Because of the reasons above, the oil companies were left with excess credits they could not use. Some oil companies therefore found it desirable to acquire other lines of low-taxed foreign enterprises wholly unrelated to the production or distribution of oil and gas.

Technical Explanation

Prior to TEFRA, section 907 handled the two problems noted above—the existence of excess credits and their use against the U.S. tax on foreign income from activities unrelated to oil and gas—in two primary ways that are explained below. Section 907, as added to the Code by the Tax Reduction Act of 1975 (1975 Act), was amended by the Tax Reform Act of 1976 (1976 Act) and the Revenue Act of 1978.

1975 Act

Section 907(a) reduces otherwise creditable foreign income taxes imposed on "foreign oil and gas extraction income" to a certain precentage of this income. The applicable percentages are 52.8 and 50.4 for taxable years ending in 1975 and 1976, respectively. Under the 1975 Act, the applicable percentage for years ending after 1976 was 50. Section 907(c)(1) defines foreign oil and gas extraction income as foreign-source taxable income derived from the extraction of minerals from oil or gas wells or the sale or exchange of assets used in that activity.

Section 907(b) creates a separate section 904 limitation for "foreign oil related income". Section 907(c)(2) defines foreign oil related income to include extraction income as well as foreign-source taxable income from a "downstream" trade or business, such as the processing of minerals from oil or gas wells into primary products, marketing and transporting the minerals or primary products, or the selling or exchanging of assets used in these trades or businesses.

Section 907(a) applies before section 907(b). To summarize, section 907(a) initially reduces creditable foreign oil and gas extraction taxes to a certain percentage of the foreign oil and gas extraction income. Section 907(b), on the other hand, in essence then provides that the extraction taxes as reduced by section 907(a) along with the creditable taxes on the income from downstream trades or businesses can only be used under section 904 to reduce the U.S. tax on foreign oil related income. Section 907(a) does not reduce the creditable foreign taxes imposed on the income from downstream trades or businesses.

Section 907(c)(3) includes dividends (including deemed dividends) and interest from a foreign corporation in the definitions of foreign oil related income

and foreign oil and gas extraction income if the taxpayer could be deemed to pay the corporation's foreign taxes under sections 902 or 960 (Subpart F). Also included in the definitions are foreign-source dividends from a domestic corporation and a taxpayer's distributive share of partnership income. However, interest from a foreign corporation and dividends from a domestic corporation can only be oil related income in applying section 907(b) and not extraction income in applying section 907(a).

Section 907(c)(4) in essence provides that extraction losses from sources in one foreign country are not offset against extraction income earned in other foreign countries in applying section 907(a). However, those losses do reduce foreign oil related income in applying section 907(b).

Section 907(d) provides that in determining foreign oil and gas extraction income the fair market value of oil or gas is to be used if the oil is disposed of, or is acquired other than from a foreign country, at a posted price or other pricing arrangement which differs from that value.

Section 907(e) is a transitional rule that serves two functions. First, it limits the carryover of unused foreign taxes from pre-effective date (pre-1975) years to post-effective date years by assuming that section 907(a) was in effect in the pre-1975 years. This assumption does not affect the credits claimed in the pre-1975 years. Second, section 907 divides the carryovers that remain between foreign oil related income and other foreign-source income for purposes of applying the separate section 904 limitations in the post-effective date years.

1976 Act

Section 1035 of the 1976 Act made three amendments to section 907. The first reduced the section 907(a) limitation percentage that would have applied to post-1976 years by two percentage points (*i.e.*, from 50 to 48).

The second amendment added section 907(f) which generally provides that unused foreign extraction taxes represented by the two percentage point reduction in the section 907(a) limitation percentage may be carried back or over in certain circumstances. Briefly, a taxpayer may only carry those unused foreign extraction taxes to another year in which the foreign extraction taxes paid are less than that other year's section 907(a) limitation level and in which the foreign oil related taxes paid are less than the U.S. tax on foreign oil related income (excess limitation under section 904).

The third amendment added section 907 (c)(5) which defined foreign extraction taxes as otherwise creditable taxes paid or accrued (or deemed to have been paid under sections 902 or 960) with respect to foreign oil and gas extraction income or foreign oil and gas extraction loss.

1978 Act

The 1978 Act reduced the limitation percentage under section 907(a) from 48 to 46. The change applies to taxable years beginning after December 31, 1978, and was necessary to conform section 907(a) to the effective date of a reduction in the maximum corporate tax rate.

TEFRA—Separate Document

Section 211 of TEFRA amended section 907 in a number of ways. Generally, for taxable years beginning after December 31, 1982, TEFRA repealed both the separate section 904 limitation for foreign oil related income in section 907(b) and the per-country loss rule in section 907(c)(4). It added, however, a rule (similar to section 904(f)) for the re-sourcing of extraction income as other foreign-source income to "recapture" an overall foreign extraction loss. TEFRA also added certain transitional rules for the carryover and carryback of unused foreign tax credits and dropped the 2-percent limitation that previously applied under section 907(f).

In addition, TEFRA modified the definition of foreign oil related income in section 907(c)(2) so that it no longer includes extraction income but now specifically includes the performance of any related service. Nonextraction oil related income may also be "Subpart F income".

The final regulations do not apply to taxable years for which the changes made by TEFRA apply. Regulations for those years reflecting those changes will be proposed in a separate document.

Individuals

The final regulations contain general rules that will apply to individuals. However, they do not contain other rules that apply exclusively to individuals because the Treasury believes that these rules follow directly from the statute.

Explanation of Changes

The Treasury made a number of changes in the proposed regulations in response to public comments.

The more important changes in the proposed regulations are discussed below. Furthermore, the reasons for not making certain other suggested changes are also discussed below.

Year of Use Rule

Proposed § 1.907(b)–2(d) reduced the carryover of unused foreign oil related income taxes by splitting the carryover into its component parts, *i.e.*, the unused extraction tax and unused nonextraction tax elements, and by applying to the unused extraction tax the lower limitation percentage of section 907(a) for the year to which the taxes were to be carried and used. The rule would have applied to unused taxes arising in post-1974 years and also to those arising in pre-1975 years which are subject to the transitional rules in section 907(e) (proposed § 1.907(e)–1(a)). The final regulations eliminate the rule and, with it, a major source of regulations' complexity.

Amount of Extraction Income

Proposed § 1.907(c)–1(b)(1) calculated foreign oil and gas extraction income as the gross income from the property within the meaning of § 1.613–3(a) less certain deductions. Encompassed within the reference to § 1.613–3(a) is the notion of the representative market or field price in the immediate vicinity of the well. Commentators pointed out that the determination of the representative market or field price is difficult in foreign oil and gas operations because of a lack of comparable sales in the immediate vicinity of the well. Taxpayers urged the Treasury to provide a facts and circumstances test and they also requested the use of various formulas, such the proportionate profits and rate of return methods, in applying this test to determine the wellhead price.

In foreign oil operations, the foreign government usually retains the ownership of the oil or gas in the ground. The foreign sovereign usually grants a concession to an oil company giving the latter the right to extract and export the crude oil. Frequently, the producing country will retain a share of the crude oil that is extracted. In some cases, the oil company that is granted the concession will purchase this "nonequity" oil from the foreign government while in other cases the foreign government will sell the oil to other oil companies. When the crude oil is extracted, the mineral usually has to be transported some distance through pipelines to a tank farm or a port before it can be sold, refined, or loaded onto tankers for export. The facilities beyond the wellhead are usually owned by the oil company. This pattern of operations

raises the following questions and considerations.

First, the foreign government usually establishes a posted price for the equity oil for purposes of computing the taxes to be paid to the sovereign. This price is usually a port price, not a wellhead price, and it may or may not be comparable to the "fair market value" of the oil at the port. Section 907(c) (1) and (2) require a distinction between the foreign oil and gas extraction income and the foreign income from the transportation of the oil through the oil company's pipeline, *i.e.*, a downstream activity. The question becomes what, if any, value is added to the crude oil beyond the wellhead *in the particular producing country.*

Second, the oil companies not only pay taxes on the basis of a port price for equity oil, but also may pay royalties to the foreign government on the very same basis. If any significant value is added to the crude oil in the producing country beyond the wellhead because of transportation through the oil company's pipeline or other factors, it is surprising that a part of this added value has to be paid back to the foreign sovereign in the form of increased royalties.

Third, the oil company with the concession may buy a significant part of the foreign sovereign's nonequity oil. The government sets the price and again, the price is usually a port price. The price may directly or indirectly reflect some fee for the use of the oil company's facilities in lifting the oil and transporting it to the port prior to its purchase. However, that fee may, or may not, be an arm's-length amount.

Finally, fair market value may differ from a representative market or field price in certain cases, at least in the domestic context. The proposed regulations incorrectly assumed that the representative price would be the same as fair market value in foreign operations. The reason for the use of a representative price rather than fair market value in domestic contexts is to protect independent producers. (See *United States* v. *Cannelton Sewer Pipe Co.*, 364 U.S. 76, 87 (1960)). This reason simply does not exist in foreign oil and gas operations.

The final regulations rely on the fair market value of the oil or gas in the immediate vicinity of the well to determine the gross income from extraction. This reliance is consistent with complimentary provisions, such as section 907(d) and section 901(f) which was also added to the Code by section 601 of the 1975 Act (89 Stat. 57). Moreover, the determination of fair market value necessarily results in the case-by-case analysis that was requested by commentators. In some cases, analysis of the arrangements associated with the producer's extracting, transporting, and later purchasing of the host country's nonequity oil could provide a reasonable basis for reaching fair market value at the wellhead. In other cases, the fair market value could be negotiated on audit. This flexibility seems to be the only way to protect the interests of both the Government and taxpayers and, perhaps, is the most that can be done in this area. Resolution of the valuation issue in *Buffalo Tool & Die Mfg. Co.* (74 T.C. 441, 451 (1980)) seemed "more properly suited for the give and take of the settlement process than adjudication." The valuation issues in this particular area also seem suited for resolution through the settlement process.

Trading Income

Other commentators pointed out that extraction income should include trading income and they objected to the rule (proposed § 1.907(c)–(1)(b)(5)) that extraction income does not include income derived in a transaction in which the foreign income taxes would not be creditable under section 901(f). This rule has not been changed. Characterizing trading as an extraction activity would be inconsistent with section 907(c)(2)(D) which clearly indicates that taxable income from the distribution of oil or gas primary products is foreign oil related income and not foreign oil and gas extraction income. Furthermore, setion 901(f) applies only if a person does not have an economic interest in the minerals and was added to the Code to disallow foreign tax credits in cases where, after nationalization of oil operations in various foreign countries, the oil companies no longer extract their own crude oil but instead purchase and sell crude oil. After nationalization, the oil companies cease to be producers. See, *H. Rept. No. 94–120, 94th Cong.*, 1st Sess. 69 (1975), and 121 *Cong. Rec.* 8920 (March 26, 1975).

Taxes

Proposed § 1.907(c)–(3)(a) (1) and (2) relied on rules in § 1.901–3(a)(2)(i) to determine foreign oil related and foreign extraction taxes. Commentators argued that these rules produced distorted results in many cases where it is necessary under sections 907 and 904 to distinguish between foreign oil and gas extraction income, foreign oil related income other than extraction income, and other foreign-source income. They claim that the rule was unworkable where the tax rates for different categories of income were not the same, where there is a loss in any of the relevent categories, or where the foreign tax was determined on the basis of a posted price. Moreover, the proposed regulations, it was argued, neither specified whether the extraction taxes or foreign oil related taxes should be computed first nor suggested a method to apportion the foreign taxes between the exraction and other foreign oil related categories. The commentators urged that the taxes be characterized and apportioned on the basis of the relative amounts of taxable income, as determined under U.S. standards, in the various categories of income.

The final regulations clarify the characterization of taxes in number of ways. First, increased foreign taxes that are paid or accrued by reason of the use of a posted price in excess of a market price are in effect characterized as extraction taxes. The Treasury believes that this rule follows from both the language and the intent of section 907(d). The excess posted price is (or at least was) a part of the income base upon which the foreign country levied taxes which, of necessity, have to be characterized in applying section 907 under U.S. law. The existence of the posted price system was one of the major reasons for the existence of excess credits which section 907(a) was designed to limit. See *H.R. Rep. No. 93–1502*, 93d Cong., 2d Sess. 60–66 (1974).

Second, the characterization and apportionment of taxes among the classes of foreign-source income is to be made without regard to the amount of U.S. *taxable* income in each class. Any other rule would ignore the difference between the foreign tax base and the U.S. tax base, another difference which the Congress considered may have contributed at least in part to the excess credits which section 907 was intended to limit. (See *H.R. Rep. No. 93–1502, supra*, at 61–62). Furthermore, any other rule would ignore section 907(c)(5) which clearly indicates that a taxpayer can pay or accrue extraction taxes even though it has an extraction loss under U.S. law.

Third, if foreign law taxes what the United States characterizes as foreign oil and gas extraction income and foreign oil related income other than extraction income (other oil related income) under separate tax bases; the taxes will be characterized in accordance with the separate foreign tax bases. If foreign law treats these two classes of income as in a single tax base, then the characterization of the foreign gross income base as extraction or other oil-related income will be

governed by general principles of U.S. tax law.

Fourth and last, the final regulations clarify the tax allocation in cases where there is a non-oil loss that reduces under foreign law and foreign oil related taxes or where foreign law imposes on various classes of income a single income tax under a progressive system.

Income Definitions

Some commentators suggested that income which is incidental in nature or amount (sale of tires, batteries and repair services by a service station, for example) to the conduct of the trades or businesses described in section 907(c)(1) or (2) be considered extraction or oil related income. Another commentator suggested that the separate section 904 limitation for oil related income under section 907(b) should not apply to a taxpayer that had substantial oil-related income but only *de minimus* extraction income. The Treasury Department does not have the authority under section 907(c)(1) or (2) to adopt these suggestions.

Other commentators suggested that income which is directly related to activities in section 907(c)(1) or (2) should be extraction or oil related income. The final regulations reserve part of § 1.907(c)–1 that would classify certain "directly related income" as extraction or oil related income. The rules that are reserved are set out in a notice of proposed rulemaking in the Proposed Rules Section of this issue of the **Federal Register**. The proposed rules relate to service income and certain "passive" income (such as interest or rents).

Sale of Stock

Many taxpayers objected to the rule in proposed § 1.907(c)–1(d)(2) that prohibited gain (other than section 1248 gain) on the sale or exchange of stock from inclusion in foreign oil and gas extraction income and foreign oil related income. Commentators urged that the regulations provide that gain on stock dispositions are includible under the "look-through" rule in section 907(c)(3) which generally characterizes certain dividends and interest as extraction income or oil related income and in effect treats the owners of an entity as if they conduct the activities that the entity actually conducts. Taxpayers argued that section 907(c)(3) is not an exclusive list and, they contended, the provision avoids discrimination between taxpayers that carry on the relevant activities through branches of domestic corporations on the one hand or through foreign subsidiaries on the other hand. Alternatively, commentators urged that the regulations interpret the term "assets used by the taxpayer in the trade or business" of extraction or oil related activities as embracing stock. See section 907(c)(1)(B) and (c)(2)(E).

The Treasury Department does not believe that section 907(c)(3) includes gain from a stock disposition in extraction or oil related income. While dividends from a foreign corporation may be extraction or oil related income, interest from the same corporation may only be oil related income under section 907(c)(3). Moreover, dividends from domestic corporations may be oil related, but not extraction, income and interest from such a corporation is neither oil related nor extraction income. Thus, section 907(c)(3) distinguishes between a taxpayer that conducts its activities through a domestic subsidiary and one conducting its activities through a foreign subsidiary. Furthermore, if the Treasury were to include gain on a stock disposition in section 907(c)(3), could the gain be both extraction income and oil related income, or could it only be oil related income? Would the characterization of gain on the disposition of stock in a domestic or foreign corporation be the same or would the Treasury be forced to create distinctions similar to those drawn by section 907(c)(3) in the case of other types of income realized by the shareholders of domestic or foreign corporations? These distinctions and questions are legislative, and not regulatory. Had Congress intended to include in oil related or extraction income under section 907(c)(3) gain on the sale or exchange of stock in any corporation, it would have done so. Compare section 907(c)(3) with section 954(f)(1), which relates to foreign base company shipping income and which was also added by the 1975 Act.

The analysis is different for stock which is exclusively a "business" asset (*i.e.*, not a capital asset). Such stock could be an asset used by a taxpayer under section 907(c)(1)(B) or (c)(2)(E). The pattern of section 907(c) suggests that this interpretation is correct and, if gain on a stock disposition is includible, it would be under section 907(c)(1) or (2).

Finally, losses on stock dispositions will be allocated to and reduce the same class of income (extraction, oil related, or other income) which would be increased if the stock disposition produced a gain.

Carrybacks to Pre-1975 Years

Proposed § 1.907(e)–1(c) prohibits the carryback of unused foreign oil related taxes to taxable years ending before January 1, 1975. One commentator objected to this rule but the final regulations retain it.

The rule itself follows from the creation of a separate section 904 limitation for foreign oil related income, *i.e.*, unused foreign oil related taxes may not reduce an excess limitation on income other than foreign oil related income. It is not clear whether the unused taxes would be determined without regard to section 907(a), whether the amount of unused oil related taxes which could be carried back would be determined with or without regard to the creation by section 907(b) of the separate section 904 limitation for foreign oil related income or, more importantly, whether one should assume that section 907(b) was in effect in pre-effective date years to which unused taxes are carried. See the transitional rule for carryovers under section 907(e)(1) and (2), the transitional rules for carrybacks under section 904(f)(4) (as in effect on the day before the enactment of the 1976 Act). In the absence of a statute, the Treasury declines to fashion a transitional rule for carrybacks and, in any event, believes it has no authority to do so.

Interest From Foreign Corporations

Section 907(c)(3)(A) in effect provides that interest paid by a foreign corporation may be foreign oil related income if the corporation is one whose foreign income taxes (paid or deemed paid would be deemed paid by the "taxpayer" under section 902. Section 907(c)(3)(A) also applies to dividends from a foreign corporation but the dividends can be extraction or oil related income. Although a foreign corporation is not necessarily a "taxpayer", it is necessary to classify the income and earnings of the corporation to classify the dividends and interest as extraction, oil related, or other income, when dividends and interest are paid by the corporation to U.S. taxpayers.

Proposed §1.907(c)–2 (c)(2) in effect provides a stock ownership rule. Under that rule, a foreign corporation may have foreign oil related income or extraction income on the receipt of dividends from other foreign corporations in a chain of ownership if the taxes of both the recipient and the payor of the dividends may be deemed paid under section 902 (a) or (b) by the domestic corporation that directly or indirectly owns the requisite percentage under section 902 of the voting stock of the foreign corporations in the chain. This stock ownership rule applies even if the payor of the dividend does not pay

any foreign taxes. A similar rule was fashioned to treat interest payments as oil related income. Commentators claim that this interest rule is unclear, *i.e.*, whether the same domestic corporation must own directly or indirectly the payor and the payee of the interest (if the payee is a foreign corporation).

Commentators asked the Treasury to interpret the term "taxpayer" in section 907(c)(3)(A) broadly. They argued that a literal interpretation is too restrictive, is unnecessary to reflect the objective of section 907, and would needlessly force taxpayers to restructure their organizations merely to obtain what is argued as the correct characterization of the income. For example, they posit a situation where P wholly owns D_1 and D_2, all U.S. corporations; D_1 wholly owns F_1, and D_2 wholly owns F_2, where F_1 and F_2 are foreign corporations. Taxpayers argue that interest income paid, for example, by F_1 to P, D_2, or F_2, should be eligible for characterization as foreign oil related income even though P, D_1 and D_2 do not file a consolidated return.

The Treasury does not believe section 907(c)(3)(A) can be interpreted to support such requests. In the example above, although it may benefit P or D_2 to characterize the interest as oil related income in a particular case, an identical characterization for another affiliated group with the same corporate structure may produce a detriment. In the latter case, the Treasury would be without authority to force the characterization. In the example above, F_1 simply is not a corporation whose taxes would be deemed paid under section 902 by the "taxpayer", *i.e.*, P or D_2. Indeed, the Treasury would have no authority to enforce in different taxable years a consistent characterization of the interest income for the same affiliated group. More importantly, the characterization of interest paid to a member of an affiliated group that does not file a consolidated return should be the same as if the interest were paid to an unrelated party, provided the member does not meet the literal requirements of section 907(c)(3)(A). Since interest paid by F_1 to D_2 may not be oil related income, interest paid by F_1 to F_2, D_2's subsidiary, may not be oil related income.

The final regulations clarify proposed § 1.907(c)–2(c)(2) to provide that interest received by any corporation, whether foreign or domestic, from a foreign corporation may be oil related income so long as the payor's taxes may be deemed paid under section 902 by the payee (the taxpayer) or, if the payee is a foreign corporation, both the payor's and payee's taxes may be deemed paid by the same taxpayer. Moreover, in applying this rule and solely for the purposes of section 907(c)(3)(A), if one or more members of the affiliated group filing a consolidated return would be deemed to pay under section 902 the foreign taxes of a foreign corporation paying interest, the term "taxpayer" includes all members of that group.

Technical Changes

The final regulations also make numerous technical and clarifying changes to the proposed regulations.

Regulatory Flexibility Act and Executive Order 12291

A notice of proposed rulemaking for this regulation was published before January 1, 1981, the effective date of the Regulatory Flexibility Act (5 U.S.C. Chapter 6). Thus, this regulation is not subject to the Regulatory Flexibility Act. The Commissioner of Internal Revenue has determined that this regulation is not a major regulation as defined in Executive Order 12291 and that a Regulatory Impact Analysis is therefore not required.

Drafting Information

The principal author of these final regulations is Donald K. Duffy of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

List of Subjects in 26 CFR Parts 1.861–1–1.997–1

Income taxes, Aliens, Exports, DISC, Foreign investment in U.S., Foreign tax credit, Source of income, United States investment abroad.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR Part 1 is amended as follows:

Paragraph 1. There are added immediately after § 1.905–5 the following new §§ 1.907–0, 1.907(a)–1, 1.907(b)–1, 1.907(b)–2, 1.907(c)–1, 1.907(c)–2, 1.907(c)–3, 1.907(d)–1, 1.907(e)–1 and 1.907(f)–1:

§ 1.907–0 Introduction.

(a) *Key terms.* For purposes of the regulations under section 907—

(1) "FOGEI" means foreign oil and gas extraction income.

(2) "FORI" means foreign oil related income.

(3) "Other FORI" means FORI other then FOGEI.

(4) "FOGEI taxes" mean foreign oil and gas extraction taxes.

(5) "FORI taxes" mean foreign oil related taxes.

(6) "Other FORI taxes" mean FORI taxes other than FOGEI taxes.

(b) *FOGEI tax limitation.* Section 907(a) limits the foreign tax credit for taxes paid or accrued on FOGEI. The limit is a certain percentage of FOGEI. See § 1.907(a)–1.

(c) *Section 904 limitation.* Section 907(b) creates a separate limitation under section 904 for a taxpayer FORI. FORI taxes (after any reduction under section 907(a)) may not be used as credits against the taxes imposed on income other than FORI. The separate FORI limitation applies even though a taxpayer may not have any FOGEI. See §§ 1.907(b)–1 and 1.907(b)–2.

(d) *FOGEI and FORI.* FOGEI includes the taxable income from the extraction of minerals from oil or gas wells by a taxpayer (or another person) and from the sale or exchange of assets used in the extraction business. FORI is a broader category of income than FOGEI. Although FORI includes FOGEI, it also includes taxable income from the activities of processing oil and gas into their primary products, transporting or distributing oil and gas and their primary products, and from the selling or exchanging of assets used in these activities. FOGEI and FORI may also include certain dividends, interest, or amounts described in section 951(a). See §§ 1.907(c)–1 through 1.907(c)–3.

(e) *Posted prices.* Certain sales prices are disregarded when computing FOGEI for purposes of chapter 1 of the Code. See § 1.907(d)–1.

(f) *Transitional rules.* Section 907(e) provides rules for the carryover of unused FORI taxes from taxable years ending before January 1, 1975. Transitional rules also apply to carrybacks and carryovers of certain taxpayers that changed from the per-country to the overall limitation. See § 1.907(e)–1.

(g) *Section 907(f) carrybacks and carryovers.* Certain FOGEI taxes disallowed under section 907(a) may be carried back or over to other taxable years. These FOGEI taxes may be absorbed in another taxable year to the extent of the lesser of a separate excess extraction limitation or a separate excess oil related limitation for the year. See § 1.907(f)–1.

(h) *Cross-references.* (1) See section 907(g) (as in effect for taxable years beginning before January 1, 1980) for rules relating to Western Hemisphere Trade Corporations that are members of an affiliated group.

(2) See section 1035(c) of the Tax Reform Act of 1976, as amended by section 701(u)(9) of the Revenue Act of 1978, for rules relating to the foreign tax credit for certain production-sharing contracts.

(i) *Statutes covered.* (1) The regulations under section 907 are issued as a result of the enactment of section 601 by the Tax Reduction Act of 1975, of section 1035 by the Tax Reform Act of 1976, and of section 301(b)(14) of the Revenue Act of 1978. These regulations do not cover certain provisions relating to taxpayers other than corporations. See section 701(u)(8) of the Revenue Act of 1978 which amended section 907 (a) and (b).

(2) The regulations under section 907 also do not reflect certain amendments of section 907 made by section 211 of the Tax Equity and Fiscal Responsibility Act of 1982. Sections 1.907–0 through 1.907(f)–1 apply to taxable years ending after December 31, 1974, and beginning before January 1, 1983.

(j) *Pre-TEFRA Code references.* References in the regulations under section 907 to sections of the Internal Revenue Code of 1954 are references to those sections as in effect prior to their amendment by the Tax Equity and Fiscal Responsibility Act of 1982.

§ 1.907(a)–1 Reduction in taxes paid on FOGEI.

(a) *Amount of reduction.* FOGEI taxes are reduced by the amount by which they exceed a limitation level (as defined in paragraph (c) of this section). This rule applies to taxable years ending after December 31, 1974. If the per-country limitation under section 904(a)(1) (as in effect prior to the Tax Reform Act of 1976) applies for a taxable year ending before January 1, 1976, the reduction is applied separately with respect to each foreign country or possession for that year.

(b) *Foreign taxes paid or accrued.* For purposes of the regulations under section 907—

(1) *Foreign taxes.* The term "foreign taxes" means income, war profits, or excess profits taxes of foreign countries or possessions of the United States otherwise creditable under section 901 (including those creditable by reason of section 903).

(2) *Foreign taxes paid or accrued.* The terms "foreign taxes paid or accrued," "FOGEI taxes paid or accrued," "FORI taxes paid or accrued", and "other FORI taxes paid or accrued" include foreign taxes deemed paid under sections 902 and 960. Unless otherwise expressly provided, these terms do not include foreign taxes deemed paid by reason of sections 904(c) and 907(f).

(c) *Limitation level*—(1) *In general.* The limitation level is FOGEI for the taxable year multiplied by the limitation percentage for that year.

(2) *Limitation percentage for corporations.* A corporation's limitation percentage is—

(i) For its taxable years ending in 1975 and 1976, 52.8 percent and 50.4 percent respectively.

(ii) For its taxable years ending after 1976, and beginning before January 1, 1979, the percentage is 48 percent.

(iii) For any other taxable year, the highest rate of tax specified in section 11(b) for the particular year.

(3) *Limitation percentage for noncorporate taxpayers.* See section 907(a)(2)(B) to determine the limitation percentage for noncorporate taxpayers.

(4) *Losses*—(i) *Net operating loss.* Certain net operating losses are disregarded in computing FOGEI for purposes of the regulations under section 907. See section 907(c)(4).

(ii) *Certain foreign losses.* For purposes of determining whether income is FOGEI, a taxpayer's income will be treated as income from sources outside the United States even though all or a portion of that income may be resourced as income from sources within the United States under section 904(f) (1) and (4) for purposes of the separate application of section 904 with respect to FORI.

(5) *Priority.* Section 907(a) applies before section 908, relating to reduction of credit for participation in or cooperation with an international boycott.

(d) *Illustrations.* Paragraphs (a) through (c) of this section are illustrated by the following examples:

Example (1). M, a domestic corporation, uses the calendar year as its taxable year. For each taxable year involved, the overall limitation under section 904(a) is used. M has FOGEI derived from operations in foreign countries, with respect to which it has paid or accrued foreign taxes, and no other income (or loss). To determine the amount of M's foreign taxes allowable as a credit under section 901(a), the FOGEI taxes must be reduced for each of those taxable years in accordance with the additional facts assumed in the table below:

	1975	1976	1977
(1) FOGEI	$2,000	$2,000	$2,000
(2) Multiply by limitation percentage	52.8	50.4	48
(3) Limitation level	1,056	1,008	960
(4) FOGEI taxes	1,150	1,150	1,150
(5) Amount of reduction (line (4) minus line (3))	94	142	190

Example (2). Assume the same facts as in example (1), except that, for 1975, $1,000 of M's FOGEI is derived from sources within foreign country X and $1,000 of M's FOGEI is derived from sources within foreign country Y. M does not elect the overall limitation for 1975. The FOGEI taxes must be reduced as follows for 1975 in accordance with the additional facts assumed in the table below:

	Country X	Country Y
(1) FOGEI from sources within foreign country	$1,000	$1,000
(2) Multiply by limitation percentage	52.8	52.8
(3) Limitation level	528	528
(4) FOGEI taxes	450	700
(5) Amount of reduction (line (4) less line (3))	-	172

Example (3). Assume the same facts as in example (2), except that M elects the overall limitation. Based on the additional facts assumed in the table below, M's FOGEI, FOGEI taxes, and reduction of tax are as follows for 1975:

(1) Loss sustained under U.S. tax concepts from extraction operations in country Z	$(100)
(2) Income derived from extraction operations in country Z under Z's tax concepts	400
(3) FOGEI taxes paid to country Z with respect to extraction operations	200
(4) FOGEI (line (1) of example (2) for countries X and Y disregarding loss on line (1) in accordance with section 907(c)(4))	2,000
(5) Limitation level (line (4) x 52.8%)	1,056
(6) FOGEI taxes (line (4) of example (2) for countries X and Y + line (3))	1,350
(7) Amount of reduction (line (6) less line (5))	294

(e) *Effect on other provisions*—(1) *Deduction denied.* No deduction is allowed for the amount of the FOGEI taxes that exceed a taxpayer's limitation level for the taxable year. See section 275(a)(4). Thus, FOGEI taxes disallowed under section 907(a) are not added to the cost or inventory amount of oil or gas.

(2) *Reduction inapplicable.* The reduction under section 907(a) does not apply to a taxpayer that deducts foreign taxes and does not claim the benefits of section 901 for a taxable year.

(3) *Section 78 dividend.* The reduction under section 907(a) has no effect on the amount of foreign taxes that are treated as dividends under section 78.

§ 1.907(b)–1 Application of section 904 limitation with respect to FORI.

(a) *In general.* Section 907(b) applies to taxable years ending after December 31, 1974. Under sections 907(b) and 904(d), the provisions of section 904 apply as a separate limitation (whether per-country or overall) with respect to each of the following classes of income:

(1) FORI (as defined in §§ 1.907(c)–1 and 1.907(c)–2);

(2) Section 904(d) interest (as defined in § 1.904–4 (a)(2));

(3) Section 904(d) dividends (as defined in § 1.904–5(a)(2)); and

(4) Other income.

(b) *Overall limitation.* Only the overall limitation applies to FORI for taxable years ending after December 31, 1975.

(c) *FORI taxes.* FORI taxes paid or accrued are determined under the principles of § 1.907(c)–3.

§ 1.907(b)–2 FORI tax carryovers and carrybacks.

(a) *Modifications in use of § 1.904–2.* The rules set forth in this section modify the application of § 1.904-2 when that section is used in conjunction with this section.

(b) *Unused foreign tax—(1) General rule.* The "unused foreign tax" with respect to FORI ("unused FORI tax") is the excess of FORI taxes (after any reduction under section 907(a)) over the separate FORI limitation.

(2) *Per-country limitation year.* For any taxable year ending before January 1, 1970, to which the per-country limitation applies, the unused FORI tax and separate FORI limitation are determined separately for each foreign country or possession.

(c) *Tax deemed paid or accrued with respect to FORI.* The amount of any unused FORI tax that is carried from any taxable year ("year of origin") and deemed paid or accrued in any other taxable year ("excess limitation year") is the lesser of—

(1) The unused FORI tax (determined under paragraph (b) of this section) available to be carried to the excess limitation year or

(2) The excess FORI limitation (determined under paragraph (d) of this section) for the excess limitation year.

(d) *Excess FORI limitation—(1) When overall limitation applies.* The excess FORI limitation for a taxable year is computed for a particular year of origin. This amount is equal to the separate FORI limitation for the excess limitation year minus the sum of the following items:

(i) The FORI taxes paid or accrued in the excess limitation year.

(ii) The portion of the unused FOGEI tax from the particular year of origin, or any year of origin prior to the particular year of origin, that is absorbed under section 907(f) as taxes deemed paid or accrued in the excess limitation year. Unused FOGEI tax is defined in § 1.907(f)–1(b)(1).

(iii) The portion of the unused FORI tax for any prior year of origin that is absorbed as taxes deemed paid or accrued in the excess limitation year under section 904(c).

(2) *Per-country limitation year.* If the per-country limitation applies with respect to FORI for any excess limitation year ending before January 1, 1976, then the excess FORI limitation is determined separately for each foreign country or possession in accordance with the principles of paragraph (d)(1) of this section. See § 1.907(e)–1 (b) and (c) for rules relating to FORI tax carryovers and carrybacks where a taxpayer changes from the per-country to the overall limitation.

(e) *Cross-reference.* Section 904(f)(4) relates to the recharacterization of FORI as U.S.-source income because of a prior foreign-source loss with respect to FORI. This recharacterization applies to the separate section 904 limitation for FORI (created by section 907(b)). Section 904(f)(4) applies to foreign oil related losses sustained in taxable years ending after December 31, 1975. See section 1032(c) of the Tax Reform Act of 1976, as amended by section 701(u)(5) of the Revenue Act of 1978.

(f) *Separation of limitation*—(1) *General rule.* The unused foreign tax, the excess limitation, and the unused foreign tax deemed paid or accrued in an excess limitation year are determined separately under § 1.904–2 (b) and (c) with respect to income other that FORI. These items are determined without taking into account any amounts with respect to FORI.

(2) *Special rules.* In applying paragraph (f)(1) of this section, the following special rules apply:

(i) Unused FORI tax does not reduce an excess limitation with respect to income other than FORI.

(ii) Unused foreign tax with respect to income other than FORI does not reduce an excess FORI limitation.

(iii) If an unused FORI tax for any taxable year is not deemed paid or accrued in another taxable year to which the tax may be carried under § 1.904–2(b) and this section, the other taxable year is counted as one of the years to which the unused foreign tax may be carried.

(iv) Unused FORI tax may not be carried back to a taxable year ending before January 1, 1975. See § 1.907(e)–1 (c).

(g) *Illustrations.* The application of this section is illustrated by the following examples. For all relevant taxable years, the United States tax rate and the sum of the normal tax and surtax rates are 48 percent. Each corporation involved is a domestic corporation which is organized on January 1, 1975, using the calendar year as the taxable year. Each corporation elects the overall limitation.

Example (1). Assume that X has no FOGEI. Additional facts are assumed in the table below:

FORI Items	1975	1976
(1) Income	$180	$200
(2) Foreign tax paid	100	90
(3) Separate limitation (48% × line (1))	86.4	96
(4) Unused FORI tax (line (2) minus line (3))	13.6	
(5) Excess limitation (line (3) minus line (2))		6
(6) Unused FORI tax for 1975 deemed paid or accrued in 1976		6

Example (2). The foreign taxes paid or accrued by Y during 1975 include FOGEI taxes and 1976 is an excess limitation year. Additional facts are assumed in the table below:

FORI Items	1975	1976
(1) Income:		
(a) FOGEI	$2,360	$1,700
(b) Other FORI	140	300
(c) Total FORI	2,500	2,000
(2) FORI taxes:		
(a) FOGEI taxes before reduction under § 1.907(a)–1	1,600	1,020
(b) FOGEI taxes after reduction (line (1)(a) × 52.8% for 1975; × 50.4% for 1976)	1,246	857
(c) Other FORI taxes	12	84
(d) Total FORI taxes (lines (2)(b) and (2)(c))	1,258	941
(3) Separate limitation (line (1)(c) × 48%)	1,200	960
(4) Unused FORI tax (line (2)(d) minus line (3))	58	
(5) Excess limitation (line (3) minus line (2)(d))		19
(6) Unused FORI tax for 1975 deemed paid or accrued in 1976 (lesser of line (4) for 1975 or line (5) for 1976)		19
(7) Unused FORI tax for 1975 that may be carried to years after 1976. (Line (4) for 1975 minus line (6) for 1976.)		39

§ 1.907(c)–1 Definitions relating to FORI and FOGEI.

(a) *Scope.* This section explains the meaning to be given certain terms and items in section 907(c) (1), (2), and (4). See also, § 1.907–0(a)

(b) *Extraction income–(1) General rule.* A person has gross income from extraction in every case in which that person has an economic interest in the minerals in place. The term "minerals" is defined in paragraph (e)(1) of this section. For determination of taxable income from FOGEI, see paragraph (e)(2) of this section.

(2) *Amount.* The gross income from extraction is determined by reference to the fair market value of the minerals in the immediate vicinity of the well. Fair market value if determined under paragraph (b)(6) of this section.

(3) *Other circumstances.* Gross income from extraction or the sale or exchange of assets described in section 907(c)(1)(B) includes income from any arrangement, or a combination of arrangements or transactions, to the extent the income is in substance

attributable to the extraction of minerals or such a sale or exchange. For instance, a person may have gross income from such a sale or exchange if the person purchased minerals from a foreign government at a discount and the discount reflects an arm's-length amount in consideration for the government's nationalization of assets that person owned and used in the extraction of minerals.

(4) *Income directly related to extraction.* Gross income from extraction includes directly related income under paragraph (f) of this section.

(5) *Income not included.* Extraction income as otherwise determined under this paragraph (b), nevertheless, does not include income to the extent attributable to marketing, distributing, processing or transporting minerals or primary products. Income from the purchase and sale of minerals is not ordinarily extraction income under this subparagrah (5). If the foreign taxes paid or accrued in connection with income from a purchase and sale are not creditable by reason of section 901(f), that income is not extraction income. A taxpayer to whom section 901(f) applies is not a producer.

(6) *Fair market value.* For purposes of this paragraph (b), the fair market value of oil or gas in the immediate vicinity of the well depends on all of the facts and circumstances as they exist relative to a party in any particular case. The facts and circumstances that may be taken into account include, but are not limited to, the following:

(i) The facts and circumstances pertaining to an independent market value (if any) in the immediate vicinity of the well.

(ii) The facts and circumstances pertaining to the relationships between the taxpayer and the foreign government. If an independent fair market value in the immediate vicinity of the well cannot be determined but fair market value at the port, or a similar point, in the foreign country can be determined (port price), an analysis of the arrangements between the taxpayer and the foreign government that retains a share of production could be evidence of the appropriate, arm's-length difference between the port price and the field price.

(iii) The other facts and circumstances pertaining to any difference in the producing country between the field and port prices.

(7) *Economic interest.* For purposes of this paragraph (b), the term "economic interest" means an economic interest as defined in § 1.611–1(b)(1), whether or not a deduction for depletion is allowable under section 611.

(c) *Other FORI*—(1) *In general.* This paragraph (c) defines certain terms and items applicable to other FORI.

(2) *Transportation.* Gross income from transportation of minerals or primary products ("gross transportation income") is gross income arising from carrying minerals or primary products between two places (including time or voyage charter hires) by any means of transportation, such as a vessel, pipeline, truck, railroad, or aircraft. Except for directly related income under paragraph (c)(7) of this section, gross transportation income does not include gross income received by a lessor from a bareboat charter hire of a means of transportation, certain other rental income, or income from the performance of certain services.

(3) *Distribution or sale.* The terms "distribution or sale" means the sale or exchange of minerals or primary products to processors, users who purchase, store, or use in bulk quantities, other persons for further distribution retailers, or consumers. Gross income from distribution or sale includes interest income attributable to the distribution of minerals or primary products on credit.

(4) *Processing.* The term "processing" means the destructive distillation, or a process similar in effect to destructive distillation, of crude oil and the processing of natural gas into their primary products including processes used to remove pollutants from crude oil or natural gas.

(5) *Primary product from oil.* The term "primary product" (in the case of oil) means all products derived from the processing of crude oil, including volatile products, light oils (such as motor fuel and kerosene), distillates (such as naphtha), lubricating oils, greases and waxes, and residues (such as fuel oil).

(6) *Primary product from gas.* The term "primary product" (in the case of gas) means all gas and associated hydrocarbon components from gas wells or oil wells, whether recovered at the lease or upon further processing, including natural gas, condensates, liquified petroleum gases (such as ethane, propane, and butane), and liquid products (such as natural gasoline).

(7) *Directly related income.* Gross income from processing, transporting, distributing or selling also includes directly related income under paragraph (f) of this section.

(d) *Assets used in a trade or business*—(1) *In general.* The term "assets used in the trade or business" in section 907(c) (1)(B) and (2)(E) means property primarily used in one or more of the trades or businesses that are section 907(c) activities. For purposes of this paragraph (d), assets used in a trade or business are assets described in section 1231(b) (applied without regard to any holding period or the character of the asset as being subject to the allowance for depreciation under section 167). Stock may be considered such an asset only if it is not a capital asset.

(2) *Section 907(c) activities.* Section 907(c) activities are those described in section 907(c)(1)(A) (for FOGEI) or (c)(2)(A) through (D) (for FORI). If an asset is used primarily in one or more section 907(c) activities, then the entire gain (or loss) will be considered attributable to those activities. For example, if a person uses a service station primarily to distribute primary products from oil, then all of the gain (or loss) on the sale of the station is FORI (and also other FORI) even though the person uses the station to distribute products that are not primary products (such as tires or batteries). If an asset is not primarily used in one or more section 907(c) activities, then the entire gain or loss will not be FOGEI, other FORI, or FORI.

(3) *Stock.* Stock of any corporation (whether foreign or domestic) will not be treated as an asset used by a person in section 907(c) activities unless the stock, as held by that person, is not a capital asset under section 1221. If the stock is not a capital asset, the character of any gain (or loss) on the disposition of the stock is determined with reference to the holder's use of the stock in section 907(c) activities. Thus, the character of the assets or activities of the corporation is irrelevant. For example, if a refiner in Asia owns stock in a corporation that produces oil in order to assure a steady and reliable supply of crude oil and if the stock is not a capital asset, then the gain (or loss) from sources outside the United States on the sale of stock by the refiner is other FORI under section 970(c)(2) (B) and (E) and not FOGEI.

(4) *Losses on sale of stock.* If, under § 1.861–8(e)(7), a loss on the sale or exchange of stock which is a capital asset is considered a deduction which is definitely related and allocable to FOGEI or other FORI, then nothwithstanding § 1.861–8(e)(7) and paragraph (e)(2) of this section, this loss shall be allocated and apportioned to the same class of income that would have been produced if there were capital gain from the sale or exchange.

(5) *Character of gain or loss.* Except in the case of stock, gain or loss from the sale of exchange of assets used in the

trade or business may be other FORI or FOGEI to the extent taken into account in computing taxable income for the taxable year, whether or not the gain or loss is ordinary income or ordinary loss.

(6) *Allocation of amount realized.* The amount realized from the sale or exchange of several assets in one transaction is allocated among them in proportion to their respective fair market values. This allocation is made under the principles set forth in § 1.1245–1(a)(5) (relating to allocation between section 1245 property and nonsection 1245 property).

(7) *Interest.* Gross income from the sale or exchange of an asset used in a section 907(c) activity includes interest income from such a sale or exchange.

(e) *Terms and items common to other FORI and FOGEI—*

(1) *Minerals.* The term "minerals" means hydrocarbon minerals extracted from oil and gas wells, including crude oil or natural gas (as defined in section 613A(e)). The term includes incidental impurities from these wells, such as sulphur, nitrogen, or helium. The term does not include hydrocarbon minerals derived from shale oil or tar sands.

(2) *Taxable income.* Deductions to be taken into account in computing taxable income or net operating loss attributable to FOGEI, other FORI, or FORI are determined under the principles of § 1.861–8. For an exception, see paragraph (d)(4) of this section. The special deduction for Western Hemisphere trade corporations provided by section 922 (as in effect for taxable years beginning before January 1, 1980) is allowed as a deduction in computing taxable income.

(3) *Interest on working capital.* [Reserved]

(4) *Exchange gain or loss.* [Reserved]

(5) *Allocation.* [Reserved]

(6) *Facts and circumstances.* [Reserved]

(f) *Directly related income.* [Reserved]

(g) *Certain net operating losses*—(1) *In general.* Losses described in section 907(c)(4) are losses determined under section 172(c). Section 907(c)(4) does not affect the amount of FOGEI taxes paid or accrued and that are described in section 907(c)(5). Thus, taxes paid by a person to a foreign country may be FOGEI taxes even though that person has under U.S. law a net operating loss described in section 907(c)(4) from sources within that country.

(2) *Passive income.* For purposes of section 907(c)(4), the term "items from sources within such country" includes dividends described in section 907(c)(3)(A) and amounts described in section 907(c)(3)(C) to the extent attributable to FOGEI from sources within the particular foreign country.

(3) *Source rule.* For purposes of paragraph (g)(2) of this section—

(i) The source rules under §§ 1.902–1(h), 1.960–1(i), 1.863–6 do not apply.

(ii) Dividends from a foreign corporation described in section 907(c)(3)(A), or amounts described in section 907(c)(3)(C) with respect to a foreign corporation, retain their source from a particular foreign country as actually derived by the foreign corporation earning the FOGEI.

(iii) The amount of the item described in paragraph (g)(3)(ii) of this section that is FOGEI from sources within a particular country equals the dividend or amount that is FOGEI multiplied by a fraction. The numerator is the foreign corporation's FOGEI earnings and profits for the appropriate year from sources within the particular country and the denominator is the foreign corporation's total FOGEI earnings and profits for the year.

(iv) FOGEI earnings and profits are computed in accordance with § 1.907(c)–2(d)(1)(ii) with respect to a dividend described in section 907(c)(3)(A), or § 1.907(c)–2(d)(4)(ii) with respect to an amount described in section 907(c)(3)(C). FOGEI earnings and profits do not include amounts described in section 959(b).

(v) The principles of this subparagraph (3) apply to distributions received by a foreign corporation from another foreign corporation if the distributions may be FOGEI under § 1.907(c)–2(c)(2).

(h) *Coordination with other provisions*—(1) *Certain adjustments.* The character of income as FOGEI or FORI is determined before making any adjustment under section 482 or 907(d). For example, assume that X and Y are related parties, Y's only income is from the sale of oil that Y purchased from X, and FOGEI from X is diverted to Y through an arrangement described in paragraph (b)(3) of this section. Accordingly, Y has FOGEI. If under section 482 the Commissioner reallocates the FOGEI from Y to X, then Y's remaining income represents only a profit from distributing the oil, and thus is other FORI. If the foreign taxes paid by Y on this income are otherwise creditable under section 901, the foreign taxes that are not refunded to Y retain their characterization as FOGEI taxes.

(2) *Section 901(f).* Section 901(f) (relating to certain payments with respect to oil and gas not considered as taxes) applies before section 907. Taxes disallowed by section 901(f) are added to the cost or inventory amount of oil or gas.

§ 1.907(c)–2 Section 907(c)(3) items.

(a) *Scope.* This section provides rules relating to certain items listed in section 907(c)(3). The rules of this section are expressed in terms of FORI but apply for determining FOGEI by substituting "FOGEI" for "FORI" whenever appropriate. FOGEI does not include interest described in section 907(c)(3)(A) or dividends described in section 907(c)(3)(B).

(b) *Dividend*—(1) *Section 1248 dividend.* A section 1248 dividend is a dividend described in section 907(c)(3)(A). Except as otherwise provided in this paragraph (b)(1) or in § 1.907(c)–1(d), gain (or loss) from the disposition of stock in any corporation is not FOGEI, other FORI, or FORI.

(2) *Section 78 dividend.* A section 78 dividend is FORI to the extent it arises from a dividend described in section 907(c)(3)(A), or an amount described in section 907(c)(3)(C).

(c) *Taxes deemed paid*—(1) *Voting stock test.* Items described in section 907(c)(3) (A) or (C) are FORI only if a deemed-paid-tax test is met under the criteria of section 902 or 960. The purpose of this test is to require minimum direct or indirect ownership by a domestic corporation in the voting stock of a foreign corporation as a prerequisite for the item to qualify as FORI in the hands of the domestic corporation. The test is whether a domestic corporation would be deemed to pay any taxes of a foreign corporation when a dividend or an amount described in section 907(c)(3) (A) or (C), respectively, is included in the domestic corporation's gross income. In the case of interest described in section 907(c)(3)(A), the test is whether any taxes would be deemed paid if there were a hypothetical dividend.

(2) *Dividends and interest.* For purposes of section 907(c)(3)(A), a domestic corporation is deemed under section 902 to pay taxes in respect of dividends and interest received from a foreign corporation if the following condition is met: the domestic corporation would be deemed under section 902 to pay taxes in respect of dividends received from the foreign corporation whether or not the foreign corporation—

(i) Actually pays or is deemed to pay taxes or

(ii) In the case of interest, actually pays dividends.

This subparagraph (2) also applies to dividends received by a foreign corporation from a second or third-tier foreign corporation (as defined in § 1.902–1(a) (3)(i) and (4), respectively).

In the case of interest received by a foreign corporation from another foreign corporation, this paragraph (c)(2) applies if the taxes of both foreign corporations would be deemed paid under section 902 (a) or (b) for purposes of applying section 902(a) to the same taxpayer which is a domestic corporation. In the case of interest received by any corporation (whether foreign or domestic), all members of an affiliated group filing a consolidated return will be treated as the same taxpayer under section 907(c)(3)(A) if the foreign taxes of the payor and (if the recipient is a foreign corporation) the foreign taxes of the recipient would be deemed paid under section 902 by at least one member. The term "member" is defined in § 1.1502–1(b). Thus, for example, assume that P owns all of the stock of D_1 and D_2 and P, D_1, and D_2 are members of an affiliated group filing a consolidated return. Assume further that D_1 owns all of the stock of F_1 and D_2 owns all of the stock of F_2, where F_1 and F_2 are foreign corporations. Interest paid by F_1 to P, D_2, or F_2 may be other FORI.

(3) *Amounts included under section 951(a).* For purposes of section 907(c)(3)(C), a domestic corporation is deemed under section 960 to pay taxes in respect of a foreign corporation, whether or not the foreign corporation actually pays taxes on the amounts included in gross income under section 951(a).

(d) *Amount attributable to certain items*—(1) *Certain dividends*—(i) *General rule.* The portion of a dividend described in section 907(c)(3)(A) that is FORI equals:

Amount of dividend x a/b

where—

a = FORI accumulated profits in excess of FORI taxes paid or accrued, and

b = Total accumulated profits in excess of total foreign taxes paid or accrued.

This paragraph (d)(1)(i) applies even though the FORI accumulated profits arose in a taxable year of a foreign corporation ending before January 1, 1975.

(ii) *Cross-references.* See § 1.902–1(g) for the determination of a foreign corporation's earnings and profits and of those out of which a dividend is paid. See § 1.1248–2 or 1.1248–3 for the determination of the earnings and profits attributable to the sale or exchange of stock in certain foreign corporations.

(2) *Interest received from certain foreign corporations.* Interest described in section 907(c)(3)(A) is FORI to the extent the corresponding interest expense of the paying corporation is properly allocable and apportionable to the gross income of the paying corporation that would for FORI were that corporation a domestic corporation. This allocation and apportionment is made in a manner consistent with the rules of § 1.861.8(e)(2).

(3) *Dividends from domestic corporation.* A dividend from a corporation described in section 907(c)(3)(B) that is FORI is determined under the prinicples of paragraph (d)(1)(i) of this section with respect to its current earnings and profits under section 316 (a)(2) or its accumulated earnings and profits under section 316(a)(1), as the case may be.

(4) *Amounts with respect to which taxes are deemed paid under section 960(a)*—(i) *Portion attributable to FORI.* The portion of an amount described in section 907(c)(3)(C) that is FORI equals:

Amount described in section 907(c)(3)(C) × FORI earnings and profits/Total earnings and profits.

(ii) *Earnings and profits.* Total earnings and profits are those of the foreign corporation for a taxable year under section 964 and the regulations thereunder.

(5) *Section 78 dividend.* The portion of a section 78 dividend that is FORI equals the amount of taxes deemed paid included in the dividend that is FORI taxes under § 1.907(c)–3 (b) or (c).

(6) *Special rule.* (i) No item in the formula described in paragraph (d)(1)(i) of this section includes amounts excluded from the gross income of a United States shareholder under section 959(a)(1).

(ii) With respect to a foreign corporation, earnings and profits in the formula described in paragraph (d)(4)(i) of this section do not include amounts excluded under section 959(b) from its gross income.

(7) *Deficits.* A deficit in earnings and profits in a taxable year that is not attributable to FOGEI or other FORI is to be allocated ratably between, and reduce, FOGEI earnings and profits and other FORI earnings and profits. However, any deficit in earnings and profits for the taxable year attributable either to FOGEI or other FORI is to be allocated first to other FORI or FOGEI (as the case may be) earnings and profits before the deficit is allocated in that taxable year to earnings and profits that are not attributable to other FORI and FOGEI. FORI earnings and profits is the sum of the other FORI and FOGEI earnings and profits.

(8) *Illustrations.* The application of this paragraph (d) is illustrated by the following examples:

Example (1). X, a domestic corporation, owns all of the stock of Y, a foreign corporation organized in country S. Y owns all of the stock of Z, a foreign corporation also organized in country S. Each corporation uses the calendar year as its taxable year. In 1975, Z has $150 of FOGEI earnings and profits and $250 of earnings and profits other than FOGEI. Assume that Z paid no taxes to S and X must include $100 in its gross income under section 951(a) with respect to Z. Under paragraph (d)(4)(i) of this section $37.50 of the amount described in section 951(a) is FOGEI ($100×$150/$400). The remaining $62.50 of the section 951(a) amount represents other income.

Example (2). (a) Assume the same factsge a27jn0.064 as in example (1). Assume further that, in 1975, Z distributes its entire earnings and profits ($400) to Y as a dividend. Y has no earnings and profits during 1975 other than this dividend. Assume that the dividend is not foreign personal holding company income under section 954(c). Y pays no taxes to S. In 1975, Y distributes its entire earnings and profits to X.

(b) Under paragraphs (c)(2) and (d)(1)(i) of this section, Y has FOGEI of $150, *i.e.*, the amount of the dividend received by Y ($400) multiplied by the fraction described in paragraph (d)(1)(i). The numerator of the fraction is Z's FOGEI accumulated profits in excess of the FOGEI taxes paid ($150) and the denominator is Z's total accumulated profits in excess of total foreign taxes paid ($400). The rule of paragraph (d)(6)(ii) of this section does not apply since X does not include any amount in its gross income under section 951(a) with respect to Y. If Y paid taxes to S, this paragraph (d) would apply to characterize those taxes as FOGEI taxes or other taxes. See § 1.907(c)–3(a)(8) and example 2(c) under § 1.907(c)–3(e).

(c) The distribution from Y to X is a dividend to the extent of $300, *i.e.*, the amount of the distribution ($400) minus the amount excluded from X's gross income under section 959(a)(1) ($100). Under paragraph (d)(1)(i) and (6)(i) of this section, $112.50 of the dividend is FOGEI, *i.e.*, the amount of the dividend ($300) multiplied by a fraction. The numerator of the fraction is $112.50, *i.e.*, the FOGEI accumulated profits of Y in excess of FOGEI taxes paid ($150) minus the FOGEI accumulated profits of Y in excess of FOGEI taxes paid excluded from X's gross income under section 959(a)(1) ($37.50). The denominator of the fraction is $300, *i.e.*, the total accumulated profits of Y in excess of taxes paid ($400) minus the amount excluded from X's gross income under section 959(a)(1) ($100).

Example (3). Assume the same facts as in example (1) with the following modifications: In 1975, Z's only earnings and profits are FORI earnings and profits which are included in X's gross income under section 951(a). Z distributes its entire earnings and profits to Y. In 1975, Y has total earnings and profits of $100 without regard to the dividend from Z, $60 of which are FORI earnings and profits. Y also has $40 which is included in X's gross income under section 951(a). Under paragraph (d)(6)(ii) of this section, the dividend from Z is disregarded for purposes of applying paragraph (d)(4)(i) of this section to the $40 included in X's gross income under

section 951(a) with respect to Y. Accordingly, $24 of the amount described in section 951(a) is FORI ($40×$60/$100).

(e) *Dividends, interest, and other amounts from sources within a possession.* FORI includes the items listed in section 907(c)(3) (A) and (C) to the extent attributable under the principles of § 1.907(c)–1(g)(3) to FORI of a corporation that is created or organized in or under the laws of a possession of the United States.

(f) *Income from partnerships, trusts, etc.* Other FORI and FOGEI includes a person's distributive share (determined under the principles of section 704) of the income of any partnership and amounts included in income under subchapter J of chapter 1 of the Code (relating to the taxation of trusts, estates, and beneficiaries) to the extent the income and amounts are attributable to other FORI and FOGEI.

§ 1.907(c)–3 FOGEI and FORI taxes.

(a) *Tax allocation*—(1) *Scope.* Paragraph (a) (2) through (6) of this section provides rules for the characterization, allocation, and apportionment of the income taxes (other than withholding taxes) paid or accrued to a foreign country among FOGEI, other FORI, and other income relevant for purposes of sections 907 and 904. Some of the rules in this section are expressed in terms of FOGEI taxes but they apply to FORI taxes by substituting "FORI taxes" for "FOGEI taxes" whenever appropriate. For the treatment of withholding taxes, see paragraph (a)(8) of this section. FOGEI taxes are determined without any reduction under section 907(a) or any exclusion under section 907(c)(4).

(2) *Three classes of income.* There are three classes of income: FOGEI, other FORI, and other income.

(3) *More than one class in a foreign tax base.* If more than one class of income is taxed under one tax base under the law of a foreign country, determine the amount of pre-credit foreign tax for the base. This amount is the foreign taxes paid or accrued to that country for the base as increased by the tax credits (if any) which reduced those taxes and were allowed in the country for that tax. More than one class of income is taxed under the same base if, under a foreign country's law, deductions from one class of income may reduce the income of any other class and the classes are subject to foreign tax at the same rates.

(4) *Allocation of tax within a base.* If more than one class of income is taxed under the same base under a foreign country's law, then apportion the pre-credit foreign tax for the base to each class of income in proportion to the income of each class and then allocate (under paragraph (a)(6) of this section) tax credits to the apportioned pre-credit tax. Income of a class is the excess of modified gross income for a class over the deductions allowed under foreign law for, and which are attributable to, that class.

(5) *Modified gross income.* Modified gross income is not necessarily the same as gross income as defined for purposes of chapter 1 of the Internal Revenue Code of 1954. Modified gross income is determined with reference to the foreign tax base for gross income (or its equivalent). However, the characterization of the base as a particular class of income is governed by general principles of U.S. tax law. Thus, for example—

(i) Gross income from extraction is the fair market value of oil or gas in the immediate vicinity of the well (as determined under § 1.907(c)–1(b)(2) (without any deductions).

(ii) Whether cost of goods sold (or any other deduction) is a deduction from modified gross income and the amount of such a deduction is determined under foreign law.

(iii) Modified gross income includes items that are part of the foreign tax base even though they are not gross income under U.S. law so long as the foreign taxes paid on the base constitute creditable taxes under section 901 (including taxes described in section 903). For example, if a foreign country imposes a tax (creditable under section 901) on a tax base that includes in small part a percentage of the value of a company's oil reserves in place, modified gross income from extraction includes such a percentage of value solely for purposes of making the tax allocation in paragraph (a)(4) of this section.

(iv) Modified gross income from extraction is increased for purposes of this subparagraph (5) by the entire excess of the posted price over fair market value if the foreign country uses a posted price system or other pricing arrangement described in section 907(d) in imposing its income tax.

(v) Modified gross income from other FORI is that income attributable to the activities in section 907(c)(2) (B) through (D).

(vi) Modified gross income for any class may not include gross income that is not subject to taxation by the foreign country.

(6) *Allocation of tax credits.* The foreign taxes paid or accrued on a particular class of income equals the precredit tax on the class reduced (but not below zero) by the credits allowed under foreign law against the foreign tax on the particular class. Any tax credit attributable to a class that is not allocated to that class is allocated to the other class in the base or, if there are three classes in the base, is apportioned ratably among the taxes paid or accrued on the other two classes (as reduced in accordance with the preceding sentence).

(7) *Coordination with regulations under section 901.* [Reserved]

(8) *Withholding taxes.* Paragraphs (a) (2) through (6) of this section do not apply to withholding taxes imposed by a foreign country. FOGEI taxes may include withholding taxes imposed with respect to a distribution from a corporation. The portion of the total withholding taxes on a distribution that constitutes FOGEI taxes is determined by the portion of the distribution that is FOGEI. In addition, FOGEI taxes may include taxes imposed on a distribution described in section 959(a)(1) or on amounts described in section 959(b). The portion of the total withholding taxes imposed on a distribution described in section 959(a)(1) or on amounts described in 959(b) is determined by reference to the portion of the amount included in gross income under section 951(a) that was FOGEI.

(b) *Dividends*—(1) *In general.* FOGEI taxes deemed paid with respect to a dividend equal the total taxes deemed paid with respect to the dividend multiplied by the fraction:

FOGEI taxes paid or accrued by the payor/Total foreign taxes paid or accrued by the payor

This paragraph (b) applies to a dividend described in section 907(c)(3)(A) (including a section 1248 dividend) with reference to the particular taxable year or years of those accumulated profits out of which a dividend is paid. See section 960(a)(3) and § 1.960–2 relating to distributions that are treated as dividends for purposes of section 902.

(2) *Section 78 dividend.* There are no FOGEI taxes with respect to section 78 dividend.

(c) *Includible amounts under section 951(a).* FOGEI taxes deemed paid with respect to an amount includible in gross income under section 951(a) equal the total taxes deemed paid with respect to that amount multiplied by the fraction:

FOGEI taxes paid or accrued by the foreign corporation/Total foreign taxes paid or accrued by the foreign corporation

Taxes in this fraction include only those foreign taxes that may be deemed paid under section 960(a) by reason of such inclusion. See §§ 1.960–1(c)(3) and 1.960–2(c)(2).

(d) *Partnerships.* A partner's distributive share of the partnership's FOGEI taxes is determined under the principles of section 704.

(e) *Illustrations.* The application of this section may be illustrated by the following examples:

Example (1). X, a domestic corporation, owns all of the stock of Y, a foreign corporation organized in country S. Y owns all of the stock of Z, a foreign corporation organized in country T. Each corporation uses the calendar year as its taxable year. In 1975, X includes in its gross income an amount described in section 951(a) with respect to Z. Assume that the taxes deemed paid under section 960(a)(1) by X by reason of such an inclusion is $70. Assume further that Z paid total taxes of $120, $80 of which is FOGEI tax. Under paragraph (c) of this section, the FOGEI tax deemed paid is $46.67 (*i.e.*, $70 × $80/$120). This $46.67 is also FOGEI under § 1.907(c)–2(d)(5) because it must be included in X's gross income under section 78.

Example (2). (a) Assume the same facts as in example (1). Assume further that, in 1975, Z distributes its entire earnings and profits to Y. Y has no earnings and profits during 1975 other than this dividend. Y paid a tax of $50 to S. Assume that Y is deemed under section 902(b)(1) to pay $50 of the tax paid by Z which was not deemed paid by X under section 960(a)(1) in 1975. In 1975, Y distributes its entire earnings and profits to X. Assume that X is deemed under section 902(a) to pay $100 of the taxes actually paid, and deemed paid, by Y.

(b) Paragraph (b)(1) of this section applies to characterize the $50 tax of Z that Y is deemed to pay under section 902(b)(1). Y is deemed to pay $33.33 of FOGEI tax, *i.e.*, the amount of the tax deemed paid by Y ($50) multiplied by a fraction. The numerator of the fraction is the amount of Z's FOGEI tax ($80) and the denominator is the total taxes paid by Z ($120).

(c) Under paragraph (a)(8) of this section, a portion of the $50 tax actually paid by Y on the earnings and profits received from Z is FOGEI tax. The amount of tax actually paid by Y that is FOGEI tax depends on the amount of the distribution from Z that is FOGEI (see § 1.907(c)–2(d)(1)(i) and example (2)(b) under § 1907(c)–2(d)(8)). This result does not depend upon whether a portion of the distribution from Z is described in section 959(b) and it follows even though a portion of Y's earnings and profits will be excluded from X's gross income under section 959(a)(1) when distributed by Y. Assume that $12.50 of the $50 tax actually paid by Y is FOGEI tax.

(d) Under paragraph (b)(1) of this section, X is deemed to pay $45.83 of FOGEI tax by reason of the distribution from Y. This amount is determined by multiplying the total taxes deemed paid by X by reason of such distribution ($100) by a fraction. The numerator of the fraction is the FOGEI tax paid, and deemed paid, by Y ($45.83, *i.e.*, $33.33 under paragraph (b) of this example plus $12.50 under paragraph (c) of this example). The denominator of the fraction is the total taxes paid, and deemed paid, by Y ($100). This $45.83 is FOGEI under § 1.907(c)–2(d)(5) because it is included in X's gross income as a section 78 dividend.

Example (3). (a) X, a domestic corporation, has a concession with foreign country Y that gives it the exclusive right to extract and export the crude oil and natural gas owned by Y. The concession agreement and location of the oil and gas wells mandate that X construct a system of pipelines to transport the minerals that are extracted to a port where they are loaded onto tankers for export. X owns the transportation facilities. Y has an income tax system under which income from mineral operations is subject to a 50 percent tax rate. The taxation by Y of the mineral operations is a separate tax base under paragraph (a)(3) of this section. Under this system, Y imposes the tax at the port prior to export and it establishes a posted price of $12 per barrel. Y also collects royalties of $1.44 per barrel (*i.e.*, 12 percent of this posted price) which is deductible in computing the petroleum tax. Y also allows X deductible lifting costs of $.20 per barrel and deductible transporting costs of $.80 per barrel. Y does not allow any credits against the mineral tax. Assume that X does not have any income in Y other than the mineral income. (In 1975, X extracts, transports, and exports 10,000,000 barrels of crude oil, but for convenience, all computations are in terms of one barrel). X pays foreign taxes of $4.78 per barrel, computed as follows:

Sales		$12.00
Royalties	$1.44	
Lifting	.20	
Transporting	.80	
	2.44	(2.44)
Income base		9.56
Tax rate (percent)		50
Tax		4.78

Assume that these taxes are creditable taxes under section 901, that the fair market value of the oil at the port is $10 per barrel, and that under § 1.907(c)–1(b)(6) fair market value in the immediate vicinity of the oil wells is $9 per barrel. Thus, at the port the excess of posted price ($12) over fair market value ($10) is $2.

(b) The $4.78 foreign tax paid to Y is allocated to FOGEI and other FORI in accordance with the rules in paragraph (a) (2) through (5) of this section.

(c) Under paragraph (a)(3) of this section, FOGEI and other FORI are subject to foreign taxation under one tax base. This foreign tax is allocated between FOGEI tax and other FORI tax in accordance with paragraph (a) (4) and (5) of this section.

(d) The modified gross income for FOGEI is $11, *i.e.*, fair market value in the immediate vicinity of the well ($9) plus the excess at the port of posted price over fair market value ($2). The modified gross income for other FORI is $1, *i.e.*, value added to the oil beyond the wellhead which is part of Y's tax base ($10–$9).

(e) Under paragraph (a)(4) of this section, royalty deductions allowed by Y are allocated as follows between FOGEI and other FORI. The royalty of $1.44 (*i.e.*, 12 percent of the posted price of $12 determined by Y at the port prior to export) are allocated between FOGEI and other FORI on the basis of the $11 value (deemed under foreign law) in the immediate vicinity of the well and the $1 in value added beyond the wellhead. Thus, royalties allocated to FOGEI are $1.32 (*i.e.*, $1.44 multiplied by $11/$12) and the royalties allocated to other FORI are $.12 (*i.e.*, $1.44 multiplied by $1/$12).

(f) Under paragraph (a)(4) of this section, the income or each class is determined as follows:

	FOGEI	Other FORI
(1) Modified gross income	$11.00	$1.00
(2) Deductions:		
(a) Royalties	1.32	.12
(b) Lifting	.20	0
(c) Transporting	0	.80
(d) Total	1.52	.92
(3) Income (line 1 minus line 2 (d))	9.48	.08

(g) under paragraph (a)(4) of this section, the total tax paid to y is allocated to FOGEI and other FORI in proportion to the income in each class. The calculation is as follows:

FOGEI tax = $4.78 × $9.48/$9.56 = $4.74

Other FORI tax = $4.78 × $0.08/$9.56 = $0.04

Thus, for the 10,000,000 barrels, the FOGEI tax is $47,400,000 and the other FORI tax is $400,000.

(h) The allocation under paragraph (a)(4) of this section, rather than the direct application of stated foreign tax rates to foreign-law taxable income in each class of income (which would produce the same results in the facts of this example), is necessary when a foreign country taxes more than one class of income under under a progressive rate structure. See example (4) in this paragraph (e).

Example (4). Assume the same facts as in example (3) except that Y's tax is imposed at 40 percent for the first $20,000,000 of income and at 60 percent for all other income. The foreign taxes are allocated under paragraph (a)(4) of this section between FOGEI and other FORI in the same manner as in paragraphs (f) and (g) of example (3), as follows:

(1) Taxable income		$95,600,000
(2) Tax:		
(a) 40% of $20,000,000	$8,000,000	
(b) 60% of $75,600,000	45,360,000	
(c) Total tax		53,360,000
(3) FOGEI tax (line 2 (c) × $9.48/$9.56)		52,913,473
(4) Other FORI tax (line 2 (c) × $.08/$9.56)		446,527

Example (5). Assume the same facts as in example (3). Assume further that X refines the crude oil into primary products prior to export and Y imposes its tax on the basis of crude oil equivalences of $12 per barrel, rather than the value of the primary products, to establish port prices.

Assume that this arrangment is a pricing arrangement described in section 907(d). Thus, Y does not tax the refinery income. The results are the some as in example (3) even if $12 per barrel is equal to, more than, or less than, the value of the primary products at the port. See parapraph (a)(5)(vi) of this section.

§ 1.907(d)–1 Disregard of posted prices for purposes of chapter 1 of the Code.

(a) *In general*—(1) *Scope.* Section 907(d) applies if a person has FOGEI from the—

(i) Acquisition (other than from a foreign government) or

(ii) Dispostion of minerals at a posted price that differs from the fair market value at the time of the transaction. Also, if a seller (other than a foreign government) derives FOGEI upon a disposition described in the preceding sentence, section 907(d) applies to the acquisition by the purchaser whether or not the purchaser has FOGEI. Thus, section 907(d) may apply in determining a person's FORI

(2) *Initial computation requirement.* If section 907(d) applies to any person, income on the transaction as initially reflected on the person's return shall be computed as if the transaction were effected at fair market value. This requirement applies the first time a person has taxable income derived from the transaction or an item (such as a dividend described in section 907(c)(3)(A)) determined with reference to that income.

(3) *Burden of proof.* The taxpayer must be able to demonstrate the transaction as it actually occurred and the basis for reporting the transaction under the principles of paragraph (a)(2) of this section.

(4) *Related parties.* Section 907(d) (as a rule of characterization) applies whether or not the parties to the transaction are related. Thus, the excess of the posted price over the fair market value may never be taken into account in determining a persons's FOGEI under section 907(a) but may be taken into account in determining other FORI.

(b) *Adjustments.* If a taxpayer does not comply with the initial requirement of paragraph (a)(2) of this section, adjustments under section 907(d) may be made only by the Commissioner in the same manner that section 482 is administered. Correlative and similar adjustments consistent with the substantive and procedural principles of section 482 and § 1.482–1(d) apply. However, section 907(d) is not a limitation on section 482. If a taxpayer disposing of minerals at a posted price does comply with the initial computation requirement of this section, adjustments and correlative and similar adjustments consistent with the substantive and procedural aspects of section 482 and § 1.482–1(d) shall apply, whether made on the return by the taxpayer or on a later audit. This paragraph (b) does not apply to an actual sale or exchange of minerals made between persons with respect to whom adjustments under section 482 would never apply (but see paragraph (a)(4) of this section).

(c) *Definitions.* For purposes of this section—

(1) *Foreign government.* The term "foreign government" includes an agency of, or an entity controlled by, a foreign government.

(2) *Minerals.* The term "minerals" has the same meaning as in § 1.907(c)–1(f)(1).

(3) *Posted price.* The term "posted price" means the price set by, or at the direction of, a foreign government (i) to calculate income for purposes of its tax or (ii) at which minerals must be sold.

(4) *Other pricing arrangement.* The term "other pricing arrangement" in section 907(d) means a pricing arrangement having the effect of a posted price.

(5) *Fair market value.* The term "fair market value", whether or not at the port prior to export, is determined in the same way that the wellhead price is determined under § 1.907(c)–1(b)(6).

§ 1.907(e)–1 Transitional rules for section 904 carrybacks and carryovers.

(a) *Carryovers from taxable years ending before January 1, 1975*—(1) *In general.* If FOGEI taxes are included in foreign taxes in a year of origin ending before January 1, 1975, section 907 (a), (c), and (d) and the regulations thereunder apply to the year in which the FOGEI taxes were paid or accrued for purposes of determining the amount of the unused FORI taxes that may be deemed paid under section 904 in an excess limitation year ending after December 31, 1974. See section 907(e)(1)(A). A limitation percentage of 52.8 percent is used for all years of origin ending before January 1, 1975, regardless of the year to which unused FORI taxes are carried and used.

(2) *Sections 901(e) and 907(a).* For years of origin ending before January 1, 1975, the reduction under section 901(e) "is made before the reduction under section 907(a). Section 901(e) relates to foreign mineral income.

(3) *General rule for division of unused foreign tax.* The unused foreign tax that is divided under section 907(e)(1)(B) is the unused foreign tax that has not been absorbed in any taxable year ending before January 1, 1975. This unused tax is determined after any reduction of tax under section 901(e) or 907(a) and paragraph (a)(1) of this section. The unused foreign tax is divided as of the beginning of the first taxable year ending after December, 31, 1974.

(4) *Computation.* (i) Unused FORI tax equals:

Unused foreign tax × FORI/Total foreign income

Other unused foreign tax equals total unused foreign tax minus unused FORI tax. This computation is made separately for each particular year of origin.

(ii) If the per-country limitation under section 904(a)(1) (as in effect prior to the Tax Reform Act of 1976) applies, the division of the unused foreign tax is made separately for each foreign country or possession.

(5) *Illustrations.* The application of this paragraph (a) is illustrated by the following examples:

Example (1). (a) Domestic corporation X, which is organized on January 1, 1973, uses the calendar year as the taxable year. X elects the overall limitation. For 1973, X does not claim a deduction for percentage depletion. The rate of United States corporate tax and the sum of the normal tax and surtax rates are each assumed to be 48 percent. X's only income and tax items for 1973 are listed in the table below:

(1) FORI (all of which is FOGEI)	$1,000
(2) Income other than FORI (foreign source)	500
(3) Total income	1,500
(4) FOGEI taxes	600
(5) Other foreign taxes paid or accrued	250
(6) Total foreign taxes paid or accrued	850
(7) Overall limitation (line (3) x 48%)	720
(8) Unused foreign tax for 1973 (line (6) minus line (7))	130

(b) Assume that 1974 is not an excess limitation year. In determining X's unused foreign tax for 1973 that may be carried over to any taxable year ending after December 31, 1974, the FOGEI taxes are reduced under section 907 (a) to $528. X's unused foreign tax for 1973 is reduced to $58, as follows:

(1) FOGEI for 1973	$1,000
(2) Limitation percentage	52.8
(3) Limitation level (line (1) x line (2))	528
(4) FOGEI taxes for 1973 after reduction for purposes of 1975 (line (4) of paragraph (a) less the amount by which it exceeds line (3))	528
(5) Unused foreign tax for 1973 for purposes of 1975 (line (5) of paragraph (a) ($250) plus line (4) (528) minus line (7) of paragraph (a) (720))	58

(c) The unused foreign tax for 1973 is divided, effective as of January 1, 1975, as follows:

(1) Unused foreign tax	$58
(2) Multiply by fraction for 1973 (FORI/Total foreign income)	1,000/1,500
(3) Unused FORI tax	39
(4) Other unused foreign tax (line (1) minus line (3))	19

(d) The unused FORI tax of $39 (line (3) of paragraph (c)) may be carried to 1975, 1976, 1977, or 1978.

Example (2). Assume the same facts as in example (1) except that, for 1974, X has an excess limitation of $20. In determining the unused foreign tax for 1973 that may be carried to years ending after 1974, the $20 of unused foreign tax for 1973 that is deemed paid in 1974 is subtracted from $58, the unused foreign tax for 1973 adjusted for purposes of 1975. Thus, the remaining unused FORI tax is $25, *i.e.*, $38 x $1,000/$1,500, and the other unused foreign tax is $13, *i.e.*, $38−$25.

Example (3). Assume the same facts as in example (1) except that X has an excess limitation of $100 for 1974. For 1974, X is deemed to have paid or accrued $100 of the unused foreign tax for 1973. See § 1.904–2(c)(2)(f). However, under section 907(e)(1)(A), X is considered to have unused foreign tax for 1973 of only $58, all of which was absorbed in 1974. Thus, X has no unused foreign tax to be divided as of January 1, 1975. The reduction of unused foreign tax for 1973 for purposes of 1975 does not affect the amount of unused foreign tax absorbed as taxes deemed paid or accrued for 1974.

Example (4). (a) Assume the same facts as in example (1) except that X is allowed a deduction for percentage depletion in 1973. Because X has income from the extraction of minerals from oil wells, it has foreign mineral income and its foreign taxes for 1973 must be reduced under section 901(e). Assume that the reduction, made on a country-by-country basis, aggregates $92 of FOGEI taxes and that 1974 is not an excess limitation year.

(b) In determining X's unused foreign tax for 1973 that may be carried to years ending after 1974, no reduction is made under paragraph (a)(1) of this section because section 901(e) applies before section 907(a) and the FOGEI taxes are reduced under section 901(e) to $508 (line (4) of example (1)(a) ($600) minus $92), an amount that is less than the limitation level ($528). The unused foreign tax for 1973 that may be carried to 1975 is $38 (line (5) of example (1)(a) ($250) plus $506 minus line (7) of example (1)(a) ($720)).

(c) The unused foreign tax of $38 is divided into unused FORI tax of $25, *i.e.*, $38×1,000/1,500 and other unused foreign tax of $13, *i.e.*, $38–$25.

(b) *Transitional rules for carryovers from per-country limitation years ending before January 1, 1976*—(1) *In general.* Section 907(e)(2) does not modify the second sentence of section 904(e)(2) (as in effect prior to the Tax Reform Act of 1976). The excess limitation year to which an unused foreign tax may be carried under section 907(e)(2) must be available under § 1.904–2(b)(1).

(2) *Pro rata reduction of carryovers.* The application of section 907(e)(2) may result in a reduction of the FORI tax carryover. This reduction occurs if the amount of the carryover to an excess limitation year under the overall limitation is lower than the amount the aggregate carryovers to that year would have been had the per-country limitation applied to that year. If this reduction occurs, the amount carried from a particular country to the excess limitation year is determined under the following formula:

Amount of carryover under per-country limitation (for a country) × Amount of carryover under overall limitation/Aggregate of carryovers under per-country limitation

For purposes of this paragraph (b)(2), the term "carryover" refers to the amount of the unused FORI taxes that may be absorbed in an excess limitation year.

(3) *Illustrations.* The application of this paragraph (b) is illustrated by the following examples. The United States corporate tax rate is assumed to be 48 percent for all relevant years.

Example (1). Domestic corporation M, which is organized on January 1, 1974, uses the calendar year as the taxable year. M does not elect the overall limitation for 1974 or 1975 and 1975 is not an excess limitation year. All of M's income is FORI, none of which is FOGEI. Additional facts are assumed in the following table:

	Per-country limitation		Overall limitation
	Country X	Country Y	
(1) 1974 items:			
(a) FORI	$100	$100	
(b) FORI taxes	60	60	
(c) Section 904 limitation (line (a) × 48%)	48	48	
(d) Unused foreign tax (line (b) minus line (c))	12	12	
(2) 1976 items:			
(a) FORI	200	100	$300
(b) FORI taxes	80	50	130
(c) Section 904 limitation (line (a) × 48%)	96	48	144
(d) Unused foreign tax (line (b) minus line (c))		2	
(e) Excess limitation (line (c) minus line (b))	16		14
(3) Unused foreign tax for 1974 that would be deemed paid or accrued in 1976:			
(a) Under overall limitation (lesser of aggregate amount of line (1)(d) or (2)(e))			14
(b) Under per-country limitation (lesser of line (1)(d) or (2)(e))	12		
(4) Unused foreign tax for 1974 deemed paid or accrued for 1976 under this paragraph (b) (lesser of line (3)(a) or the aggregate amount of line (3)(b))			12

Example (2). Assume the same facts as in example (1), except that M elects the overall limitation for 1975. M may not carry over its unused foreign tax for 1974 as taxes deemed paid or accrued in 1976.

Example (3). Assume the same facts as in example (1), except as otherwise provided in the table below. M also does business in country Z. The results are in the table below:

	Per-country limitation			Overall limitation
	Country X	Country Y	Country Z	
(1) 1974 items:				
(a) FORI	$1,000	$1,000	$1,000	
(b) FORI taxes	600	630	600	
(c) Section 904 limitation (line (a) × 48%)	480	480	480	
(d) Unused FORI tax (line (b) minus line (c))	120	150	120	
(2) 1976 items:				
(a) FORI	1,000	1,000	1,000	3,000
(b) FORI taxes	330	330	580	1,240
(c) Section 904 limitation (line (a) × 48%)	480	480	480	1,440
(d) Excess FORI limitation	150	150		200
(3) Unused FORI tax for 1974 that would be deemed paid or accrued in 1976:				
(a) Under overall limitation				200
(b) Under per-country limitation	120	150		
(4) Unused FORI tax for 1974 deemed paid or accrued for 1976 (lesser of line 3(a) or aggregate amount of line 3(b))				200
(5) Amount of unused FORI tax for 1974 from a country deemed paid or accrued for 1976 under paragraph (b)(2) of this section	120×200/270=89	150×200/270=111	0×200/270=0	
(6) Unused FORI tax for 1974 that may be carried over to other excess limitation years (line 1(d) minus line (5))	31	39	120	

(c) *Transitional rules for carryback from taxable years ending after December 31, 1974*—(1) *In general.* Unused FORI tax from a year of origin ending after December 31, 1974, may not be carried back to a taxable year ending before January 1, 1975. If the per-country limitation was used for an excess limitation year and the overall limitation for a year of origin, a carryback is prohibited except in the case of a calendar year taxpayer which used the per-country limitation in 1975. See section 904(e)(3).

(2) *Applicable principles.* If a carryback is permitted to calendar year 1975 and the per-country limitation applies to that year, the application of section 904(e)(3) may result in a reduction of the unused FORI tax (computed as if the per-country limitation applied) that may be carried back to that year. This reduction occurs if the amount of the unused FORI tax for a year of origin under the overall limitation is lower than the aggregate amount of unused FORI tax that would have arisen had the per-country

limitation applied to that year. If this reduction occurs, the unused FORI tax that may be carried back from a particular country is determined under the following formula:

Amount of unused FORI tax under per-country limitation (for a country) × Amount of unused FORI tax under overall limitation/Aggregate amount of unused FORI tax under per-country limitation

§ 1.907(f)–(1) Carryback and carryover of credits disallowed by section 907(a).

(a) *In general.* If a taxpayer chooses the benefits of section 901, any unused FOGEI tax paid or accrued in a taxable year ending after October 4, 1976, may be carried to the taxable years specified in section 907(f) under the carryback and carryover principles of this section and § 1.904–2(b).

(b) *Unused foreign extraction tax*—(1) *In general.* The "unused FOGEI tax" for purposes of this section is the excess of the FOGEI taxes for a taxable year (year of origin) over that year's limitation level (as defined in § 1.907(a)–1(c)).

(2) *Limit.* The unused FOGEI tax for any year of origin may not exceed 2 percent of that year's FOGEI. This limitation does not apply in determining the amount of unused FOGEI tax carried over or carried back under section 907(f) to a taxable year ending in 1975, 1976, or 1977. However, the amount of unused FOGEI tax that can be carried to years other than 1975, 1976, or 1977, is limited to 2 percent of FOGEI for the year of origin less the unused FOGEI tax absorbed in 1975, 1976, and 1977.

(3) *Year of origin.* The term "year of origin" in the regulations under section 907 corresponds to the term "unused credit year" under section 907(f).

(c) *Tax deemed paid or accrued.* The unused FOGEI tax from a year of origin that may be deemed paid or accrued under section 907(f) in any preceding or succeeding taxable year ("excess limitation year") may not exceed the lesser of—

(1) The excess extraction limitation for the excess limitation year or

(2) The excess oil related limitation for the excess limitation year.

(d) *Excess extraction limitation.* The "excess extraction limitation" for an excess limitation year is the amount by which that year's limitation level exceeds the sum of—

(1) The FOGEI taxes paid or accrued and

(2) The FOGEI taxes deemed paid or accrued in that year by reason of a section 907(f) carryback or carryover from preceding years of origin.

(e) *Excess oil related limitation.* The "excess oil related limitation" for an excess limitation year is the amount by which that year's separate FORI limitation under § 1.907(b)-1(a)(1) exceeds the sum of—

(1) The FORI taxes paid or accrued,

(2) The FORI taxes deemed paid or accrued in that year by reason of a section 904(c) carryback or carryover from preceding years of origin, and

(3) The FOGEI taxes described in paragraph (d)(2) of this section.

(f) *Limitation percentage in certain excess limitation years.* For purposes of determining the excess extraction limitation for an excess limitation year ending in 1975 or 1976, the limitation percentage for those years is 48 percent. See section 907(f)(3)(C).

(g) *Section 907(f) priority.* If a taxable year is a year of origin under both section 907(f) as to FOGEI taxes and section 904(c) as to FORI taxes, section 907(f) applies first. See section 907(f)(3)(A). FOGEI tax for a year of origin that remains unused after applying section 907(f) cannot be absorbed by an excess FORI limitation. To determine the excess FORI limitation when an unused FOGEI tax is absorbed under section 907(f), see section 907(f)(3)(B) and § 1.907(b)–2(d).

(h) *Per-country limitation.* Unused FOGEI tax for a taxable year for which the overall limitation applies may be deemed paid or accrued under section 907(f) in calendar year 1975 if the per-country limitation applies to that year and if unused FORI tax could be deemed paid or accrued in that year under § 1.907(e)-1(c). If this carryback is permitted, the unused FOGEI tax is subject to § 1.907(e)-1(c)(2) (relating to reduction of unused tax) determined by applying section 907(a) in the year of origin on an overall basis (with regard to section 907(c)(4)) and on a per-country basis.

(i) *Cross-reference.* In computing the carryback and carryover of disallowed credits under section 907(f), the principles of § 1.904–2 (d), (e), and (f) apply.

(j) *Illustration.* The following example illustrates the application of the regulations under section 907(f).

Example. (a) *Facts.* X is a domestic corporation organized on January 1, 1975, and uses the calendar year as its taxable year. X chooses to claim a credit under section 901 for each of the taxable years set forth below. For 1975, X elects the overall limitation. X has FOGEI and FORI in each of these taxable years. For purposes of simplicity, the United States corporate tax rate and the limitation percentage for years other than 1975 and 1976 are each assumed to be 48 percent. Based upon the foreign taxes paid with respect to both these classes of income, and the additional facts assumed in the table below, the unused FOGEI tax deemed paid under section 907(f), and the unused FORI tax deemed paid under section 904(c) in each of the appropriate years are as follows:

Taxable years	1975	1976	1977	1978	1979(a)	1979(b)	1979(c)	1980	1981
1. FOGEI	$100.00	$1,120.00	$300.00	$250.00	$700.00	$700.00	$700.00	$7,000.00	$2,000.00
2. FOGEI taxes	49.00	586.88	124.00	150.00	210.00	210.00	210.00	3,500.00	940.00
3. Limitation level:									
(a) For unused tax	52.80	564.48	144.00	120.00	336.00			3,360.00	960.00
(b) For excess limitation	48.00	537.60	144.00		336.00	336.00	336.00		960.00
4. Disallowed FOGEI taxes (excess of line 2 over line 3(a))	0.00	22.40		30.00				140.00	
5. FOGEI taxes from preceding years of origin deemed paid in current year						2.40	7.40		
6. Unused FOGEI tax:									
(a) Line 4		22.40		30.00				140.00	
(b) 2% of line 1				5.00				140.00	
(c) Lesser of line (a) or (b)		22.40		5.00				140.00	
7. Excess extraction limitation:									
(a) Line 2	49.00	586.88	124.00		210.00	210.00	210.00		940.00
(b) Line 5						2.40	7.40		
(c) Sum of lines (a) and (b)	49.00	586.88	124.00		210.00	212.40	217.40		940.00
(d) Excess of line 3(b) over line (c)	0.00	0.00	20.00		126.00	123.60	118.60		20.00
8. FORI	200.00	1,620.00	450.00	600.00	1,000.00	1,000.00	1,000.00	8,000.00	3,000.00
9. FORI taxes:									
(a) Total	60.00	850.00	186.00	328.00	240.00	240.00	240.00	4,140.00	1,425.00
(b) Less line 4	0.00	22.40		30.00				140.00	
(c) Adjusted FORI taxes	60.00	827.60	186.00	298.00	240.00	240.00	240.00	4,000.00	1,425.00
10. Section 904 limitation (48% of line 8)	96.00	777.60	216.00	288.00	480.00	480.00	480.00	3,840.00	1,440.00
11. FORI taxes from preceding year of origin deemed paid in current year						4.00	14.00		
12. Unused FORI tax (excess of line 9(c) over line 10)		50.00		10.00				160.00	

Taxable years	1975	1976	1977	1978	1979(a)	1979(b)	1979(c)	1980	1981
13. Excess oil related limitation:									
(a) Line 9(c)	60.00		186.00		240.00	240.00	240.00		1,425.00
(b) Line 11						4.00	14.00		
(c) Line 5						2.40	7.40		
(d) Sum of lines (a), (b), and (c)	60.00		186.00		240.00	246.40	261.40		1,425.00
(e) Excess of line 10 over line (d)	36.00		30.00		240.00	233.60	218.60		15.00
14. FOGEI taxes deemed paid under section 907(f) (not to exceed the lesser of line 7(d) or line 13(e))	0.00	0.00	20.00		2.40	5.00	118.60		15.00
15. Taxes deemed paid under line 14 as carried from:									
(a) 1976			20.00		2.40				
(b) 1978						5.00			
(c) 1980							118.60		15.00
16. Unused FOGEI tax not absorbed as taxes deemed paid in a preceding excess limitation year available to be carried to:									
(a) 1979(a) (line 6(c) in 1976 minus line 15(a))			2.40						
(b) 1981 (line 6(c) in 1980 minus line 15(c))							21.40		
(c) 1982–1985 (line (b) minus line 15(c))									6.40
17. Excess FORI limitation after application of section 907(f):									
(a) Line 9(c)	60.00		186.00		240.00	240.00	240.00		1,425.00
(b) Line 11						4.00	14.00		
(c) Line 14	0.00		20.00		2.40	7.40	126.00		15.00
(d) Sum of lines (a), (b), and (c)	60.00		206.00		242.40	251.40	380.00		1,440.00
(e) Excess of line 10 over line (d)	36.00		10.00		237.60	228.60	100.00		0.00
18. FORI taxes deemed paid under section 904(c): Lesser of line:									
(a) 12 in 1976 or line 17(e)	36.00								
(b) 20(a) or line 17(e)			10.00						
(c) 20(b) or line 17(e)					4.00				
(d) 12 in 1978 or line 17(e)						10.00			
(e) 12 in 1980 or line 17(e)							100.00		
(f) 20(c) or line 17(e)									0.00
19. Taxes deemed paid under line 18 as carried from:									
(a) 1976	36.00		10.00		4.00				
(b) 1978						10.00			
(c) 1980							100.00		
20. Unused FORI tax (§ 1.907(b)–2(b)) not absorbed as taxes deemed paid in a preceding excess limitation year available to be carried to:									
(a) 1977 (line 12 in 1976 minus line 19(a))	14.00								
(b) 1979(a) (line (a) in 1975 minus line 19(a))			4.00						
(c) 1981 (line 12 in 1980 minus line 19(c))							60.00		
(d) 1982–1985 (line (c) in 1979(c) minus line 19(c))									60.00

(b) *1975.* None of the unused FOGEI tax (line 6(c)) for 1976 can be carried back to 1975 because there is no excess extraction limitation (line 7(d)) for 1975. The limitation level under section 907(a) for unused tax (line 3(a)) is different than the level for the excess extraction limitation (line 3(b)) for 1975 because the limitation percentage for unused tax is 52.8 percent (§ 1.907(a)–1(c)(2)) while the percentage for the excess extraction limitation is 48 percent paragraph (f) of this section. Therefore 1975 is not an excess extraction limitation year because the limitation level for determining the excess limitation ($48.00) is less than the FOGEI taxes paid ($49.00). 1975 could not be a year of origin under section 907(f) because that section does not apply to FOGEI taxes paid or accrued in that year. The unused FORI tax for 1976 (line 12) that is absorbed by the excess FORI limitation for 1975 (line 17(e)) is computed in accordance with the general rule of § 1.907(b)–2(c).

(c) *1976.* 1976 is a year of origin under sections 907(f) and 904(c) (see paragraph (g) of this section). The unused FOGEI tax would not be reduced to 2 percent of FOGEI if the excess limitation year was 1977 or 1975 (see paragraph (b)(2) of this section. For 1976, the limitation percentages for unused tax and for excess extraction limitation are 50.4 percent and 48 percent, respectively, for the reasons given in paragraph (b) of this example. The unused FORI tax (line 12) for 1976 that is absorbed by the excess FORI limitation for 1975 (line 17(e)) is determined in accordance with the explanation in paragraph (b) of this example.

(d) *1977.* The unused FOGEI tax for 1976 (line 6(c)) that is absorbed as taxes deemed paid in 1977 (line 14) is limited to $20.00 because the excess extraction limitation for 1977 (line 7(d)) is less than the excess oil related limitation (line 13(e)) for that year (see paragraph (c) of this section). The computations of the unused FOGEI tax (line 6(c)) and unused FORI tax (line 12) are not necessary because 1977 is an excess limitation for both FOGEI and FORI tax. The computation of the excess FORI limitation (line 17(e)) reflects the FOGEI taxes deemed paid (line 14) under section 907(f) in accordance with § 1.907(b)–2(d)(1)(ii). The computation of unused 1976 FOGEI tax available as a carryover for future years (line 16(a)) is in accordance with paragraph (b)(2) of this section. The limitation level (line 3) for unused tax and excess limitation is the same for years 1977 through 1981.

(e) *1978.* The computations of the excess extraction limitation (line 7(d)), excess oil related limitation (line 13(e)), and excess FORI limitation (line 17(e)) are not necessary because 1978 is a year of origin. The unused FOGEI tax is limited to 2 percent of FOGEI in accordance with paragraph (b)(2) of this section. (However, the 2-percent limitation would not apply if the unused FOGEI tax were carried back to 1976 or 1977.)

(f) *1979.* 1979 is an excess limitation year with respect to the extraction and oil related limitations (lines 7(d) and 13(e), respectively). The chart provides three columns for 1979 to reflect the order in which unused taxes are deemed paid under section 907(f) and section 904(c). For any particular year of origin, unused FOGEI taxes are deemed paid under section 907(f) in a particular excess limitation year before unused FORI taxes from the same year of origin are deemed paid under section 904(c) in that year.

(g) *1979(a).* The excess FORI limitation (line 17(e)) reflects the FOGEI taxes deemed paid (line 14) under section 907(f) in accordance with § 1.907(b)–2(d)(1)(ii).

(h) *1979(b).* In computing both the excess extraction (line 7(d)) and oil related (line 13(e)) limitations, the FOGEI taxes deemed paid under section 907(f) for prior years of origin (line 5) are included in accordance with paragraph (d)(2) and (e)(3) of this section, respectively. Line 11 only has application to 1979. In computing the excess FORI limitation (line 17(e)), the aggregate of the FOGEI taxes deemed paid under section 907(f) (line 14) in 1979(a) and § 1.979(b) is used in accordance with § 1.907(b)–2(d)(1)(ii).

(i) *1979(c).* The principles that apply to 1979(c) were discussed in paragraph (h) of this example. The taxes deemed paid in 1979(c) are those carried back from 1980. In computing both the excess oil related (line 13(e)) and the excess FORI (line 17(e)) limitations, the FORI taxes deemed paid under section 904(c) for prior years of origin (line 11) are included in accordance with paragraph (e)(2) of this section and § 1.907(b)–2(d)(1)(iii) respectively.

(j) *1980.* The unused FOGEI tax is computed in accordance with paragraph (b)(1) of this section. 1980 is a year of origin under sections 907(f) and 904(c) (see paragraph (g) of this section).

(k) *1981.* The unused FORI tax for 1980 (line 12) that was not absorbed in 1979 (line 20(c)) cannot be carried to 1981 because of the priority rule in paragraph (g) of this section (see line 17(c)). This rule reduces the excess FORI limitation to zero (see line 17(e)).

Par. 2. Paragraph (a) of § 1.78–1 is amended by adding a new sentence immediately after the first sentence to read as set forth below:

§ 1.78–1 Dividends received from certain foreign corporations by certain domestic corporations choosing the foreign tax credit.

(a) *Taxes deemed paid by certain domestic corporations treated as a section 78 dividend.* Any reduction under section 907(a) of the foreign income taxes deemed to be paid with respect to foreign oil and gas extraction income does not affect the amount treated as a section 78 dividend.

* * * * *

Par. 3. Paragraph (a) of § 1.901–1 is amended by adding a new subparagraph (4) immediately after subparagraph (3) to read as set forth below:

§ 1.901–1 Allowance of credit for taxes.

(a) *In general.* * * *

(4) *Limitation.* Section 907(a) limits the credit against the tax imposed by chapter 1 of the Code for certain foreign taxes paid or accrued with respect to foreign oil or gas extraction income. See § 1.907(a)–1.

* * * * *

Par. 4. Paragraph (a) of § 1.904–2 is amended by adding a new sentence to immediately after the last sentence read as set forth below:

§ 1.904–2 Carryback and carryover of unused foreign tax.

(a) *Credit for foreign tax carryback and carryover.* * * * For special rules regarding these computations in the case of taxes paid, acccrued, or deemed to be paid with respect to foreign oil and gas extraction income of foreign oil related income, see section 907 (b), (e), and (f) and the regulations thereunder.

* * * * *

§ 1.904–3 [Amended]

Par. 5. The last sentence of paragraph (e) of § 1.904–3 is amended by deleting the period at the end thereof and by inserting at the end thereof", or foreign oil related income described in section 907(c) with respect to which the separate limitation in section 907(b) applies."

Par. 6. Paragraph (a) of § 1.904–4 is amended by adding a new sentence at the end of subparagraph (1)(vii) and by revising subparagraph (3). These added and revised provisions read as follows:

§ 1.904–4 Separate limitation for section 904(f) interest.

(a) *Separate limitation.*—(1) *In general.* * * *

(vii) * * * For special rules for determining the separate limitation with respect to oil related income, see section 907(b).

* * * * *

(3) *Other income defined.* For purposes of this section, other income is all income of the taxpayer for the taxable year other than—

(i) Section 904(f) interest (as defined in paragraph (a)(2) of this section),

(ii) Section 904(f) dividends (as defined in section 904(f)(1)(B) and § 1.904–5(a)(2)), and

(iii) Foreign oil related income (as defined in section 907(c)) in a taxable year beginning before January 1, 1983.

* * * * *

Par. 7. Paragraph (a) of § 1.904–5 is amended by adding a new sentence at the end of subparagraph (1)(vii) and by revising subparagraph (3). These added and revised provisions read as follows:

§ 1.904–5 Separate limitation for section 904(f) dividends.

(a) *Separate limitation*—(1) *In general.* * * *

(vii) * * * For special rules for determining the separate limitation with respect to oil related income, see section 907(b).

* * * * *

(3) *Other income.* For purposes of this section, other income is all income of the taxpayer for the taxable year other than—

(i) Section 904(f) dividends (as defined in paragraph (a)(2) of this section),

(ii) Section 904(f) interest (as defined in section 904(f)(2) and § 1.904–4(a)(2)), and

(iii) Foreign oil related income (as defined in section 907(c)) in a taxable year beginning before January 1, 1983.

* * * * *

Par. 8. Paragraph (f) of § 1.960–1 is amended by adding a new sentence at the end thereof to read as follows:

§ 1.960–1 Foregin tax credit with respect to taxes paid on earnings and profits of controlled foreign corporations.

* * * * *

(f) *Reduction of foreign income taxes paid or deemed paid.* * * * For reduction of the foreign income taxes deemed paid by a domestic corporation under section 960 with respect to foreign oil and gas extraction income, see section 907(a).

§ 1.1248–1 [Amended]

Par. 9. Paragraph (d)(1)(i) of § 1.1248–1 is amended by deleting "905" and by inserting in lieu thereof "908".

This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917, 26 U.S.C. 7805).

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

Approved: June 11, 1984.

John E. Chapoton,

Assistant Secretary of the Treasury.

[FR Doc. 84–16773 Filed 6–20–84; 8:45 am]

BILLING CODE 4830–01–M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 250

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Correction

AGENCY: Minerals Management Service, Interior.

ACTION: Interim final rule; correction.

SUMMARY: This Notice corrects the Interim Final Rule concerning leases in water depths of 400 to 900 meters which was published in the **Federal Register** on April 24, 1984 (49 FR 17449). The correction adds an additional paragraph 9 which was inadvertently omitted as a redesignated reference under 30 CFR 250.12.

FOR FURTHER INFORMATION CONTACT: Jane Roberts, Minerals Management Service, 12203 Sunrise Valley Drive, Mail Stop 646; Reston, Virginia 22091; telephone (703) 860–7916 or (FTS) 928–7916.

Dated: June 20, 1984.

Price McDonald,

Acting Associate Director for Offshore Minerals Management.

The following correction is made in FR Doc. 84–10885 appearing on page 17450 in the issue of April 24, 1984:

On page 17450 after item 8, add item 9 as follows:

9. The reference in redesignated § 250.12(g)(1)(ii) to paragraph (g) is changed to paragraph more (h).

[FR Doc. 84–17104 Filed 6–26–84; 8:45 am]

BILLING CODE 4310–MR–M

VETERANS ADMINISTRATION

38 CFR Part 17

Nondiscrimination in Admission of Alcohol and Drug Abusers to VA Health Care Facilities

AGENCY: Veterans Administration.

ACTION: Final regulation.

SUMMARY: The Veterans Administration is amending a medical regulation by adding a paragraph to provide that eligible veterans who are alcohol or drug abusers and who are suffering from medical disabilities shall not be discriminated against in admission or treatment, solely because of their alcohol or drug abuse or dependence, by any Veterans Administration health care facility. This amendment is based on Pub. L. 94–581, Veterans Omnibus Health Care Act of 1976.

DATE: This regulation amendment is effective June 27, 1984.

FOR FURTHER INFORMATION CONTACT: Joseph F. Fleckenstein, (202) 389–2851.

SUPPLEMENTARY INFORMATION: This regulation implements section 4133, Title 38 United States Code, as added by Pub. L. 94–581. It provides that there will be no discrimination by the VA in the admission or treatment of veterans eligible for VA medical care simply because they are alcohol or drug abusers. On pages 9235 and 9236 of the **Federal Register** of March 12, 1984, the proposed amendment to section 17.48 was published. Interested persons were given 30 days to submit comments, suggestions or recommendations. No comments were received regarding the proposed regulation amendment. The proposed amendment is hereby adopted without change as set forth below.

The Administrator considers this amendment nonmajor under the criteria of Executive Order 12291, Federal Regulation. It will not have an annual effect of $100 million or more on the economy, will not cause a major increase in costs or prices, and will not have any other significant adverse economic effects.

The Administrator certifies that this regulation will not have a significant economic impact on a substantial number of small entities as they are defined in the RFA (Regulatory Flexibility Act), 5 U.S.C. 601–612. Pursuant to 5 U.S.C. 605(b), this proposed amendment is therefore exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

This rule governs the conduct of VA employees, not that of the private sector. It will only be applicable in the case of certain veterans applying for medical care at VA health care facilities.

The Catalog of Federal Domestic Assistance numbers are 64.007, 64.008, 64.009, 64.010, and 64.011.

List of Subjects in 38 CFR Part 17

Alcoholism, Claims, Dental health, Drug abuse, Foreign relations, Government contracts, Grants programs, Health, Health care, Health facilities, Health professions, Medical devices, Medical research, Mental health programs, Nursing homes, Philippines, Veterans.

Approved: June 6, 1984.

By direction of the Administrator.

Everett Alvarez, Jr.,

Deputy Administrator.

PART 17—[AMENDED]

38 CFR Part 17, Medical, is amended by adding a new paragraph (h) to § 17.48 to read as follows:

§ 17.48 Considerations applicable in determining eligibility for hospital, nursing home or domiciliary care.

(h) Eligible veterans who are alcohol or drug abusers and who are suffering from medical disabilities shall not be discriminated against in admission or treatment (38 U.S.C. 4133).

[FR Doc. 84–17081 Filed 6–26–84; 8:45 am]

BILLING CODE 8320–01–M

38 CFR Part 21

Veterans Education; Report of State Approving Agency Activities

AGENCY: Veterans Administration.

ACTION: Final regulation.

SUMMARY: The VA (Veterans Administration) receives reports of State approving agency activities. This regulation is designed to reduce the information collected from State approving agencies by reducing the frequency of the reports. It also allows the Administrator of Veterans' Affairs to reduce the amount of information collected because the regulation no longer describes the content of the report in detail.

EFFECTIVE DATE: June 12, 1984.

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

SUPPLEMENTARY INFORMATION: On pages 16506 and 16507 of the **Federal Register** of April 18, 1983 there was published a notice of intent to amend Part 21 to require State approving agencies to report their activities to the VA less frequently.

Interested people were given 30 days in which to submit comments, suggestions or objections regarding the proposal. The VA received no comments, suggestions or objections. However, after analyzing the proposal, the VA has decided to amend the proposal somewhat, and is making the amended regulation final. In contrast to the previous regulation and the proposal, this regulation does not describe the content of the report in detail. This will give the VA greater flexibility in the future should the agency wish to adjust the information collection burden by changing the report.

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

The Administrator of Veterans' Affairs hereby certifies that this regulation will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. Pursuant to 5 U.S.C. 605(b), this regulation, therefore, is exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

This certification can be made because this regulation affects only State governments. State governments do not come within the meaning of the term "small governmental jurisdiction" as defined in section 601(5) of the RFA. The regulation will have no significant impact on small entities, i.e., small businesses, small private and nonprofit organizations and small governmental jurisdictions.

Information collection requirements contained in this regulation (§ 21.4154)

have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511) and have been assigned OMB control number 2900–0051.

The Catalog of Federal Domestic Assistance numbers for the programs affected by this regulation are 64.111, 64.117 and 64.120.

List of Subjects in 38 CFR Part 21

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

Approved: June 12, 1984.

By direction of the Administrator.

Everett Alvarez, Jr.,

Deputy Administrator.

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

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

Section 21.4154 is revised as follows:

§ 21.4154 Report of activities.

(a) *State approving agencies must report their activities.* Each State approving agency entering into a contract or agreement under § 21.4153 must submit a quarterly report of its activities to the Veterans Administration. (38 U.S.C. 1774)

(b) *Content of the report.* The report—

(1) Shall be in the form prescribed by the Administrator;

(2) Shall detail the activities of the State approving agencies under the agreement or contract during the preceding quarter;

(3) May include a report by the State approving agency of its activities from the beginning of the fiscal year through the end of that quarter;

(4) Shall describe the services performed and the determination made in supervising and ascertaining the qualifications of educational institutions in connection with the programs of the Veterans Administration; and

(5) Shall inculde other information as the Administrator may prescribe. (38 U.S.C. 1774)

(Approved by Office of Management and Budget under OMB control number 2900–0051)

[FR Doc. 84–17082 Filed 6–26–84; 8:45 am]

BILLING CODE 8320–01–M

POSTAL SERVICE

39 CFR Part 111

Domestic Mail Manual, Miscellaneous Amendments

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: The Postal Service hereby describes the numerous miscellaneous revisions consolidated in the Transmittal Letter for Issue 14 of the Domestic Mail Manual (DMM), which is incorporated by reference in the **Federal Register**, 39 CFR 111.1.

Most of the revisions are minor, editorial or clarifying. Substantive changes, such as the regulations allowing mailers to combine Presort First-Class and ZIP+4 Presort mailings under limited conditions during a transition period, have previously been published in the **Federal Register.**

EFFECTIVE DATE: April 12, 1984.

FOR FURTHER INFORMATION CONTACT: Paul J. Kemp, (202) 245–4638.

SUPPLEMENTARY INFORMATION: The Domestic Mail Manual, which is incorporated by reference in the **Federal Register** (see 39 CFR 111.1) has been amended by the publication of a transmittal letter for issue 14, dated April 12, 1984. The text of all published changes is filed with the Director of the Federal Register. Subscribers to the Domestic Mail Manual receive these amendments automatically from the Government Printing Office.

The following excerpt from the Summary of Changes section of the transmittal letter for issue 14 covers the minor changes not previously described in interim or final rules published in the **Federal Register.**

Note.—Issue 14 contains all DMM revisions published between December 29, 1983, and April 12, 1984. (Postal Bulletins 21438 through 21453.)

Summary of Changes

Major Revisions

1. * * *

2. *Centralized Advance Deposit Accounts.* Sections 281 through 285 are revised to reflect that, effective February 18, 1984, Express Mail customers who ship an average of five Express Mail pieces per week may establish a centralized advance deposit account (PB 21444, 2–9–84).

3. *Preferred Handling of Second-Class Mail.* Sections 431, 432, 453, 462, 463, 464, and 467 are revised to provide for the transport of second-class mail in the preferential mail network. A transition period of March 1, 1984, through January 1, 1985, is designated for second-class mailers and the Postal Service to make any necessary operational changes (PB 21447, 3–1–84, and PB 21448, 3–8–84).

4. *Detached Address Labels.* New sections 452.1, 452.2, and 452.3 are added and the former sections renumbered to 452.4, 452.5, and 452.6 to assure uniform awareness that this addressing option may be used, when appropriate, for delivering second-class publications (PB 21453, 4–12–84). * * *

Section 664.23 is revised to allow advertising or other information to be printed on the back of the address card used in the mailing of a merchandise sample (PB 21453, 4–12–84).

Other Revisions

1. Section 111.53 is changed to reflect the current public subscription price for the DMM. The DMM is available to the public through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–0001.

2. * * *

3. Sections 115.231, 115.232, 136.321, and 136.52 are amended to clarify the procedures governing mailing mixed classes (PB 21439, 1–5–84).

4. Sections 121, 124, and 125 are changed to (a) eliminate redundant marking requirements; (b) recommend marking of contents on packages containing human ashes; and (c) correct references and clarify requirements on live day-old poultry and air shipments to overseas military post offices (PB 21449, 3–15–84).

5. The mailing lists in Exhibits 122.63 *a, c, d,* and *e* are corrected (PB 21440, 1–12–84).

6. Section 145.44 is revised to reduce the record retention period to one year (PB 21443, 2–2–84).

7. Section 159.16 is amended to reflect that forwarding units must mail Forms 3579, *Undeliverable-As-Addressed Second, Third, Fourth-Class Matter,* to publishers once each week (PB 21443, 2–2–84).

8. Section 159.521 is revised to change the dispatch routing for dead letters originally mailed in Canada. Canadian dead letters are now sent, along with all other foreign dead letters, to an appropriate USPS foreign exchange office (PB 21448, 3–8–84, and PB 21449, 3–15–84).

9. Sections 159.551, 159.552, and 159.553 are changed to add the ZIP + 4 codes for dead mail branches. The use of these codes is mandatory for postal employees (PB 21449, 3–15–84).

10. Sections 362.2 and 362.4 are revised to clarify that required endorsements may be placed in the line above the address (PB 21453, 4–12–84).

11. Sections 467.244, 467.344, 667.644, 667.744, 667.824, 767.535, and 767.624 are revised to permit top caps to be constructed of other material if the equivalent protection of the wooden top caps is provided (PB 21452, 4–5–84).

12. Sections 621 and 721 are amended to clarify the circumstances under which second-class matter may be mailed at third- or fourth-class rates (PB 21446, 2–23–84).

13. Section 767.535 is revised to give mailers the option of using corrugated cardboard to enclose mail on pallets (PB 21448, 3–8–84).

14. Section 945.32*a* is amended to give the required new dimensions for address cards (PB 21442, 1–26–84).

List of Subjects in 39 CFR Part 111

Postal Service.

PART 111—GENERAL INFORMATION ON POSTAL SERVICE

In consideration of the foregoing, 39 CFR 111.3 is amended by adding at the end thereof the following:

§ 111.3 Amendments to the Domestic Mail Manual.

* * * * *

Transmittal letter for issue	Dated	"Federal Register" publication
14	Apr. 12, 1984	49 FR (page number and date of publication).

(5 U.S.C. 552(a); 39 U.S.C. 401, 407, 408, 3001–3011, 3201–3218, 3403–3405, 3601, 3621; 42 U.S.C. 1973 cc-13, 1973 cc-14)

W. Allen Sanders,

Associate General Counsel, Office of General Law and Administration.

[FR Doc. 84–17043 Filed 6–26–84; 8:45 am]

BILLING CODE 7710–12–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[OAR–FRL–2615–1]

Delegation of New Source Performance Standards (NSPS) State of California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of delegation.

SUMMARY: The EPA hereby places the public on notice of its delegation of NSPS authority to the California Air Resources Board (CARB) on behalf of the San Diego County Air Pollution Control District (SDCAPCD). This action is necessary to bring the NSPS program delegations up to date with recent EPA promulgations and amendments of these categories. This action does not create any new regulatory requirements affecting the public. The effect of the delegation is to shift the primary program responsibility for the affected NSPS categories from EPA to State and local governments.

EFFECTIVE DATE: May 8, 1984.

ADDRESS: San Diego County Air Pollution Control District, 9150 Chesapeake Drive, San Diego, CA 92123.

FOR FURTHER INFORMATION CONTACT: Julie A. Rose, New Source Section (A–3–1), Air Operations Branch, Air Management Division, EPA, Region 9, 215 Fremont Street, San Francisco, CA 94105, Tel: (415) 974–8236, FTS 454–8236.

SUPPLEMENTARY INFORMATION: The CARB has requested authority for delegation of certain NSPS categories on behalf of the SDCAPCD. Delegation of authority was granted by a letter dated April 24, 1984 and is reproduced in its entirety as follows:

Mr. James D. Boyd,
Executive Officer, California Air Resources Board, 1102 Q Street, P.O. Box 2815, Sacramento, CA

Dear Mr. Boyd: In response to your request of March 27, 1984, I am pleased to inform you that we are delegating to your agency authority to implement and enforce two New Source Performance Standard (NSPS) Categories in 40 CFR Part 60: Subpart SS, Standard of Performance for Industrial Surface Coating: Large Appliances and Subpart TT, Standard of Performance for Metal Coil Surface Coating on behalf of the San Diego County Air Pollution Control District (SDCAPCD). We have reviewed your request for delegation and have found the SDCAPCD programs and procedures to be acceptable.

Acceptance of this delegation constitutes your agreement to follow all applicable provisions of 40 CFR Part 60, including use of EPA's test methods and procedures. The delegation is effective upon the date of this letter unless the USEPA receives written notice from you or the District of any objections within 10 days of receipt of this letter. A notice of this delegated authority will be published in the **Federal Register** in the near future.

Sincerely,

Judith E. Ayres,

Regional Administrator.

cc: San Diego County Air Pollution Control District

With respect to the areas under the jurisdiction of the SDCAPCD, all reports, applications, submittals, and other communications pertaining to the above listed NSPS source categories should be directed to the SDCAPCD at the address shown in the ADDRESS Section of this notice.

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

I certify that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act.

List of Subjects in 40 CFR Part 60

Air pollution control, Aluminum, Ammonium sulfate plants, Asphalt, Cement industry, Coal, Copper, Electric power plants, Glass and glass products, Grains, Intergovernmental relations, Iron, Lead, Metals, Metallic minerals, Motor vehicles, Nitric acid plants, Paper and paper products industry, Petroleum, Phosphate, Sewage disposal, Steel, Sulfuric acid plants, Waste treatment and disposal, Zinc, Tires, Incorporation by reference, Can surface coating, Sulfuric acid plants, Industrial organic chemicals, Organic solvent cleaners, Fossil fuel-fired steam generators, Fiberglass insulation, Synthetic Fibers.

(Sec. 111, Clean Air Act, as amended (42 U.S.C. 1857,) et seq.)

Dated: June 18, 1984.

Judith E. Ayres,

Regional Administrator.

[FR Doc. 84–17067 Filed 6–26–84; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 60

[OAR–FRL 2615–4]

Delegation of New Source Performance Standards (NSPS); State of California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of delegation.

SUMMARY: The EPA hereby places the public on notice of its delegation of NSPS authority to the California Air Resources Board (CARB) on behalf of the Monterey Bay Unified Air Pollution Control District (MBUAPCD). This action is necessary to bring the NSPS program delegations up to date with recent EPA promulgations and amendments of these categories. This action does not create any new regulatory requirements affecting the public. The effect of the delegation is to shift the primary program responsibility for the affected NSPS categories from EPA to State and local governments.

EFFECTIVE DATE: May 25, 1984.

ADDRESS: Monterey Bay Unified Air Pollution Control District, 1164 Monroe Street, Suite 10, Salinas, CA 93906.

FOR FURTHER INFORMATION CONTACT: Julie A. Rose, New Source Section (A–3–1), Air Operations Branch, Air Management Division, EPA, Region 9, 215 Fremont Street, San Francisco, CA 94105, Tel: (415) 974–8236; FTS 454 8236.

SUPPLEMENTARY INFORMATION: The CARB has requested authority for delegation of certain NSPS and NESHAPS categories on behalf of the MBUAPCD. Delegation of authority was granted by a letter dated May 10, 1984 and is reproduced in its entirety as follows:

Mr. James D. Boyd,
Executive Officer, California Air Resources Board, 1102 Q Street, P.O. Box 2815, Sacramento, CA 95812

Dear Mr. Boyd: In response to your request of April 19, 1984, I am pleased to inform you that we are delegating to your agency authority to implement and enforce the New Source Performance Standard (NSPS) Category in 40 CFR Part 60: Standard of Performance for the Graphic Arts Industry: Publication Rotogravure Printing on behalf of the Monterey Bay Unified Air Pollution Control District (MBUAPCD). We have reviewed your request for delegation and have found the MBUAPCD programs and procedures to be acceptable.

Acceptance to this delegation constitutes your agreement to follow all applicable provisions of 40 CFR Part 60, including use of EPA's test methods and procedures. The delegation is effective upon the date of this letter unless the USEPA receives written notice from you or the District of any objections within 10 days of receipt of this letter. A notice of this delegated authority will be published in the **Federal Register** in the near future.

Sincerely,

Judith E. Ayres,
Regional Administrator

cc: Monterey Bay Unified APCD

With respect to the areas under the jurisdiction of the MBUAPCD, all reports, applications, submittals, and other communications pertaining to the above listed NSPS source category should be directed to the MBUAPCD at the address shown in the **ADDRESS** section of this notice.

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

I certify that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act.

This Notice is issued under the authority of Section 111 of the Clean Air Act, as amended (42 U.S.C. 1857, *et seq.*).

List of Subjects in 40 CFR Part 60

Air pollution control, Aluminum, Ammonium sulfate plants, Asphalt, Cement industry, Coal, Copper, Electric power plants, Glass and glass products, Grains, Intergovernmental relations, Iron, Lead, Metals, Metallic minerals, Motor vehicles, Nitric acid plants, Paper and paper products industry, Petroleum, Phosphate, Sewage disposal, Steel sulfuric acid plants, Waste treatment and disposal, Zinc, Tires, Incorporation by reference, Can surface coating, Sulfuric acid plants, Industrial organic chemicals, Organic solvent cleaners, Fossil fuel-fired steam generators, Fiberglass insulation, Synthetic fibers.

Dated: June 18, 1984.

Judith E. Ayres,
Regional Administrator.

[FR Doc. 84–17063 Filed 6–26–84; 8:45 am]
BILLING CODE 6560–50–M

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40 CFR Parts 60 and 61

[OAR–FRL–2615–3]

Delegation of New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAPS); State of Nevada

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of delegation.

SUMMARY: The EPA hereby places the public on notice of its delegation of NSPS and NESHAPS authority to the Nevada Department of Conservation and Natural Resources (NDCNR). This action is necessary to bring the NSPS and NESHAPS program delegations up to date with recent EPA promulgations and amendments of these categories. This action does not create any new regulatory requirements affecting the public. The effect of the delegation is to shift the primary program responsibility for the affected NSPS and NESHAPS categories from EPA to State and local governments.

EFFECTIVE DATE: June 4, 1984.

FOR FURTHER INFORMATION CONTACT: Julie A. Rose, New Source Section (A–3–1), Air Operations Branch, Air Management Division, EPA, Region 9, 215 Fremont Street, San Francisco, CA 94105, Tel: (415) 974–8236, FTS 454–8236.

SUPPLEMENTARY INFORMATION: The NDCNR has requested authority for delegation of certain NSPS and NESHAPS categories. Delegation of authority was granted by letters dated December 20, 1983, May 14, 1984, and May 18, 1984 and are reproduced in their entirety as follows:

December 20, 1983.

Mr. Richard Serdoz,
Air Quality Officer, Division of Environmental Protection, Nevada Department of Conservation and Natural Resources, Capitol Complex, Carson City, NV 89710

Dear Mr. Serdoz: In response to your request of Novembr 15, 1983, I am pleased to inform you that we are delegating to your agency authority to implement and enforce the New Source Performance Standard (NSPS) category in 40 CFR Part 60: Subpart RR—Standards of Performance for Pressure Sensitive Tape and Label Surface Coating Operations and Subpart VV—Standards of Performance for Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry. We have reviewed your request for delegation and have found your present programs and procedures to be acceptable.

Acceptance of this delegation constitutes your agreement to follow all applicable provisions of 40 CFR Part 60, including use of EPA approved test methods and procedures. The delegation is effective upon the date of this letter unless the USEPA receives written notice from you of any objections within 10 days of receipt of this letter. A notice of this delegated authority will be published in the **Federal Register** in the near future.

Sincerely,

Judith E. Ayres,
Regional Administrator.

May 14, 1984.

Mr. Richard Serdoz;
Air Quality Officer, Division of Environmental Protection, Nevada Department of Conservation and Natural Resources, Capitol Complex, Carson City, NV 89710

Dear Mr. Serdoz: In response to your request of April 23, 1984, I am pleased to inform you that we are delegating to your agency authority to implement and enforce the New Source Performance Standard (NSPS) category in 40 CFR Part 60: Subpart LL—Standards of Performance for Metallic Mineral Processing Plants. We have reviewed your request for delegation and have found your present programs and procedures to be acceptable.

Acceptance of this delegation constitutes your agreement to follow all applicable provisions of 40 CFR Part 60, including use of EPA approved test methods and procedures. The delegation is effective upon the date of this letter unless the USEPA receives written notice from you of any objections within 10 days of receipt of this letter. A notice of this delegated authority will be published in the **Federal Register** in the near future.

Sincerely,

Judith E. Ayres,
Regional Administrator.

May 18, 1984.

Mr. Richard Serdoz,
Air Quality Officer, Division of Environmental Protection, Nevada Department of Conservation and Natural Resources, Capitol Complex, Carson City, NV 89710

Dear Mr. Serdoz: In response to your request of April 30, 1984, I am pleased to

inform you that we are delegating to your agency authority to implement and enforce the New Source Performance Standard (NSPS) category in 40 CFR Part 60: Subpart HHH—Standards of Performance for Synthetic Fiber Production Facilities and the National Emission Standard for Hazardous Air Pollutants (NESHAP) category in 40 CFR Part 61: Subpart M—National Emission Standard for Asbestos. We have reviewed your request for delegation and have found your present programs and procedures to be acceptable.

Acceptance of this delegation constitutes your agreement to follow all applicable provisions of 40 CFR Parts 60 and 61, including use of EPA approved test methods and procedures. The delegation is effective upon the date of this letter unless the USEPA receives written notice from you of any objections within 10 days of receipt of this letter. A notice of this delegated authority will be published in the **Federal Register** in the near future.

Sincerely,

Judith E. Ayres,

Regional Administrator.

With respect to the areas under the jurisdiction of the NDCNR, all reports, applications, submittals, and other communications pertaining to the above listed NSPS and NESHAP source categories should be directed to the NDCNR at the address shown in the letters of delegation.

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

I certify that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act.

This Notice is issued under the authority of section 111 of the Clean Air Act, as amended (42 U.S.C. 1857, *et seq.*).

List of Subjects

40 CFR Part 60

Air pollution control, Aluminum, Ammonium sulfate plants, Asphalt, Cement industry, Coal, Copper, Electric power plants, Glass and glass products, Grains, Intergovernmental relations, Iron, Lead, Metals, Metallic minerals, Motor vehicles, Nitric acid plants, Paper and paper products industry, Petroleum, Phosphate, Sewage disposal, Steel sulfuric acid plants, Waste treatment and disposal, Zinc, Tires, Incorportion by reference, Can surface coating, Sulfuric acid plants, Industrial organic chemicals, Organic solvent cleaners, Fossil fuel-fired steam generators, Fiberglass insulation, Synthetic fibers.

40 CFR Part 61

Asbestos, Beryllium, Hazardous substances, Mercury, Reporting and recordkeeping requirements, Vinyl chloride.

Dated: June 18, 1984.

Judith E. Ayres,

Regional Administrator.

[FR Doc. 84-17064 Filed 6-26-84; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 61

[OAR-FRI-2615-2]

Delegation of National Emission Standards for Hazardous Air Pollutants (NESHAPS); State of California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of delegation.

SUMMARY: The EPA hereby places the public on notice of its delegation of NESHAPS authority to the California Air Resources Board (CARB) on behalf of the Sacramento County Air Pollution Control District (SCAPCD). This action is necessary to bring the NESHAPS program delegations up to date with recent EPA promulgations and amendments of these categories. This action does not create any new regulatory requirements affecting the public. The effect of the delegation is to shift the primary program responsibility for the affected NESHAPS categories from EPA to State and local governments.

EFFECTIVE DATE: May 25, 1984.

ADDRESS: Sacramento County Air Pollution Control District, 3701 Branch Center Road, Sacramento, CA 95827.

FOR FURTHER INFORMATION CONTACT: Julie A. Rose, New Source Section (A-3-1), Air Operations Branch, Air Management Division, EPA, Region 9, 215 Fremont Street, San Francisco, CA 94105, Tel: (415) 974-8236, FTS 454-8236.

SUPPLEMENTARY INFORMATION: The CARB has requested authority for delegation of certain NESHAPS categories on behalf of the SCAPCD. Delegation of authority was granted by a letter dated May 10, 1984 and is reproduced in its entirety as follows:

Mr. James D. Boyd,
Executive Officer, California Air Resources Board, 1102 Q Street, P.O. Box 2815, Sacramento, CA 95812

Dear Mr. Boyd: In response to your request of April 4, 1984, I am pleased to inform you that we are delegating to your agency authority to implement and enforce the National Emission Standard for Hazardous Air Pollutants (NESHAP) Category in 40 CFR Part 61: Standard of Asbestos on behalf of the Sacramento County Air Pollution Control District (SCAPCD). We have reviewed your request for delegation and have found the SCAPCD programs and procedures to be acceptable.

Acceptance of this delegation constitutes your agreement to follow all applicable provisions of 40 CFR Part 61, including use of EPA's test methods and procedures. The delegation is effective upon the date of this letter unless the USEPA receives written notice from you or the District of any objections within 10 days of receipt of this letter. A notice of this delegated authority will be published in the **Federal Register** in the near future.

Sincerely,

Judith E. Ayres,

Regional Administrator.

cc: Sacramento County Air Pollution Control District

With respect to the areas under the jurisdiction of the SCAPCD, all reports, applications, submittals, and other communications pertaining to the above listed NESHAPS source category should be directed to the SCAPCD at the address shown in the ADDRESS Section of this notice.

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

I certify that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act.

List of Subjects in 40 CFR Part 61

Asbestos, Beryllium, Hazardous substances, Mercury, Reporting and recordkeeping requirements, Vinyl chloride.

This Notice is issued under the authority of section 111 of the Clean Air Act, as amended (42 U.S.C. 1857, *et seq.*).

Dated: June 18, 1984.

Judith E. Ayres,

Regional Administrator.

[FR Doc. 84-17065 Filed 6-26-84; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 162

[OPP-250031E; PH-FRL 2616-2]

Pesticide Programs; Effective Date for the Exemption From FIFRA Requirements for Certain Products Containing Pheromone Attractants

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; confirmation of effective date.

SUMMARY: As required by section 25(a)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA),

EPA submitted a final regulation exempting from regulation under FIFRA, all pheromones and identical or substantially similar compounds labeled for use only in pheromone traps and the pheromone traps in which those compounds are the sole active pesticide ingredient(s) to both Houses of Congress for review prior to the regulation taking effect. The regulation was published in the **Federal Register** of August 24, 1983 (48 FR 38572). The minimum 60-day period for Congressional review ended.

DATE: The regulation is effective on June 27, 1984.

FOR FURTHER INFORMATION CONTACT:

By mail: David Alexander, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Office location and telephone number: Rm. 1114C, CM No. 2, 1921 Jefferson Davis Highway, Arlington, VA (703–557–0592).

SUPPLEMENTARY INFORMATION: EPA issued a final regulation, which was published in the **Federal Register** of August 24, 1983 (48 FR 8572), under section 3 of FIFRA. The regulation exempts from regulation under FIFRA, all pheromones and identical or substantially similar compounds labeled for use only in pheromone traps and the pheromone traps in which those compounds are the sole active pesticide ingredient(s). However, as required by section 25(a)(4) of FIFRA, the regulation could not take effect until it had been submitted to both Houses of Congress for a period of 60 days of continuous Congressional session, as defined by section 25(a)(4). Since it was not possible to predict an exact date on which the Congressional review period would end, the preamble to the final regulation stated that EPA would issue a separate **Federal Register** notice after the review period was over announcing the effective date of the regulation.

Accordingly, the final regulation published in the **Federal Register** of August 24, 1983 (48 FR 38572) is effective on June 27, 1984.

(Sec. 25, as amended, Pub. L. 96–539, 94 Stat. 3195 (7 U.S.C. 136))

List of Subjects in 40 CFR Part 162

Administrative practice and procedure, Intergovernmental relations, Labeling Packaging and containers, Pesticides and pests.

Dated: June 22, 1984.

John A. Moore,

Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 84–17220 Filed 6–26–84; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6549

[C–17322]

Colorado; Partial Revocation of Executive Order of April 17, 1926, Public Water Reserve No. 107

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes an Executive order insofar as it affects 40 acres of public land withdrawn for public water reserve purposes. This action will open the land to surface entry and nonmetalliferous mining. The land has been and will remain open to metalliferous mining and mineral leasing.

EFFECTIVE DATE: June 27, 1984.

FOR FURTHER INFORMATION CONTACT: Richard D. Tate, Colorado State Office, 303–837–2592.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. That portion of Public Water Reserve No. 107 granted to the Bureau of Land Management by Executive Order of April 17, 1926, and further designated by Bureau of Land Management order dated November 15, 1972, is hereby revoked insofar as it affects the following described land:

Sixth Principal Meridian

T. 1 N., R. 76 W.,
Sec. 17, NE¼SE¼.

The area described aggregates 40 acres in Grand County.

2. At 10 a.m. on July 24, 1984, the land shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on July 24, 1984, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. At 10 a.m. on July 24, 1984, the land shall be open to nonmetalliferous mineral location under the United States mining laws. Appropriation of lands for nonmetalliferous minerals under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. Sec. 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determination in local courts.

The land has been and will remain open to metalliferous mineral location under the United States mining laws and to applications and offers under the mineral leasing laws.

Inquiries concerning these lands shall be directed to the State Director, Colorado State Office, Bureau of Land Management, 1037—20th Street, Denver, Colorado 80202.

Dated: June 18, 1984.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 84–17111 Filed 6–26–84; 8:45 am]

BILLING CODE 4310–84–M

FEDERAL MARITIME COMMISSION

46 CFR Parts 536 and 580

[Docket No. 84–24]

Publishing and Filing Tariffs by Common Carriers in the Foreign Commerce of the United States

AGENCY: Federal Maritime Commission.

ACTION: Interim rules and request for comments; correction.

SUMMARY: The Commission is correcting the authority citation for a document concerning Publishing and Filing Tariffs By Common Carriers in the Foreign Commerce of the United States.

FOR FURTHER INFORMATION CONTACT: Francis C. Hurney, Secretary, Federal Maritime Commission, 1100 L Street, NW., Washington, D.C. 20573, (202) 523–5725.

In FR Doc. 84–15509, appearing in the **Federal Register** of Monday, June 11, 1984, on page 24023, the authority citation appearing at the end of the

second column is corrected by changing "5 U.S.C. 533" to "5 U.S.C. 553".

Francis C. Hurney,

Secretary.

[FR Doc. 84-17016 Filed 6-26-84; 8:45 am]

BILLING CODE 6730-01-M

NATIONAL TRANSPORTATION SAFETY BOARD

49 CFR Part 800

Organization and Functions of the Board and Delegations of Authority

AGENCY: National Transportation Safety Board.

ACTION: Final rule.

SUMMARY: This amendment revises Part 800 to reflect the current organizational structure of the Board and to make additional delegations of authority to the Directors of the Bureau of Accident Investigation and the Bureau of Field Operations.

EFFECTIVE DATE: June 27, 1984.

FOR FURTHER INFORMATION CONTACT: John M. Stuhldreher, General Counsel, National Transportation Safety Board, 800 Independence Avenue, SW., Washington, D.C. 20594; Telephone: 202-382-6540.

SUPPLEMENTARY INFORMATION: The National Transportation Safety Board is amending Part 800 to reflect the current organizational structure of the Board. This updating includes (a) deleting organizational components which have been disestablished (Bureau of Plans and Programs), (b) adding organizational components which have been recently established (Bureau of Safety Programs and Bureau of Field Operations), and (c) deleting provisions which are references to other regulations of the Board and which therefore are not needed. At the same time, additional delegations of authority are being made to the Directors of the Bureau of Accident Investigation and Bureau of Field Operations, as described below.

The Safety Board has the statutory responsibility to investigate and determine the facts, conditions and circumstances and the cause or probable cause or causes of all civil aircraft accidents and specified accidents in other modes of transportation (49 U.S.C. 1903(a)). When major accidents are investigated by the Board the determination of cause is issued as part of a detailed narrative report. However, in the overwhelming majority of aviation and railroad accident investigations, and to some extent in other modes of transportation, the determinations of cause are issued in a format entitled "Briefs of Accident." In the past there have been approximately 4,000 aircraft accidents and 550 railroad accidents each year in which causal determinations have been issued in the brief format. In other modes of transportation brief format reports have been issued periodically.

In the interest of administrative efficiency, and to allow the Board Members to concentrate their time and attention on reports of major accident investigations and safety studies, the Board has decided to delegate to the Director, Bureau of Accident Investigation, and to the Director, Bureau of Field Operations the authority to determine the probable cause(s) of accidents reported in the brief format. The delegations reserve the determination of cause in any such accident investigations to the Board when requested by a single Board Member and also require that the Bureau Director refer the findings of the accident investigation to the Board for determination of cause when it is apparent that the accident investigation involves a matter of significant public interest, a policy issue, or a safety issue or other matter which dictates that the determination of probable cause be made by the Board. The delegation will not affect the opportunity, as provided in § 845.41 of the Board's rules (49 CFR 845.41), for any person having a direct interest in an accident investigation to submit a petition for reconsideration or modification of the determination of probable cause, and such petitions will continue to be acted on by the Board Members. The Director, Bureau of Field Operations also is being delegated authority parallel to that currently given to the Director, Bureau of Accident Investigation, with respect to ordering investigations and disclosing factual information.

Since this regulatory amendment is not a substantive rule but a rule of agency organization and procedure, notice and public procedure are not necessary and the amendment may be made effective immediately.

Regulatory Flexibility

Under the criteria of the Regulatory Flexibility Act, these amendments to Part 800 will not impose any kind of regulatory burden on any entity. These amendments are intended to clarify the Board's procedures in respect to accident/incident investigations, hearings and reports.

Paperwork Reduction

The amendments that are adopted herein will not in any way impose paperwork requirements.

List of Subjects in 49 CFR Part 800

Organization and functions, Authority delegations (government agencies).

Accordingly, Part 800 of the Board's Rules (49 CFR 800) is revised to read as follows:

PART 800—ORGANIZATION AND FUNCTIONS OF THE BOARD AND DELEGATIONS OF AUTHORITY

Subpart A—Organization and Functions

Sec.
800.1 Purpose.
800.2 Organization.
800.3 Functions.
800.4 Operation.
800.5 Office locations.
800.6 Availability of information and materials.

Subpart B—Delegations of Authority to Staff Members

800.21 Purpose.
800.22 Delegation to the Managing Director.
800.23 Delegation to the administrative law judges, Office of Administrative Law Judges.
800.24 Delegation to the General Counsel.
800.25 Delegation to the Director, Bureau of Accident Investigation.
800.26 Delegation to the Director, Bureau of Administration.
800.27 Delegation to investigative officers and employees of the Board.
800.28 Delegation to the Director, Bureau of Field Operations.
Appendix—Request to the Secretary of the Department of Transportation To Investigate Certain Aircraft Accidents for a Temporary Period

Authority: Independent Safety Board Act of 1974, Pub. L. 93-633, 88 Stat. 2166 (49 U.S.C. 1901 et seq.).

Subpart A—Organization and Functions

§ 800.1 Purpose.

This part describes the organization, functions, and operation of the National Transportation Safety Board (Board).

§ 800.2 Organization.

The Board consists of five Members appointed by the President with the advice and consent of the Senate. One of the Members is designated by the President as Chairman with the advice and consent of the Senate, and one as Vice Chairman. The Members exercise the functions, powers, and duties of Titles VI and VII of the Federal Aviation Act of 1958 (49 U.S.C. 1441), and the Independent Safety Board Act of 1974 (88 Stat. 2166 et seq. (49 U.S.C. 1901 et

seq.)). The Board is an independent agency of the United States. A detailed description of the Board and its components is published in the Board's internal orders, which are available for inspection and copying in the public reference room in the Washington office of the Board. The various delegations of authority from the Board and the Chairman to the staff are set forth in Subpart B of this part. The Board's staff is comprised of the following prinicipal components:

(a) The Office of the Managing Director, which assists the Chairman in the discharge of his functions as executive and administrative head of the Board, coordinates and directs the activities of the staff, is responsible for the day-to-day operation of the Board, and recommends and develops plans to achieve the Board's program objectives. The Office of the Managing Director also provides excutive secretariat services to the Board.

(b) The Office of Government and Public Affairs, which supplies the public, the Congress, other Federal, state and local government agencies, the transportation industry and the news media, with current, accurate information concerning the work, programs, and objectives of the Board.

(c) The Office of the General Counsel, which provides legal advice and assistance to the Board and its staff components, prepares Board rules, opinions and/or orders, and advice to all offices and bureaus on matters of legal significance; and represents the Board in court actions to which the Board is a party or in which the Board is interested.

(d) The Office of Administrative Law Judges, which conducts all formal proceedings arising under Title VI of the Federal Aviation Act of 1958, including proceedings involving suspension or revocation of certificates and appeals from actions of the Administrator, Federal Aviation Administration, in refusing to issue airman certificates.

(e) The Bureau of Accident Investigation, which conducts investigations of all major transportation accidents and other marine, pipeline and hazardous materials accidents within the Board's jurisdiction; recommends to the Board whether a public hearing or deposition proceeding should be held to determine the facts, conditions, and circumstances of major accidents; prepares a report for release to the public regarding such accidents for submission to the Board including a recommendation as to the probable cause(s); determines the probable cause(s) of accidents where delegated authority to do so by the Board; initiates safety recommendations to prevent future transportation accidents; and participates in the investigation of accidents which occur in foreign countries and which involve U.S.-registered and/or U.S.-manufactured aircraft, pursuant to Annex 13 of the Chicago Convention.

(f) The Bureau of Field Operations, which oversees the Board's field offices located throughout the United States, and conducts all aviation, rail and highway accident investigations within the Board's jurisdiction other than those conducted by the Bureau of Accident Investigation; prepares a report for release to the public regarding such accidents; determines the probable cause(s) of accidents where authority to do so is delegated by the Board; initiates safety recommendations to prevent future transportation accidents; and conducts special investigations into selected aviation, rail or highway accidents involving safety issues of concern to the Board.

(g) The Bureau of Technology, which provides technical advice and services, conducts research, and carries out analytical studies and tests on all aspects of the Board's accident investigation, accident prevention, and safety promotion activities, including safety recommendations, studies, and special investigations.

(h) The Bureau of Safety Programs, which conducts safety studies of specific safety issues; coordinates the development of and follow-up on the safety recommendations issued by the Board; coordinates preparation of Board comments on Notices of Proposed Rulemaking by other Federal agencies which involve transportation safety issues; provides statistical analyses of transportation accident and incident data; and prepares transportation safety program proposals for submission to the Board.

(i) The Bureau of Administration, which provides administrative support for the Board in the following areas: Budget, accounting and audit; personnel, training and payroll; information management and automatic data processing; property, space, communications, facilities and transportation management; and printing, publications, mail, procurement, contracting, and accident inquiry services.

§ 800.3 Functions.

(a) The primary function of the Board is to promote safety in transportation. The Board is responsible for the investigation, determination of facts, conditions, and circumstances and the cause or probable cause or causes of: All accidents involving civil aircraft; highway accidents including railroad grade-crossing accidents, the investigation of which is selected in cooperation with the States; railroad accidents in which there is a fatality, substantial property damage, or which involve a passenger train; pipeline accidents in which there is a fatality or substantial property damage; and major marine casualties and marine accidents involving a public and a non-public vessel or involving Coast Guard functions. The Board makes transportation safety recommendations to Federal, State, and local agencies, and private organizations, to reduce the likelihood of recurrence of transportation accidents. It initiates and conducts safety studies and special investigations on matters pertaining to safety in transportation, assesses techniques and methods of accident investigation, evaluates the effectiveness of transportation safety consciousness and efficacy in preventing accidents of other Government agencies, and evaluates the adequacy of safeguards and procedures concerning the transportation of hazardous materials.

(b) Upon application of affected parties, the Board reviews in quasi-judicial proceedings, conducted pursuant to the provisions of the Administrative Procedure Act, 5 U.S.C. 551 et seq., denials by the Administrator of the Federal Aviation Administration of applications for airman certificates and orders of the Administration modifying, amending, suspending, or revoking certificates. The Board also reviews on appeal the decisions of the Commandant, U.S. Coast Guard, on appeals from orders of adminstrative law judges suspending, revoking, or denying seamen licenses, certificates, or documents.

(c) The Board, as provided in Part 801 of this chapter, issues reports and orders pursuant to its duties to determine the cause or probable cause or causes of transportation accidents and to report the facts, conditions and circumstances relating to such accidents; issues opinions and/or orders after reviewing on appeal the suspension, amendment, modification, revocation, or denial of any certificate or license issued by the Secretary of the Department of Transportation (who acts through the Administrator of the Federal Aviation Administration or the Commandant of the United States Coast Guard); and issues and makes available to the public safety recommendations, studies, safety recommendations, safety studies, and reports of special investigations.

§ 800.4 Operation.

In exercising its functions, duties, and responsibilities, the Board utilizes:

(a) The Board's staff, consisting of specialized bureaus and offices dealing with particular areas of transportation safety and performing administrative and technical work for the Board. The staff advises the Board and performs duties for the Board that are inherent in the staff's position in the organizational structure or that the Board has delegated to it. The staff is described more fully in § 800.2.

(b) Rules published in the **Federal Register** and codified in this Title 49 of the Code of Federal Regulations. These rules may be inspected in the Board's public reference room, or purchased from the Superintendent of Documents, Government Printing Office.

(c) Procedures and policies set forth in the agency's internal directives system which govern the activities of employees and organizational components of the Board. The internal directives system is designated as the NTSB Manual and consists of instructions which are called NTSB Orders and NTSB Notices.

(d) Meetings of the Board Members conducted pursuant to the Government in the Sunshine Act.

(e) Public hearings in connection with transportation accident investigations and public hearings and oral arguments in proceedings concerned with certificates or licenses issued by the Secretary or an Administrator of the Department of Transportation. They are held at the time and place announced in the notices thereof which are served on the parties to the proceedings or published in the **Federal Register.**

§ 800.5 Office locations.

The principal offices of the National Transportation Safety Board are located at 800 Independence Avenue, SW., Washington, D.C. 20594. The Board maintains field offices in selected cities throughout the United States.

§ 800.6 Availability of information and materials.

Part 801 of this chapter provides detailed information concerning the availability of Board documents and records. That part also provides a fee schedule and information concerning inspection and copying.

Subpart B—Delegations of Authority to Staff Members

§ 800.21 Purpose.

The purpose of this Subpart B is to publish all delegations of authority of staff members which do not appear in other Board regulations.

§ 800.22 Delegation to the Managing Director.

(a) The Board hereby delegates to the Managing Director the authority to:

(1) Make the final determination as to whether to withhold a Board record from inspection of copying, pursuant to Part 801 of this chapter.

(2) Approve for publication in the **Federal Register** notices concerning issuance of accident reports and safety recommendations and responses to safety recommendations, as required by sections 304(a)(2) and 307 of the Independent Safety Board Act of 1974 (49 U.S.C. 1903(a)(2) and 1906).

(b) The Chairman delegates to the Managing Director the authority to exercise and carry out, subject to the direction and supervision of the Chairman, the following functions vested in the Chairman:

(1) The appointment and supervision of personnel employed by the Board;

(2) The distribution of business among such personnel and among organizational components of the Board; and

(3) The use and expenditure of funds.

§ 800.23 Delegation to the administrative law judges, Office of Administrative Law Judges.

The Board hereby delegates to the administrative law judges the authority generally detailed in procedural regulation, Part 821, of this chapter.

§ 800.24 Delegation to the General Counsel.

The Board hereby delegates to the General Counsel the authority to:

(a) Approve, disapprove, or request further information concerning requests for testimony of Board employees with respect to their participation in the investigation of accidents, and, upon receipt of notice that an employee has been subpoenaed, to make arrangements with the court either to have the employee excused from testifying or to give the employee permission to testify in accordance with the provisions of Part 835 of this chapter.

(b) Approve or disapprove in safety enforcement proceedings, for good cause shown, requests for changes in procedural requirements subsequent to the initial decision, grant or deny requests to file additional briefs pursuant to § 821.48 of this chapter, and raise on appeal any issue the resolution of which he deems important to the proper disposition of proceedings under § 821.49 of this chapter.

(c) Approve of disapprove, for good cause shown, requests to extend the time for filing comments on proposed new or amended regulations.

(d) Issue regulations for the purpose of making editorial changes or corrections in the Board's rules and regulations.

(e) Issue orders staying, pending judicial review, orders of the Board suspending or revoking certificates, and consent to the entry of judicial stays with respect to such orders.

(f) Compromise civil penalties in the case of violations arising under Title VII of the Federal Aviation Act of 1958, or any rule, regulation, or order issued thereunder.

(g) Issue orders dismissing appeals from initial decisions of Board administrative law judges pursuant to the request of the appellant.

(h) Correct Board orders by eliminating typographical, grammatical, and similar errors, and make editorial changes therein not involving matters of substance.

§ 800.25 Delegation to the Director, Bureau of Accident Investigation.

The Board hereby delegates to the Director, Bureau of Accident Investigation, the authority to:

(a) Order an investigation into the facts, conditions, and circumstances of transportation accidents which the Board has authority to investigate.

(b) Disclose factual information pertinent to all accidents or incidents as provided for in Part 801 of this chapter.

(c) Determine the probable cause(s) of accidents in which the determination is issued in the "Brief of Accident" format, except that the Bureau Director will submit the findings of the accident investigation to the Board for determination of the probable cause(s) when (a) any Board Member so requests, or (b) it appears to the Bureau Director that, because of significant public interest, a policy issue, or a safety issue or other matter, the determination of the probable cause(s) should be made by the Board. Provided, that a petition for reconsideration or modification of a determination of the probable cause(s) made under § 845.41 of the Board's regulations (49 CFR 845.41) shall be acted on by the Board.

§ 800.26 Delegation to the Director, Bureau of Administration.

The Board hereby delegates to the Director, Bureau of Administration, the authority to:

(a) Determine initially the withholding of a Board record from inspection or copying, pursuant to Part 801 of this chapter.

(b) Settle claims for money damages of $2,500 or less against the United States arising under section 2672 of 28 United States Code (the Federal Tort

Claims Act) because of acts or omissions of Board employees.

§ 800.27 Delegation to investigative officers and employees of the Board.

The Board hereby delegates to any officer or employee of the Board who is designated by the Chairman of the Safety Board the authority to sign and issue subpoenas, and administer oaths and affirmations, and to take depositions or cause them to be taken in connection with the investigation of transportation accidents.

§ 800.28 Delegation to Director, Bureau of Field Operations.

The Board hereby delegates to the Director, Bureau of Field Operations, the authority to:

(a) Order an investigation into the facts, conditions, and circumstances of transportation accidents which the Board has authority to investigate.

(b) Disclose factual information pertinent to all accidents or incidents as provided for in Part 801 of this chapter.

(c) Determine the probable cause(s) of accidents in which the determination is issued in the "Brief of Accident" format, except that the Bureau Director will submit the findings of the accident investigation to the Board for determination of the probable cause(s) when (a) any Board Member so requests, or (b) it appears to the Bureau Director that, because of significant public interest, a policy issue, or a safety issue or other matter, the determination of the probable cause(s) should be made by the Board. Provided, that a petition for reconsideration or modification of a determination of the probable cause(s) made under $845.41 of the Board's regulations (49 CFR 845.41) shall be acted on by the Board.

Appendix—Request to the Secretary of the Department of Transportation to Investigate Certain Aircraft Accidents

(a) Acting pursuant to the authority vested in it by Title VII of the Federal Aviation Act of 1958 (49 U.S.C. 1441) and section 304(a)(1) of the Independent Safety Board Act of 1974, the National Transportation Safety Board (Board) hereby requests the Secretary of the Department of Transportation (Secretary) to exercise his authority subject to the terms, conditions, and limitations of Title VII and section 304(a)(1) of the Independent Safety Board Act of 1974, and as set forth below to investigate the facts, conditions, and circumstances surrounding certain fixed-wing and rotorcraft aircraft accidents and to submit a report to the Board from which the Board may make a determination of the probable cause.

(b) The authority to be exercised hereunder shall include the investigation of all civil aircraft accidents involving rotorcraft, serial application, amateur-built aircraft, restricted category aircraft, and all fixed-wing aircraft which have a certificated maximum gross takeoff weight of 12,500 pounds or less except:

(1) Accidents in which fatal injuries have occurred to an occupant of such aircraft, but shall include accidents involving fatalities incurred as a result of aerial application operations, amateur-built aircraft operations, or restricted category aircraft operations.

(2) Accidents involving aircraft operated in accordance with the provisions of Part 135 of the Federal Air Regulations entitled "Air Taxi Operators and Commercial Operators of Small Aircraft."

(3) Accidents involving aircraft operated by an air carrier authorized by certificate of public convenience and necessity to engage in air transportation.

(4) Accidents involving midair collisions.

(c) *Provided,* That the Board may, through the chiefs of its field offices, or their designees who receive the initial notifications, advise the Secretary, through his appropriate designee, that the Board will assume the full responsibility for the investigation of an accident included in this request in the same manner as an accident not so included; and *Provided further,* That the Board, through the chiefs of its field offices, or their designees who receive initial notifications may request the Secretary, through his appropriate designee, to investigate an accident not included in this request, which would normally be investigated by the Board under Section (b) (1) through (4) above, and in the same manner as an accident so included.

(d) *Provided,* That this authority shall not be construed to authorize the Secretary to hold public hearings or to determine the probable cause of the accident; and *Provided further,* That the Secretary will report to the Board in a form acceptable to the Board the facts, conditions, and circumstances surrounding each accident from which the Board may determine the probable cause.

(e) *And provided further,* That this request includes authority to conduct autopsies and such other tests of the remains of deceased persons aboard the aircraft at the time of the accident, who die as a result of the accident, necessary to the investigations requested hereunder and such authority may be delegated and redelegated to any official or employee of the Federal Aviation Administration (FAA). For the purpose of this provision, designated aviation examiners are not deemed to be officials or employees of the FAA.

(f) Invoking the provisions of section 701(f) of the Federal Aviation Act of 1958, and section 304(a)(1) of the Independent Safety Board Act of 1974, is necessary inasmuch as sufficient funds have not been made available to the Board to provide adequate facilities and personnel to investigate all accidents involving civil aircraft. This request, therefore, is considered to be temporary in nature and may be modified or terminated by written notice to the Secretary.

(42 FR 8379, Mar. 1, 1977)

Signed in Washington, D.C. on June 18, 1984.

Jim Burnett,

Chairman.

[ER Doc. 84-16906 Filed 6-26-84; 8:45 am]

BILLING CODE 7533-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1033

[Fourteenth Revised Service Order No. 1474]

Various Railroads Authorized To Use Tracks and/or Facilities of Chicago, Milwaukee, St. Paul & Pacific Railroad Co. Debtor (Richard B. Ogilvie, Trustee)

AGENCY: Interstate Commerce Commission.

ACTION: Fourteenth Revised Service Order No. 1474.

SUMMARY: Pursuant to section 122 of the Rock Island Railroad Transition and Employee Assistance Act, Pub. L. 96-254, this order authorizes various railroads to provide interim service over the Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Debtor (Richard B. Ogilvie), Trustee, and to use such tracks and facilities as are necessary for operations. This order permits carriers to continue to provide service to shippers which would otherwise be deprived of essential rail transportation.

EFFECTIVE: 11:59 p.m., June 30, 1984, and continuing in effect until 11:59 p.m., September 30, 1984, unless otherwise modified, amended or vacated by order of this Commission.

FOR FURTHER INFORMATION CONTACT: M. F. Clemens, Jr., (202) 275-7840 or 275-1559.

Decided: June 21, 1984.

Pursuant to section 122 of the Rock Island Railroad Transition and Employee Assistance Act, Pub. L. 96-254, the Commission is authorizing the temporary provision of interim service over Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Debtor (Richard B. Ogilvie, Trustee), (MILW) and the use of such tracks and facilities as are necessary for those operations.

In view of the continued urgent need for rail service over certain MILW lines pending the implementation of long-range solutions, this order permits carriers named in Appendix A to this order, to provide service to shippers which might otherwise be deprived of essential rail transportation.

On June 14, 1984, the MILW Trustee notified the Railroad Service Board (Board) of the following changed circumstances which necessitated his request for the deletion of Seattle and North Coast Railroad Company (Seattle) from Appendix A of this order, effective June 30, 1984.

(1) By Order No. 746 dated April 16, 1984, the MILW's Reorganization Court declared Seattle in default under the lease and sale agreements between Seattle and the MILW.

(2) The Reorganization Court made a determination that continuation of Seattle's Operations over the MILW's Seattle-Port Angeles branch line without compensation is harmful to the debtor estate and its efforts to reorganize.

(3) In addition to being in default of its agreements with the MILW Trustee, Seattle has failed its responsibilities under ordering paragraph (c) of Thirteenth Revised Service Order No. 1474, which requires that the Trustee will be compensated for the use of the MILW property described in Appendix A and utilized by the interim operator.

(4) The Trustee is unable to provide the requisite concurrence for Seattle's continued use of MILW property.

Since the inception of interim operations over MILW's abandoned lines, and with consideration of the MILW's ongoing rail operations and reorganization, the Board has sought and received the Trustee's concurrence each time the order's effectiveness has been extended. The Board believes such concurrence is imperative, and essential to the Trustee in fulfilling his responsibilities. Moreover, the action by the Bankruptcy court to terminate Seattle's lease/purchase agreements and Seattle's failure to compensate the Estate for the use of its property strengthen the Trustee's request for termination of Seattle's interim operating authority under the service order..

It is the conclusion of the Board that, given the position of the Trustee, and Seattle's apparent inability to consummate the acquisition of the MILW line during the four years since it was authorized or, more recently, to compensate the Trustee, deletion of Seattle's interim operating authority should not affect its prospects of acquiring the MILW line. Moreover, the Board agrees that continued use of MILW property by Seattle without compensation will significantly diminish the Estate and the Trustee's ability to liquidate certain lines and reorganize.

Appendix A of Thirteenth Revised Service Order No. 1474 is revised by deleting at Item 1., the authority for Seattle to operate between Port Angeles and Port Townsend, Washington, including Pier 27 and associated track in Seattle, Washington. Remaining items are renumbered accordingly.

This order is further revised by extending the expiration date until September 30, 1984.

It is the opinion of the Commission that an emergency exists requiring that the railroads listed in the attached appendix be authorized to conduct operations using MILW tracks and/or facilities; that notice and public procedure are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

§ 1033.1474 [Amended]

It is ordered, Fourteenth Revised Service Order No. 1474

(a) Various railroads authorized to use tracks and/or facilities of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Debtor (Richard B. Ogilvie, Trustee). Various railroads are authorized to use tracks and/or facilities of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company (MILW), as listed in Appendix A to this order, to provide interim service over the MILW.

(b) The Trustee shall permit the affected carriers to enter upon the property of the MILW to conduct service essential to these interim operations.

(c) The Trustee will be compensated on terms established between the Trustee and the affected carrier(s); or upon failure of the parties to agree as hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by section 122(a) Pub. L. 96–254.

(d) Interim operators, authorized in Appendix A to this order, shall, within fifteen (15) days of its effective date, notify the Railroad Service Board of the date on which interim operations were commenced or the expected commencement date of those operations.

(e) Interim operators, authorized in Appendix A to this order, shall, within thirty days of commencing operations under authority of this order, notify the MILW Trustee of those facilities they believe are necessary or reasonably related to the authorized operations.

(f) During the period of these operations over the MILW lines, interim operators shall be responsible for preserving the value of the lines, associated with each interim operation, to the MILW estate, and for performing necessary maintenance to avoid undue deterioration of lines and associated facilities.

(g) Any operational or other difficulty associated with the authorized operations shall be resolved through agreement between the affected parties or, failing agreement, by the Commission's Railroad Service Board.

(h) Any rehabilitation, operational, or other costs related to the authorized operations shall be the sole responsibility of the interim operator incurring the costs, and shall not in any way be deemed a liability of the United States Government.

(i) *Application.* The provisions of this order shall apply to intrastate, interstate and foreign traffic.

(j) *Rate applicable.* Inasmuch as this operation by interim operators over tracks previously operated by the MILW is deemed to be due to carrier's disability, the rates applicable to traffic moved over these lines shall be the rates applicable to traffic routed to, from, or via these lines which were formerly in effect on such traffic when routed via MILW, until tariffs naming rates and routes specifically applicable become effective.

(k) In transporting traffic over these lines, all interim operators involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to that traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between the carriers; or upon failure of the carriers to so agree, the divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(l) *Employees.* In providing service under this order interim operators, to the maximum extent practicable, shall use the employees who normally would have performed work in connection with the traffic moving over the lines subject to this Service Order.

(m) *Effective date.* This order shall become effective at 11:59 p.m., June 30, 1984.

(n) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., September 30, 1984, unless otherwise modified, amended, or vacated by order of this Commission.

This action is taken under the authority of 49 U.S.C. 10304–10305 and Section 122, Public Law 96–254.

This order shall be served upon the Association of American Railroads, Transportation Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad

Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C. and by filing a copy with the Director, Office of the Federal Register.

List of Subjects in 49 CFR Part 1033

Railroads.

By the Commission, Railroad Service Board, members J. Warren McFarland, Bernard Gaillard, and John H. O'Brien. Bernard Gaillard not participating.

James H. Bayne,

Secretary.

Appendix A—MILW Lines Authorized To Be Operated by Interim Operators

1. *Des Moines Union Railway Company (DMU):*

A. Between Des Moines (milepost 0) and Clive, (milepost 8.5) Iowa; and between Clive (milepost 0) and Grimes, Iowa (milepost 7), a total distance of 15.5 miles.

2. *Central Wisconsin Railroad Company (CWRC):*

A. Between Elkhorn, Wisconsin (milepost 38.5) and Bardwell, Wisconsin (milepost 53.0), a distance of 14.5 miles.

B. Between Janesville (Station Anderson), Wisconsin (milepost 102.0) and Madison (Station Minona), Wisconsin (milepost 138.4), a distance of 36.4 miles.

[FR Doc. 84-17058 Filed 6-26-84; 8:45 am]

BILLING CODE 7035-01-M

Proposed Rules

Federal Register
Vol. 49, No. 125
Wednesday, June 27, 1984

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

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 435

[Docket No. 1114S; Amdt. No. 4]

Tobacco (Quota Plan) Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) hereby proposes to amend Appendix A to the Tobacco (Quota Plan) Crop Insurance Regulations (7 CFR Part 435) to include additional counties recently approved by FCIC's Board of Director for tobacco crop insurance, to list counties inadvertently omitted from previous county listing publications, and to republish Appendix A in its entirety to reflect all counties currently designated for tobacco crop insurance. The intended effect of this rule is to update the list of counties wherein tobacco crop insurance is otherwise authorized to be offered under the provisions of the Tobacco (Quota Plan) Crop Insurance Regulations and to notify all interested parties in the additional affected counties that they are now eligible to participate in the program.

DATE: Written comments, data, and opinions on this proposed rule must be submitted not later than July 27, 1984, to be sure of consideration.

ADDRESS: Written comments on this proposed rule should be sent to the Office of the Manager, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250, telephone (202) 447–3325.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established in Departmental Regulation No. 1512–1 (December 15, 1983). This action does not constitute a review as to the need, currency, clarity, and effectiveness of these regulations under that memorandum. The sunset review date established for these regulations is April 1, 1988.

Merritt W. Sprague, Manager, FCIC, has determined that this action (1) is not a major rule as defined by Executive order No. 12291 (February 17, 1981), because it will not have an annual effect on the economy of $100 million or more; and (2) will not increase the Federal paperwork burden for individuals, small businesses, and other persons.

The title and number of the Federal Assistance Program to which this proposed rule applies are: Title-Crop Insurance; Number 10.450.

As set forth in the notice related to 7 CFR Part 3015, Subpart V (48 FR 29116, June 24, 1983), the Federal Crop Insurance Corporation's program and activities, requiring intergovernmental consultation with State and local officials are excluded from the provisions of Executive Order No. 12372.

This action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Flexibility Analysis was prepared.

Under the provisions of 7 CFR 435.1, before any insurance is offered in any county, there shall be published by appendix to this part the names of the counties in which tobacco crop insurance shall be offered. The Board of Directors has approved additional counties for tobacco crop insurance and the Manager proposes to make crop insurance available in those counties effective with the 1984 and succeeding crop years. The proposed additional counties are listed and identified in Appendix A by an asterisk ("*").

In reviewing the county listing for tobacco crop insurance, FCIC noted that several counties had been inadvertently omitted from previous regulations published in the **Federal Register.** These counties are included in Appendix A and are identified by two asterisks ("**").

To be sure that Appendix A lists every county wherein tobacco crop insurance is otherwise authorized to be offered, FCIC is republishing Appendix A in its entirety.

The public is invited to submit written comments, data, and opinions on this proposed rule for 30 days after publication in the **Federal Register.** All comments made pursuant to this action will be available for public inspection in the Office of the Manager during regular business hours, Monday through Friday.

List of Subjects in 7 CFR Part 435

Crop insurance, Tobacco (Quota Plan).

Proposed Rule

PART 435—[AMENDED]

Accordingly, under the authority contained in the Federal Crop Insurance Act, as amended (7 CFR 1501 *et seq.*), the Federal Crop Insurance Corporation hereby proposes to amend the Tobacco (Quota Plan) Crop Insurance Regulations (7 CFR Part 435), effective for the 1984 and succeeding crop years, in the following instances:

1. The authority citation for 7 CFR Part 435 is:

Authority: Secs. 506, 516, Pub. L. 75–430, 52 Stat. 73, 77, as amended (7 U.S.C. 1506, 1516).

2. 7 CFR Part 435 is amended by revising and reissuing Appendix A thereto to read as follows:

Appendix A—Counties Designated for Tobacco (Quota Plan) Crop Insurance

The following counties are designated for Tobacco (Quota Plan) Crop Insurance under the provisions of 7 CFR 435.1.

Indiana

**Bartholomew	Jennings
*Brown	*Lawrence
Clark	**Ohio
*Crawford	*Orange
Dearborn	*Owen
*Decatur	*Perry
*Fayette	Ripley
**Floyd	*Rush
Franklin	Scott
*Greene	Spencer
Harrison	Switzerland
*Jackson	Washington
Jefferson	

Kentucky

Adair	Butler
Allen	Caldwell
Anderson	**Calloway
Ballard	**Campbell
Barren	Carlisle
Bath	Carroll
Boone	**Carter
Burbon	Casey
*Boyd	Christian
Boyle	Clark
Bracken	**Clay
**Breathitt	**Clinton
Breckinridge	**Cumberland
**Bullitt	Daviess

**Edmonson	Marion	
**Elliott	Marshall	
**Estill	Mason	
Fayette	Meade	
Fleming	**Menifee	
Franklin	Mercer	
**Gallatin	Metcalfe	
Garrard	**Monroe	
Grant	Montgomery	
Graves	**Morgan	
Grayson	Muhlenberg	
Green	Nelson	
**Greenup	Nicholas	
Hancock	Ohio	
Hardin	**Oldham	
Harrison	Owen	
Hart	**Owsley	
Henderson	Pendelton	
Henry	*Perry	
**Hickman	**Powell	
Hopkins	Pulaski	
**Jackson	Robertson	
**Jefferson	**Rockcastle	
Jessamine	**Rowan	
**Johnson	Russell	
**Kenton	Scott	
**Knox	Shelby	
Larue	Simpson	
**Laurel	Spencer	
**Lawrence	Taylor	
**Lee	Todd	
*Leslie	Trigg	
Lewis	Trimble	
Lincoln	Warren	
Logan	Washington	
**Lyon	Wayne	
McCracken	Webster	
*McCreary	**Whitley	
McLean	**Wolfe	
Madison	Woodford	
**Magoffin		

Missouri

*Boone	*Clinton	
Buchanan	**Howard	
**Chariton	Platte	
*Clay		

North Carolina

Alleghany	Haywood	
Ashe	Madison	
**Avery	Mitchell	
Buncombe	Watauga	
**Graham	Yancey	

Ohio

Adams	*Hamilton	**Pike
Brown	Highland	*Ross
Clermont	*Jackson	**Scioto
**Gallia	**Lawrence	

Tennessee

Anderson	Hancock	**Pickett
Bedford	Hawkins	Putnam
*Bledsoe	**Hickman	*Rhea
Blount	**Houston	**Roane
*Bradley	*Humphreys	Robertson
**Campbell	Jackson	Rutherford
**Cannon	Jefferson	*Scott
Carter	Johnson	Sevier
Cheatham	Knox	Smith
Claiborne	Lawrence	Stewart
**Clay	*Lewis	Sullivan
Cocke	Lincoln	Sumner
*Coffee	Loudon	Trousdale
**Cumberland	McMinn	Unicoi
**Davidson	Macon	**Union
Dekalb	Marshall	*Van Buren
Dickson	Maury	Warren
**Fentress	**Meigs	Washington
Franklin	Monroe	White
Giles	Montgomery	Williamson
Grainger	**Moore	Wilson
Greene	*Morgan	
Hamblen	**Overton	

Virginia

**Bland	Russell	Washington
**Grayson	Scott	**Wise
Lee	Smyth	

West Virginia

**Cabell	**Mason
**Lincoln	**Putnam

Done in Washington, D.C., on May 11, 1984.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

Dated: June 5, 1984.

Approved by:

Edward Hews,

Acting Manager.

[FR Doc. 84-15723 Filed 6-26-84; 8:45 am]

BILLING CODE 3410-08-M

Agricultural Marketing Service

7 CFR Ch. X

[Docket Nos. AO-160-A62-RO2, etc.]

Milk in Middle Atlantic and Certain Other Marketing Areas; Notice of Hearing on Proposed Amendments to Tentative Marketing Agreements and Orders

7 CFR Part	Marketing area	AO Nos.
1004	Middle Atlantic	AO-160-A62-R02.
1001	New England	AO-14-A60.
1002	New York-New Jersey	AO-71-A74-R01.
1006	Upper Florida	AO-356-A21.
1007	Georgia	AO-366-A23.
1011	Tennessee Valley	AO-251-A26.
1012	Tampa Bay	AO-347-A24.
1013	Southeastern Florida	AO-286-A31.
1030	Chicago Regional	AO-361-A21.
1032	Southern Illinois	AO-313-A32.
1033	Ohio Valley	AO-166-A53.
1036	Eastern Ohio-Western Pennsylvania.	AO-179-A48.
1040	Southern Michigan	AO-225-A36.
1044	Michigan Upper Peninsula	AO-299-A23.
1046	Louisville-Lexington-Evansville.	AO-123-A52.
1049	Indiana	AO-319-A33.
1050	Central Illinois	AO-355-A22.
1062	St. Louis-Ozarks	AO-10-A56.
1064	Greater Kansas City	AO-23-A55.
1065	Nebraska-Western Iowa	AO-86-A42.
1068	Upper Midwest	AO-178-A38.
1075	Black Hills	AO-248-A18.
1076	Eastern South Dakota	AO-260-A26.
1079	Iowa	AO-295-A35.
1093	Alabama-West Florida	AO-386-A2.
1094	New Orleans-Mississippi	AO-103-A43.
1096	Greater Louisiana	AO-257-A31.
1097	Memphis	AO-219-A39.
1098	Nashville	AO-184-A46.
1099	Paducah	AO-183-A38.
1102	Fort Smith	AO-237-A32.
1106	Southwest Plains	AO-210-A44.
1108	Central Arkansas	AO-243-A36.
1120	Lubbock-Plainview	AO-328-A25.
1124	Oregon-Washington	AO-368-A13.
1125	Puget Sound-Inland	AO-226-A30.
1126	Texas	AO-231-A52.
1131	Central Arizona	AO-271-A25.
1132	Texas Panhandle	AO-262-A35.
1134	Western Colorado	AO-301-A18.
1135	Southwestern Idaho-Eastern Oregon.	AO-380-A4.
1136	Great Basin	AO-309-A25.
1137	Eastern Colorado	AO-326-A22.
1138	Rio Grande Valley	AO-335-A30.
1139	Lake Mead	AO-374-A9.

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of public hearing on proposed rulemaking.

SUMMARY: This hearing is being held to consider proposals by the National Milk Producers Federation to amend all 45 Federal milk marketing orders. The Federation represents most of the dairy farmer cooperatives in the United States.

The proposals would provide a separate classification for milk used to make butter and nonfat dry milk. The proposed price for such milk would be the Minnesota-Wisconsin series price (M-W) or a butter-nonfat dry milk formula price, whichever is lower. Milk used to produce butter and nonfat dry milk now is included generally in the same classification (and therefore priced the same at the M-W price) as other milk used to make hard cheese, other dry milk products, and condensed milk.

The proponents consider these proposed changes necessary to maintain an appropriate price for milk used to make butter and nonfat dry milk in the event that the M-W price increases relative to the market values of butter and nonfat dry milk. The proponents also have indicated that they will ask for emergency consideration of these issues at the hearing.

DATE: The hearing will convene at 9:00 a.m., local time, on July 11, 1984.

ADDRESS: The hearing will be held at the Ramada Hotel Old Town, 901 N. Fairfax Street, Alexandria, Virginia 22314, (703) 683-6000.

FOR FURTHER INFORMATION CONTACT: Richard A. Glandt, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447-4829.

SUPPLEMENTARY INFORMATION: This administrative action is governed by the provisions of Sections 556 and 557 of Title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12291.

Notice is hereby given of a public hearing to be held at the Ramada Hotel Old Town, 901 N. Fairfax Street, Alexandria, Virginia, beginning at 9:00 a.m., on July 11, 1984, with respect to proposed amendments to the tentative marketing agreements and to the orders regulating the handling of milk in the aforesaid marketing areas.

The hearing is called pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing order (7 CFR Part 900).

The purpose of the hearing is to receive evidence with respect to the economic and marketing conditions which relate to the proposed amendments, hereinafter set forth, and any appropriate modifications thereof, to the tentative marketing agreements and to the orders.

This hearing represents a reopening for the limited purposes stated herein of the public hearings previously held with respect to the orders regulating the handling of milk in the New York–New Jersey (Docket No. AO–71–A74) and Middle Atlantic (Docket No. AO–160–A62) marketing areas.

Evidence also will be taken to determine whether emergency marketing conditions exist that would warrant omission of a recommended decision under the rules of practice and procedure (7 CFR Part 900.12(d)) with respect to the proposals.

Actions under the Federal milk order program are subject to the "Regulatory Flexibility Act" (Pub. L. 96–354). This act seeks to ensure that, within the statutory authority of a program, the regulatory and information requirements are tailored to the size and nature of small businesses. For the purpose of the Federal order program, a small business will be considered as one which is independently owned and operated and which is not dominant in its field of operation. Most parties subject to a milk order are considered as a small business. Accordingly, interested parties are invited to present evidence on the probable regulatory and informational impact of the hearing proposals on small businesses. Also, parties may suggest modifications of these proposals for the purpose of tailoring their applicability to small businesses.

List of Subjects in 7 CFR Ch. X

Milk Marketing orders, Milk, Dairy products.

The proposed amendments as set forth below, have not received the approval of the Secretary of Agriculture.

Proposed by the National Milk Producers Federation

Proposal No. 1

Amend each Federal milk marketing order to separately classify and price milk used in the production of butter and nonfat dry milk.[1]

For example, the St. Louis-Ozarks marketing order (Part 1062) would be changed as follows:

§1062.40 [Amended]

1. In Section 1062.40 remove paragraph (c)(1)(ii).

2. Amend § 1062.40(c)(1)(iii) to read: "Any milk product, other than nonfat dry milk, in dry form;"

3. Add the following paragraph at the end of § 1062.40:

(d) *Class IV milk.* Class IV milk shall be all skim milk and butterfat used to produce:

1. Butter; and

2. Nonfat dry milk.

§ 1062.50 [Amended]

4. Add the following paragraph at the end of § 1062.50:

* * * * *

(d) *Class IV price.* The Class IV price shall be the lower of:

(1) The basic formula price for the month; or

(2) An amount computed as follows:

(i) Multiply by 4.27, the simple average Chicago Mercantile Exchange Grade A (92-score) butter price for the month as reported by the Dairy Division;

(ii) Multiply by 8.3, the simple average of the averages of high heat, low heat and Grade A nonfat dry milk, for the month for the Central States production area as reported by the Dairy Division;

(iii) Subtract from the sum of (i) and (ii) of this paragraph, $1.32 and round to the nearest cent.

Proposed by the Dairy Division, Agricultural Marketing Service

Proposal No. 2

Make such changes as may be necessary to make the entire marketing agreements and the orders conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and the order may be procured from the Market Administrator of each of the aforesaid specified marketing areas, or from the Hearing Clerk, Room 1077, South Building, United States Department of Agriculture, Washington, D.C. 20250, or may be inspected there.

Copies of the transcript of testimony taken at the hearing will not be available for distribution through the Hearing Clerk's Office. If you wish to purchase a copy, arrangements may be made with the reporter at the hearing.

From the time that a hearing notice is issued and until the issuance of a final decision in a proceeding, Department employees involved in the decisional process are prohibited from discussing the merits of the hearing issues on an ex parte basis with any person having an interest in the proceeding. For this particular proceeding, the prohibition applies to employees in the following organization units:

Office of the Secretary of Agriculture
Office of the Administrator, Agricultural Marketing Service
Office of the General Counsel
Dairy Division, Agricultural Marketing Service (Washington Office only)
Office of the Market Administrator of each of the 45 Orders

Procedural matters are not subject to the above prohibition and may be discussed at any time.

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

Signed at Washington, D.C. on: June 22, 1984.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 84–17204 Filed 6–26–84; 8:45 am]

BILLING CODE 3410–02–M

[1] Consideration of the proposal raises certain other issues related to classification for which specific order language was not proposed. Accordingly, the Department seeks record information relevant to such issues as follows:

(a) Whether butter-powder price snubbers should be removed from any orders that so provide?

(b) What handler butterfat differential should be applied to the proposed new price in any order that provides for handler butterfat differentials?

(c) What minimal changes may be necessary in order provisions pertaining to the classification of transfers of milk between plants, and the assignment of milk received from various sources to the utilization available in each class?

Food Safety and Inspection Service

9 CFR Part 313

[Docket No. 82–021P]

Electrical Method of Slaughter

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Proposed rules.

SUMMARY: This is a proposal to amend the Federal meat inspection regulations by permitting the use of electrical devices that induce instantaneous cardiac arrest in animals as a means of slaughter. Current regulations require that animals must die from loss of blood resulting from the bleeding operation and not from the electrical shock. The proposed rule change is based upon scientific research published in the literature which indicates that the procedure is an effective and humane slaughter method.

DATE: Comments must be received on or before August 27, 1984.

ADDRESS: Written comments to: Regulations Office, Attn: Annie Johnson, FSIS Hearing Clerk, Room 2637, South Agriculture Building, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250. (See also "Comments" under Supplementary Information.)

FOR FURTHER INFORMATION CONTACT: Dr. John C. Prucha, Director, Slaughter Inspection Standards and Procedures Division, Meat and Poultry Inspection Technical Services, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–3219.

SUPPLEMENTARY INFORMATION: .

Executive Order 12291

The Agency has determined that this proposed rule is not a "major rule" as defined under Executive Order 12291. It will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions; or significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Because the proposed procedure would only provide an optional method of humane slaughter, there would not be any new cost burdens mandated for the industry.

Effect on Small Entities

The Administrator, Food Safety and Inspection Service, has determined that this proposed rule will not have a significant economic impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act, Pub. L. 96–354 (5 U.S.C. 601), because the proposed procedure provides an optional method of humane slaughter that would not require any equipment or facility changes.

Comments

Interested persons are invited to submit written comments concerning this proposal. Comments should be sent in duplicate to the Regulations Office and reference the docket number located in the heading. Comments submitted pursuant to this notice will be made available for public inspection in the Regulations Office, Room 2637, South Agriculture Building, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250, between 9:00 a.m., and 4:00 p.m. Monday through Friday.

Background

The Secretary of Agriculture has been charged with the responsibility of assuring that livestock slaughter is conducted in a humane manner (7 U.S.C. 1901 *et seq.*) The Secretary is further "authorized and directed to conduct, assist, and foster research, investigation, and experimentation * * *" into humane slaughter methods (7 U.S.C. 1904(a)). This proposal would allow an alternative slaughtering procedure consistent with the Secretary's mandate.

Until recently, it was generally believed that the continued pumping action of the heart was essential for proper exsanguination of food animals at slaughter. For this reason, the current regulations require that food animals must die from blood loss. To accomplish this in a humane manner, the regulations further mandate that livestock be stunned, that is, rendered insensible, prior to bleeding. Several different humane slaughter stunning methods have been approved: carbon dioxide gas, gunshot or captive bolt, and electrical current. (9 CFR Part 313).

The Department has reviewed data published in the scientific literature which indicate that meat from animals killed outright by an electric current compares favorably in quality with that from animals stunned and killed under the traditional methods of slaughter. By applying a high voltage of electricity using certain techniques, the animal's heart is instantaneously stopped and there is an immediate cessation of circulation to the brain, thus rendering the animal insensible. Such a method of slaughter, which is sometimes referred to as "deep stunning" or "electrical slaughter," has been used effectively in New Zealand and other countries (Ref. 4, 5, 7, 12).[1]

Although conflicting data exist concerning bleedout time when electrical slaughter is used (Ref. 7, 12), the weight of blood lost appears identical to that achieved using other stunning methods (Ref. 4, 7, 12). Additionally, the color of the meat, the amount of residual blood present, and the heme pigment concentration of the meat, which is a good indicator of hemoglobin and therefore the amount of retained blood in the muscle, are comparable (Ref. 12).

The traditional method of electrical stunning often results in agonal hemorrhages in the muscle and fat, commonly known as "blood splashing" and "fat speckling." The major advantage of electrical slaughter appears to be that it causes fewer hemorrhages than are commonly associated with electrical stunning.

It is not entirely clear why electrical slaughter reduces the occurrence of blood splashing and fat speckling, but the reduction may be due to the decrease in blood pressure resulting from electrical slaughter (i.e., death) in contrast to the increase in blood pressure which occurs during conventional electrical stunning (Ref. 1, 5, 7). The phenomenon of fewer blood splashes may also be related to the decreased thrashing of the animals which results when the electrial slaughter procedure is used (Ref. 5).

In addition to the amount of voltage and amperage, the placement of electrodes is an important part of electrical slaughter. The traditional method of electrical stunning involves placing two electrodes on the animal's head. With this method, however, it is not possible to kill the animal outright without greatly increasing the amount of electric current and the length of application time. This, however, adversely affects carcass quality by causing an increase in agonal hemorrhages and damage to the hide.

To overcome these limitations, various techniques for applying the electric current have been devised. The two most effective electrical slaughter methods are head-to-back and head-to-foot. In head-to-back, two electrodes are placed on the head and a third is placed on the back in the mid-thoracic region. In head-to-foot, two electrodes are placed on the head and a third on a foot or a foreleg.

Due to the placement of the third electrode, both of these methods cause the current to flow over a large portion of the animal's body including the area of the heart. When electric current is applied by either of these methods, immediate unconsciousness and heart stoppage occur. Both of the traditional electrical stunning technique for decreasing blood splashing. Of the two, head-to-foot results in the lower incidence of fat speckling (Ref. 7).

The anesthetic effect of electrical stunning is, of course, temporary. Considerable research has been devoted to determining, for each species, the range of time after application of an electric current that stunned animals unconscious (Ref. 1, 2, 3, 5, 8). Although electrically stunned animals remain insensible for various periods of time, so long as death results from

[1] See "references" section for a list of scientific materials consulted during the preparation of this proposed rule.

exsanguination before the animal regains consciousness such a method is humane.

Because the porposed method of electrical slaughter, when correctly applied, would guarantee permanent insensibility, some reserachers believe it to be a better way of slaughter than the traditional electrical stunning method (Ref. 1, 2). The Department has concluded, however, that there is not, at this time, sufficient data to justify mandating the use of electrical slaughter instead of electrical stunning. It will, however, monitor the application of electrical slaughter to determine if such action may be indicated at a later date.

Therefore, the Department is proposing to amend § 313.30 of the Federal meat inspection regulations (9 CFR 313.30) to permit the use of electric current at a level which would cause instantaneous cardiac arrest as an alternative method of humane slaughter.

References

1. Blackmore, D. K. and Newhook, J. C., "Electroencephalographic Studies of Stunning and Slaughter of Sheep and Calves—Part 3: The Duration of Insensibility Induced by Electrical Stunning in Sheep and Calves," *Meat Science,* 7:19–28, (1982).

2. Blackmore, D. K. and Newhook, J. C., "Insensibility During Slaughter of Pigs in Comparison to Other Domestic Stock," *New Zealand Veterinary Journal,* 29:219–222, (1981).

3. Blackmore, D. K., Newhook, J. C. and Petersen, G. V., "Electrical Stunning and Humane Slaughter," *New Zealand Veterinary Journal,* 27:224, (1979).

4. Blackmore, D. K. and Petersen, G. V., "Stunning and Slaughter of Sheep and Calves in New Zealand," *New Zealand Veterinary Journal,* 29:99–102, (1981).

5. Grandin, T., "Slaughter Research in New Zealand," *Meat Industry,* pp. 102–103, (1981).

6. Kirton, A. H., Bishop, W. H., Mullord, M. M., and Frazerhurst, L. F., "Relationships Between Time of Stunning and Time of Throat Cutting and Their Effect on Blood Pressure and Blood Splash in Lambs," *Meat Science,* 2:199–206, (1978).

7. Kirton, A. H., Frazerhurst, L. F., Woods, E. G., and Chrystall, B. B., "Effect of Electrical Stunning Method and Blood Splash in Lambs," *Meat Science,* 5:347–353, (1981).

8. Newhook, J. C. and Blackmore, D. K., "Electroencephalographic Studies of Stunning and Slaughter of Sheep and Calves—Part 1: The onset of Permanent Insensibility in Sheep During Slaughter,'" *Meat Science,* 6:221–233, (1982).

9. Petersen, G. V. and Wright, D. R., "Observations of Subcutaneous Hemorragic Speckling in Lambs," *New Zealand Veterinary Journal,* 27:166–168, (1979).

10. Warriss, P. D., "Factors Affecting the Residual Blood Content of Meat," *Meat Science,* 2:155–159, (1978).

11. Warriss, P. D., "The Residual Blood Content of Meat—A Review," *Journal of the Science of Food and Agriculture,* 28:457–461, (1977).

12. Warriss, P. D. and Wotton, S. B., "Effect of Cardiac Arrest on Exsanguination in Pigs," *Reserach in Veterinary Science,* 31:82–86, (1981).

List of Subjects in 9 CFR Part 313

Animal welfare, Electrical stunning, Humane slaughter.

Proposed Rule

Accordingly, § 313.30 of the Federal meat inspection regulations (9 CFR 313.30) would be amended as follows:

PART 313—[AMENDED]

1. The authority citation for Part 313 reads as follows:

Authority: 92 Stat. 1069, 72 Stat. 862, 34 Stat. 1260, 79 Stat. 903 as amended, 81 Stat. 91, 438; 21 U.S.C. 71 *et seq.*; 601 *et seq.*; 7 U.S.C. 1901–1906.

2. Section 313.30 (9 CFR 313.30) would be amended by revising the introductory text, and paragraphs (a)(1)(2), (4), and (b) to read as follows:

§ 313.30 Electrical; stunning or slaughtering with electric current.

The slaughtering of swine, sheep, calves, cattle, and goats with the use of electric current and the handling in connection therewith, in compliance with the provisions contained in this section, are hereby designed and approved as humane methods of slaughtering and handling of such animals under the Act.

(a) *Administration of electric current, required effect; handling.* (1) The electric current shall be administered so as to produce, at a minimum, surgical anesthesia. The animals shall be either stunned or killed before they are shackled, hoisted, thrown, cast, or cut. They shall be exposed to the electric current in a way that will accomplish the desired result quickly and effectively, with a minimum of excitement and discomfort.

(2) The driving or conveying of the animals to the place of application of electric current shall be done with a minimum of excitement and discomfort to the amimals. Delivery of calm animals to the place of application is essential to ensure rapid and effective insensibility. Among other things, this requires that, in driving animals to the place of application, electrical equipment be used as little as possible and with lowest effective voltage.

* * * * *

(4) The stunned animal shall remain in a state of surgical anesthesia through shackling, sticking, and bleeding.

(B) *Facilities and procedures; operator*—(1) *General requirements for operator.* It is necessary that the operator of electric current application equipment be skilled, attentive, and aware of his or her responsibility.

(2) *Special requirements for electric current application equipment.* The ability of electric current equipment to perform with maximum efficiency is dependent on its proper design and efficient mechanical operation. Pathways, compartments current applicators, and all other equipment used must be designed to accommodate properly the species of animals being anesthetized. They shall be free from pain-producing restraining devices. Injury of animals must be prevented by the elimination of sharp projections or exposed wheels or gears. There shall be no unnecessary holes, spaces or openings where feet or legs of animals may be injured. Impellers or other devices designed to mechanically move or drive animals or otherwise keep them in motion or compartmentalized shall be constructed of flexible or padded material. Power activated gates designed for constant flow of animals shall be so fabricated that they will not cause injury. All equipment used to apply and control the electrical current shall be maintained in good repair, and all indicators, instruments, and measuring devices shall be available for inspection by Program inspectors during the operation and at other times.

(3) *Electric current.* Each animal shall be given a sufficient application of electric current to ensure insensibility immediately and throughout the bleeding operation. Suitable timing, voltage and current control devices shall be used to ensure that each animal receives the necessary electrical charge to produce immediate unconsciousness. The current shall be applied so as to avoid the production of hemorrhages or other tissue changes which could interfere with inspection procedures.

Done at Washington, D.C., on: June 11, 1984.

Donald L. Houston;

Administrator, Food Safety and Inspection Service.

[FR Doc. 84–17054 Filed 6–26–84; 8:45 am]

BILLING CODE 3410–OM–M

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9 CFR Parts 318 and 319

[Docket No. 84–005P]

Margarine or Oleomargarine; Standards Revision

AGENCY: Food Safety; and Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposal would carrect and revise the FSIS final rule entitled

"Margarine or Oleomargarine; Standards Revision" published on November 22, 1983 (48 FR 52692). This proposal is needed to correct the Agency's interpretation of and response to a comment made during the rulemaking for the November 22 rule and to revise terminology in the margarine standard which is inconsistent with language of other Federal meat inspection regulations.

DATE: Comments must be received on or before August 27, 1984.

ADDRESS: Written comments to: Regulations Office, Attn: Annie Johnson, FSIS Hearing Clerk, Room 2637, South Agriculture Building, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250. (See also "Comments" under **SUPPLEMENTARY INFORMATION.**)

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Hibbert, Director, Standards and Labeling Division, Meat and Poultry Inspection Technical Services, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250, Telephone (202) 447-6042.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

The Department has determined, in accordance with Executive Order 12291, that this proposed rule is not a "major rule." It will not result in an annual effect on the economy of $100 million or more. There will be no major increase in costs or prices for consumers; individual industries; Federal, State, or local government agencies; or geographic regions. It will not have a significant adverse effect on competition, employment, investment, productivity, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This proposed rule would essentially make minor corrections and revisions to the final rule published on November 22, 1983. The final rule was reviewed for cost effectiveness under Executive Order 12291 and determined to not be a "major rule". The only group affected by the final rule was the margarine industry which would be affected only to the extent that existing industry-wide practices would be added to the Code of Federal regulations. Margarine manufacturers currently prepare and label their product in accordance with the Food and Drug Administration's (FDA) regulations. Adopting that rule provided the margarine industry with one standard with which to comply when producing either animal or vegetable margarine. None of the above conclusions would change with this proposed rule.

Effect on Small Entities

The Administrator, Food Safety ;and Inspection Service (FSIS), has determined that this proposed rule will not have a significant economic impact on a substantial number of small entities as defined by the Regulatory Flexibility Act, Pub. L. 96-354 (5 U.S.C. 601), because the proposed rule would make minor corrections and revisions to the earlier published final rule which only formalized existing industry-wide practices.

Comments

Interested persons are invited to submit written comments concerning this proposal. Written comments should be sent in duplicate to the Regulations Office. Comments should refer to the docket number which appears in the heading of this document. All comments submitted pursuant to this notice will be made available for public inspection in the Regulations Office between 8:00 a.m. and 4:30 p.m., Monday through Friday.

Background

FSIS published a final rule entitled "Margarine or Oleomargarine; Standards Revision" on November 22, 1983 (48 FR 52692). The rule revised the standard for margarine or oleomargarine in the Federal meat inspection regulations. The revision removed inconsistencies between the U.S. Department of Agriculture and the FDA standards and established a standard similar to the international standard of the Codex Alimentarius Commission.

After publication of this final rule, the Agency received from a trade association representative clarification of a comment the association had made during rulemaking. The clarification showed that there had been a major difference between the Agency's interpretation of the comment and the commenter's intent. The commenter requested authorization for the use of any nutritive carbohydrate sweetener in margarine. The Agency ;construed this to be a request to approve the use of "safe and suitable" ingredients. In fact, the commenter simply intended to request approval of the use of lactose as an optional ingredient in margarine.

The Agency's position on the overall "safe and suitable" issue remains the same as that described in the final rule, namely, that the Agency intends to guarantee the exact nature and integrity of a specific standardized food to the degree possible and will continue prescribing limits for food ingredients where appropriate. As such, it does not feel that authorization of the use of ingredients through the use of the broad term "safe and suitable" is appropriate to the margarine standard.

Lactose, however, is a food grade nutritive carbohydrate sweetener with an FDA standard of identity (21 CFR 168.122). Therefore, the Agency can see no reason to not permit the use of lactose as an optional ingredient in margarine as long as its presence is properly disclosed on the product's label. In fact, in the November 22 final rule, the Agency granted a similar request for the use of fructose as an optional ingredient.

Rather than adding "lactose" to the current list in the regulations of specific nutritive carbohydrate sweeteners allowed as optional ingredients in margarine, the Agency believes it should simply permit the use of any nutritive carbohydrate sweetener in margarine. This change would make the Federal meat inspection regulations consistent with parallel provisions in FDA and Codex Alimentarius standards for margarine. The Agency's concerns about use of "safe and suitable" substances in margarine, which apply to certain restricted ingredients such as acidulants and alkalizers, do not apply to nutritive carbohydrate sweeteners. Accordingly, the Agency proposes to revise the sweetener provision of the margarine standard (9 CFR 319.700(b)(3)) to read "nutritive carbohydrate sweeteners."

The proposal would also make revisions concerning the chart of approved substances in 9 CFR 318.7(c)(4) to which the margarine standards refer.

The first of these revisions would amend § 319.700(b)(7) of the margarine standard. This provision currently permits use of the class of substances called "color additives" which are identified in 9 CFR 318.7(c)(4). The chart in § 318.7(c)(4), however, uses the term "coloring agents." To remove the inconsistency, this proposal would revise the margarine standard to refer to "coloring agents." In addition, the current margarine standard lists some specific coloring agents identified in the chart in § 318.7(c)(4). The Agency believes this double listing is unnecessary and confusing since the list in the margarine standard is incomplete. Therefore, the Agency proposes to remove the list from 9 CFR 319.700(b)(7) of the margarine standard.

The second revision would amend § 318.7(c)(4)—the chart of approved substances. FDA said in a letter to the Agency dated May 5, 1983, that the term "coal tar dyes" for the substance within the class of substances "coloring agents

(artificial)" in 9 CFR 318.7(c)(4) was both out of date and too general because coal tar dyes include color additives that are not appropriate for use in margarine. In the November 22 final rule, the Agency revised the regulation by simply substituting the term "color additives" for "coal tar dyes." However, even color additives include substances that may not be appropriate for use in margarine. More important than whether a coloring agent is made from coal tar or any other material, is whether the safety of its use in food has been evaluated by a qualified and responsible governmental authority, in this case, FDA. Section 318.7(c)(4) currently does limit use of coloring agents (artificial) to those "approved under the Federal Food, Drug and Cosmetic Act. . . ." The Agency, however, believes § 318.7(c)(4) can and should be more specific since FDA codifies approved color additives in 21 CFR Parts 74 and 82. Therefore, the proposal would revise 9 CFR 318.7(c)(4) by referring specifically to those two parts of 21 CFR.

Proposed Rule

List of Subjects in 9 CFR Parts 318 and 319

Incorporation by reference, Standards of composition, Margarine and oleomargarine.

Accordingly, Parts 318 and 319 of the Federal meat inspection regulations would be amended to read as follows:

PART 318—ENTRY INTO OFFICIAL ESTABLISHMENTS; REINSPECTION AND PREPARATION OF PRODUCTS

1. The authority citation for Part 318 is as follows (9 CFR Part 318):

Authority: 34 Stat. 1260, 79 Stat. 903, as amended, 81 Stat. 584, 84 Stat. 91, 438; 21 U.S.C. 71 *et seq.*, 601 *et seq.*, (33 U.S.C. 1254).

§ 318.7 [Amended]

2. Under the "Class of Substance" identified as "Coloring agents (artificial)" in the chart in § 318.7(c)(4), the "Substance" column would be revised to read: "Color additives listed in 21 CFR Part 74, Subpart A or Part 82, Subpart B (Operator must furnish evidence to inspector in charge that color additive has been certified for use in connection with foods by the Food and Drug Administration)."

PART 319—DEFINITIONS AND STANDARDS OF IDENTITY OR COMPOSITION

3. The authority citation for Part 319 is as follows (9 CFR Part 319):

Authority: 34 Stat. 1260, 79 Stat. 903, as amended, 81 Stat. 584, 84 Stat. 91, 438; 21 U.S.C. 71 *et seq.*, 601 *et seq.*, 33 U.S.C. 1254.

4. Section 319.700 would be amended by revising paragraphs (b)(3) and (b)(7) to read as follows:

§ 319.700 Margarine or Oleomargarine.[2]

* * * * *

(b) * * *

(3) Nutritive carbohydrate sweeteners.

* * * * *

(7(Coloring agents identified in § 318.7(c)(4) of this chapter, in amounts sufficient for purpose.[4] For the purpose of this subparagraph, provitamin A (beta-carotene) shall also be deemed to be a coloring agent.

* * * * *

Done at Washington, D.C., on: June 11, 1984.

Donald L. Houston,

Administrator, Food Safety and Inspection Service.

[FR Doc. 84-17053 Filed 6-26-84; 8:45 am]

BILLING CODE 3410-DM-M

FEDERAL ELECTION COMMISSION

11 CFR Part 6

[Notice 1984-9]

Enforcement of Nondiscrimination on the Basis of Handicap in Federal Election Commission Programs

AGENCY: Federal Election Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The proposed regulations provide for the implementation and enforcement of section 504 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination on the basis of handicap, as it applies to programs or activities conducted by the Federal Election Commission.

DATES: To be assured of consideration, comments must be in writing and must be received on or before July 27, 1984. Comments should refer to specific sections in the regulation.

ADDRESSES: Comments should be sent: Ms. Susan E. Propper, Assistant General Counsel, 1325 K Street, NW., Washington, D.C. 20463.

Comments received will be available for public inspection in the Commission's Public Records Office, 1325 K Street, N.W., Washington, D.C. from 9:00 a.m. to 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Ms. Susan E. Propper, Assistant General Counsel, 1325 K Street, N.W., Washington, D.C. 20463, (202) 523-4143 or (800) 424-9530. TDD (202) 523-4068 or (800) 424-9530.

SUPPLEMENTARY INFORMATION:

Background

The purpose of the proposed rules is to provide for the enforcement of section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), as it applies to programs and activities conducted by the Federal Election Commission. As amended by the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978 (Sec. 119, Pub. L. 95-602, 92 Stat. 2982), section 504 of the Rehabilitation Act of 1973 states that:

> No otherwise qualified handicapped individual in the United States, . . . shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance *or under any program or activity conducted by any Executive agency or by the United States Postal Service. The head of each such agency shall promulgate such regulations as may be necessary to carry out the amendments to this section made by the Rehabilitation, Comprehensive Services, and Developmental Disabilities Act of 1978. Copies of any proposed regulation shall be submitted to appropriate authorizing committees of the Congress, and such regulation may take effect no earlier than the thirtieth day after the date on which such regulation is so submitted to such committees.*
>
> (29 U.S.C. 794) (amendment italicized).

The substantive nondiscrimination obligations of the agency, as set forth in the proposed rules are identical, for the most part, to those established by Federal regulations for programs or activities receiving Federal financial assistance. *See* 28 CFR Part 41 (section 504 coordination regulation for federally assisted programs). This general parallelism is in accord with the intent expressed by supporters of the 1978 amendment in floor debate, including its sponsor. Rep. James M. Jeffords, that the Federal Government should have the same section 504 obligations as recipients of Federal financial assistance. 124 Cong. Rec. 13,901 (1978) (remarks of Rep. Jeffords); 124 Cong. Rec. E2668, E2670 (daily ed. May 17, 1978) *id.*; 124 Cong. Rec. 13,897 (remarks of Rep. Brademas); *id.* at 38,552 (remarks of Rep. Sarasin).

These proposed regulations are an adaptation of prototypes prepared by the Department of Justice under Executive Order 12250 (45 FR 72995, 3 CFR, 1980 Comp. p. 293) and distributed to Executive agencies on April 15, 1983 and May 7, 1984. The proposed rules are also based on the Justice Department's notice of proposed rulemaking, 48 FR 5996 (Dec. 16, 1983), and the comments

filed in response to that notice. The draft notice deviates from the prototypes in several respects in response to comments received on DOJ's notice of proposed rulemaking. For example, in view of the objections to the proposed language in that notice and the prototypes, the definition of "qualified handicapped person" proposed in these rules does not include as a criterion a determination of whether that person's participation would require modifications in the program or activity that would result in a fundamental alteration in its nature. Moreover, the prototypes contained provisions concerning nondiscrimination in historic preservation programs and preschool, elementary, and secondary education programs. These provisions were not included in the proposed regulations since the Commission does not conduct historic preservation or educational programs or activities. Other deviations from the prototypes reflect the fact that the Commission may act only by majority vote, not by unilateral action by the Chairman. *See* 2 U.S.C. 437c(c). The notice also differs from the prototype by referring to the district court's determination in *Paralyzed Veterans of America* v. *Civiletti*, No. CV79–1979–WPG (C.D. Ca., Sept. 12, 1980) that the obligations of section 504 do not apply to presidential candidates receiving public funding. In addition, the compliance procedures under the proposed rules contain provisions from the Justice Department's notice to provide greater specificity on how the process would work. Finally, the provision from the prototypes giving an oversight role to the Assistant Attorney General for Civil Rights was not included in the proposed rules. The statute does not require this proposed oversight function. A summary of the proposed rules follows.

Section-by-Section Analysis

Section 6.101 Purpose

Section 6.101 states the purpose of the proposed rules, which is to effectuate section 119 of the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978, which amended section 504 of the Rehabilitation Act of 1973 to prohibit discrimination on the basis of handicap in programs or activities conducted by Executive agencies or the United States Postal Service.

Section 6.102 Application

The proposed regulations apply to all programs or activities conducted by the agency.

Section 6.103 Definitions

(a) "Agency." For purposes of these regulations, "agency" means the Federal Election Commission, 1325 K Street NW., Washington, DC 20463.

(b) "Auxiliary aids." "Auxiliary aids" mean services, including attendant services, or devices that enable handicapped persons, including those with impaired sensory, manual, or speaking skills to have an equal opportunity to participate in and enjoy the benefits of the agency's programs or activities. The definition provides examples of commonly used auxiliary aids. Although auxiliary aids are required explicitly only by § 6.160(a)(1), they may also be necessary to meet other requirements of the regulations.

(c) "Complete complaint." The definition of "complete complaint" enables the agency to determine the beginning of its obligation to investigate a complaint (*see* § 6.170(b)).

(d) "Facility." The definition of "facility" is similar to that in the section 504 coordination regulation for federally assisted programs, 28 CFR 41.3(f), except that the term "rolling stock or other conveyances" has been added and the phrase "or interest in such property" has been deleted to clarify its coverage. The phrase, "or interest in such property," has been deleted because the term "facility", as used in this regulation refers to structures and not to intangible property rights. However, the proposed regulations make it clear that the term "facility" applies to all programs and activities conducted by the agency regardless of whether the facility is owned, leased, or used on some other basis by the agency. The term "facility" is used in § 6.150 and § 6.170(e).

(e) "Handicapped person." The definition of "handicapped person" is identical to the definition appearing in the section 504 coordination regulation for federally assisted programs (28 CFR 41.31).

(f) "Qualified handicaped person." The definition of "qualified handicapped person" is a revised version of the definition appearing in the section 504 coordination regulation for federally assisted programs (28 CFR 41.32).

Paragraph (f)(1) deviates from existing regulations for federally assisted programs to expand the definition to include situations in addition to employment. It defines "qualified handicapped person" with regard to any program under which a person is required to perform services or to achieve a level of accomplishment. In such programs, a qualified handicapped person is one who, with reasonable accommodation, can achieve the purpose of the program. The proposed definition deviates from that contained in the Department of Justice's notice of proposed rulemaking and the prototypes. The definitions proposed in those documents incorporated language from the Supreme Court's decision in *Southeastern Community College* v. *Davis*, 442 U.S. 397 (1979). Under the Justice Department's proposed rules, a "qualified handicapped person" would be defined as one "who can achieve the purpose of the program *without modifications in the program that would result in a fundamental alteration in its nature.*" Numerous comments objecting to the underscored language in the proposed definition were received in response to the notice. These comments pointed out that the proposed rules combined what should be a two-step inquiry into a one-step process that could work to the detriment of handicapped individuals. The Commission believes that the issue of whether a handicapped person is "qualified" should be separate from an inquiry into what type of accommodation or modification, if any, is needed for the person to participate in a particular program. Therefore, the Commission has not included the *Davis* language in its proposed definition of "qualified handicapped person". The Commission encourages comment on the proposed definition in paragraph (f)(1) and notes that the *Davis* standard, as proposed by the Justice Department, has been retained in §§ 6.150 and 6.160 of the proposed rules.

For programs or activities that do not fall under the first paragraph, paragraph (f)(2) adopts the existing definition of "qualified handicapped person" with respect to services in the coordination regulation for programs receiving Federal financial assistance (28 CFR 41.32(b)). Under this definition, a qualified handicapped person is a handicapped person who meets the essential eligibility requirements for participation in the program or activity.

(g) "Section 504." This definition makes clear that, as used in these regulations, "section 504" applies only to programs or activities conducted by the agency and not to programs or activities to which it provides Federal financial assistance.

Section 6.110 Evaluation

The agency will conduct an evaluation of its compliance with section 504 within one year of the effective date of these regulations. The process will include consultation with interested persons, including consultation with handicapped persons

or organizations representing handicapped persons. The Commission is considering whether the Federal Advisory Committee Act, 5 U.S.C. app., is applicable to the proposed consultation requirement. The evaluation requirement is present in the existing section 504 coordination regulation for programs or activities receiving Federal financial assistance (28 CFR 41.5(b)(2)). Experience has demonstrated the evaluation process to be a valuable means of establishing a working relationship with handicapped persons that promotes both effective and efficient implementation of section 504.

The proposed rules contain specific criteria for conducting the agency evaluation. Proposed § 6.110(a) provides that the evaluation will include a determination of whether the agency's policies and practices meet the requirements of section 504 and whether modification of any such policies and practices is required. If modification of any policy or practice is found to be required as a result of this evaluation, the agency is required to proceed to make the necessary modifications. Following the completion of the evaluation, under proposed § 6.110(b), the agency would be required to keep on file and make available for public inspection, for at least three years, the following information: (1) a list of interested persons consulted; (2) a description of areas examined and any problems identified; and (3) a description of any modifications made.

Section 6.111 Notice

Section § 6.111 requires the agency to disseminate sufficant information to employees, applicants, participants, beneficiaries, and other interested persons to apprise them of the rights and protections afforded by section 504 and the proposed regulations. Methods of providing this information include, for example, the publication of information in handbooks, manuals and pamphlets that describe the agency's programs and activities; the display of informative posters in service centers and other public places; or the broadcast of information by television or radio.

Section 6.130 General prohibitions against discriminations

Section 6.130 is an adaptation of the corresponding section of the section 504 coordination regulation for programs or activities receiving Federal financial assistance (28 CFR 41.51).

Paragraph (a) restates the nondiscrimination mandate of section 504. The remaining paragraphs in § 6.130 establish the general principles for analyzing whether any particular action of the agency violates this mandate. These principles serve as the analytical foundation for the remaining sections of the regulation. Whenever the agency has violated a provision in any of the subsequent sections, it has also violated one of the general prohibitions found in § 6.130. When there is no applicable subsequent provision, the general prohibitions stated in this section apply.

Paragraph (b) prohibits overt denials of equal treatment of handicapped persons. The agency may not refuse to provide a handicapped person with an equal opportunity to participate in or benefit from its program simply because the person is handicapped. Such blatantly exclusionary practices often result from the use of irrebuttable presumptions that absolutely exclude certain classes of disabled person (*e.g.*, epileptics, hearing-impaired persons, persons with heart ailments) from participation in programs or activities without regard to an individual's actual ability to participate. Use of an irrebuttable presumption is permissible only when in all cases a physical condition by its very nature would prevent an individual from meeting the essential eligibility requirements for participation in the activity in question.

Section 504, however, prohibits more than just obvious denials of equal treatment. It is not enough to admit persons in wheelchairs to a program if the facilities in which the program is conducted are inaccessible. Paragraph (b)(1)(iii), therefore, requires that the opportunity to participate or benefit accorded to a handicapped person be as effective as that afforded to others. The later sections on program accessiblity (§§ 6.150–6.151) and communications (§ 6.160) are specific applications of this principle.

Despite the mandate of paragraph (d) that the agency administer its programs and activities in the most integrated setting appropriate to the needs of qualified handicapped persons, paragraph (b)(1)(iv), in conjunction with paragraph (d), permits the agency to develop separate or different aids, benefits, or services when necessary to provide handicapped persons with an equal opportunity to participate in or benefit from the agency's programs or activities. Paragraph (b)(1)(iv) requires that different or separate aids, benefits, or services be provided only when necessary to ensure that the aids, benefits, or services are as effective as those provided to others. Even when separate or different aids, benefits, or services would be more effective, paragraph (b)(2) provides that a qualified handicapped person still has the right to choose to participate in the program that is not designed to accommodate handicapped persons.

Paragraph (b)(1)(v) was added in reponse to comments on the Department of Justice's notice of proposed rulemaking. It incorporates a provision from the regulations for federally-assisted programs (28 CFR 41.51(b)(1)(v)) to prohibit the agency from aiding or perpetuating discrimination against a qualified handicapped person by providing significant assistance to an agency, organization or person, except candidates or conventions receiving public financing under Title 26, United States Code, that discriminates on the basis of handicap in providing any aid, benefit or service to beneficiaries of the recipient's program.

Paragraph (b)(1)(vi) prohibits the agency from denying a qualified handicapped person the opportunity to participate as a member of a planning or advisory board.

Paragraph (b)(1)(vi) prohibits the agency from limiting a qualified handicapped person in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving any aid, benefit, or service.

Paragraph (b)(3) prohibits the agency from utilizing criteria or methods of administration that deny handicapped persons access to the agency's program or activities. The phrase "criteria or methods of administration" refers to official written agency policies and the actual practices of the agency. This paragraph prohibits both blatantly exclusionary policies or practices and nonessential policies and practices that are neutral on their face, but deny handicapped person an effective opportunity to participate. Paragraph (b)(3)(iii)) was taken from the regulations governing federally-assisted programs (28 CFR 51(b)(3)(iii) in response to comments on the Justice Department's notice. It would prohibit the agency from utilizing criteria or methods of administration that would have the purpose or effect of perpetuating the discrimination of another agency.

Paragraph (b)(4) specifically applies the prohibition enunciated in § 6.130(b)(3) to the process of selecting sites for construction of new facilities or existing facilities to be used by the agency. Paragraph (b)(4) does not apply to construction of additional buildings at an existing site.

Paragraph (b)(5) prohibits the agency from using criteria for the selection of procurement contractors that subject

qualified handicapped persons to discrimination on the basis of handicap.

Paragraph (b)(6) prohibits the agency from discriminating against qualified handicapped persons on the basis of handicap in the granting of a certification. A person is a "qualified handicapped person" with respect to certification, if he or she can meet the essential eligibility requirements for receiving the certification (see § 6.103).

In addition, the agency may not establish requirements for the programs or activities of certified entities that subject qualified handicapped persons to discrimination on the basis of handicap. The agency must ensure that standards that it promulgates do not discriminate against the employment of qualified handicapped persons in an impermissible manner.

This section would apply to the Commission's certification of presidential candidates eligible to receive public funding under the Presidential Election Campaign Fund Act, 26 U.S.C. 9001–9013, and the Presidential Primary Matching Payment Account Act, 26 U.S.C. 9031–9042. The proposed rules were included even though there is little opportunity for discriminatory treatment since public financing is granted according to automatic formulas on either a matching basis or a cent-per-vote basis. *See* S. Rep. No. 689, 93rd Cong., 2d Sess. 9–10 (1974).

Paragraph (b)(6) does not, however, extend section 504 directly to the programs or activities of certified entities themselves (i.e., the presidential candidates). The program or activities of Federal certified entities are not themselves federally conducted programs or activities nor are they programs or activities receiving Federal financial assistance merely by virtue of the Federal Certificate. This is consistent with the district court's determination in *Paralyzed Veterans of America* v. *Civiletti*, No. CV79–1979–WPG (C.D. Ca., Sept. 12, 1980), that the obligations of section 504 do not apply to presidential candidates who receive public funding under the Act. However, as noted above, section 504 may affect the content of the rules established by the agency for the operation of the program or activity of the certified entity, and thereby indirectly affect limited aspects of their operations.

Paragraph (c) provided that programs conducted pursuant to Federal statute or Executive order that are designed to benefit only handicapped persons or a given class or handicapped persons may be limited to those handicapped persons.

Section 6.140 Employment

Section 6.140 prohibits discrimination on the basis of handicap in employment by Executive agencies. This regulation is in accord with a recent decision of the Fifth Circuit that holds that, despite the resulting overlap of coverage with section 501 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 791), Congress intended section 504 to cover the employment practices of Executive agencies. The Court also held that in order to give effect to both section 504 and section 501, the administrative procedures of section 501 must be followed in processing section 504 complaints. *Prewitt* v. *United States Postal Service*, 622 F.2d 292 (5th Cir. 1981).

Consistent with that decision, this section provides that the standards, requirements and procedures of section 501 of the Rehabilitation Act, as established in the regulations of the Equal Employment Opportunity Commission (EEOC) at 29 CFR Part 1613, will be those applicable to employment in federally conducted programs or activities. In addition to this section, § 6.170(b) specifies that the agency will use the existing EEOC procedures to resolve allegations of employment discrimination. Responsibility for coordinating enforcement of Federal laws prohibiting discrimination in employment is assigned to the EEOC by Executive Order 12067 (3 CFR, 1979 Comp., p. 206).

Under this authority, the EEOC establishes government-wide standards on nondiscrimination in employment on the basis to handicap.

Section 6.149 Program accessibility: Discrimination prohibited

Section 6.149 states the general nondiscrimination principles underlying the program accessibility requirements of §§ 6.150 and 6.151.

Section 6.150 Program accessibility: Existing facilities

This section adopts the program accessibility concept found in the existing section 504 coordination regulation for programs or activities receiving Federal financial assistance programs (28 CFR 41.56–41.58) with certain modifications. Thus, § 6.150 requires that the agency's program or activity, when viewed in its entirety, be readily assessible to and usable by handicapped persons. The proposed regulations also make clear that the agency is not required to make each of its existing facilities accessible (§ 6.150(a)(1)). However, § 6.150, unlike 28 CFR 41.56–41.57, places explicit limits on the agency's obligation to ensure program accessibility (§ 6.150 (a)(2), (a)(3)).

Paragraph (a)(2) generally codifies recent case law that defines the scope of the agency's obligation to ensure program accessibility. This paragraph provides that in meeting the program accessibility requirement the agency is not required to take any action that would result in a fundamental alteration in the nature of its program or activity or in undue financial and administrative burdens. A similar limitation is provided in § 6.160(e). This provision is based on the Supreme Court's holding in *Southeastern Community College* v. *Davis*, 442 U.S. 397 (1979), that section 504 does not require program modifications that result in a fundamental alternation in the nature of a program and on the Court's statement that section 504 does not require modifications that would result in " undue financial and administrative burdens." 442 U.S. at 412. Since *Davis*, circuit courts have applied this limitation on a showing that only of the two "undue burdens" would be created as a result of the modification sought to be imposed under section 504. *See, e.g., Dopico* v. *Goldschmidt*, 678 F. 2d 664 (2d Cir. 1982); *American Public Transit Association* v. *Lewis (APTA)*, 655 F.2d 1272 (D.C.Cir. 1981). Thus, in *APTA* the United States Court of Appeals for the District of Columbia Circuit applied to *Davis* language and invalidated the section 504 regulations of the Department of Transportation. The court in *APTA* noted "that at some point a transit system's refusal to take modest, affirmative steps to accommodate handicapped persons might well violate section 504. But DOT's rules do not mandate only modest expenditures. The regulations require extensive modifications of existing systems and impose extremely heavy financial burdens on local transit authorities." 655 F. 2d at 1278.

The inclusion of paragraph (a)(2) is an effort to conform the agency's regulations implementing section 504 to the Supreme Court's interpretation of the statue in *Davis* as well to the decision of lower courts following the *Davis* opinion. This paragraph acknowledges, in light of recent case law, that in some situations, certain accommodations for a handicapped person may so alter an agency's program or activity, or entail such extensive costs or administrative burdens that the refusal to undertake the accommodations is not discriminatory. The failure to include such a provision could lead to judicial

invalidation of the regulations or reversal of a particular enforcement action taken pursuant to the regulations.

This paragraph, however, does not establish an absolute defense; it does not relieve the agency of all obligations to handicapped persons. Although the agency is not required to take actions that would result in a fundamental alternation in the nature of a program or activity or in undue financial and administrative burdens, it nevertheless must take any other steps necessary to ensure that handicapped persons receive the benefits and services of the federally conducted program or activity.

The Commission expects that compliance with § 6.150(a) would in most cases not result in undue financial and administrative burdens on the agency. In determining whether financial and administrative burdens are undue, all agency resources available for use in the funding and operation of the conducted program or activity should be considered. Under the proposed rules, the burden of proving that compliance with § 6.150(a) would fundamentally alter the nature of a program or activity or would result in undue financial and administrative burdens rests with the agency. The decision that compliance would result in such alteration or burdens must be made by the agency in a written statement of the reasons for reaching that conclusion. Any person who believes that he or she or any specific class of persons has been injured by the agency's decision or failure to make a decision may file a complaint under the compliance procedures established in § 6.170.

Paragraph (b) sets forth a number of means by which program accessibility may be achieved, including redesign of equipment, reassignment of services to accessible buildings, and provision of aides. In choosing among methods, the agency will give priority consideration to those that will be consistent with provision of services in the most integrated setting appropriate to the needs of handicapped persons. Structural changes in existing facilities are required only when there is no other feasible way to make the agency's program accessible. The agency may comply with the program accessibility requirement by delivering services at alternate accessible sites or making home visits as appropriate.

Paragraphs (c) and (d) establish time periods for complying with the program accessibility requirement. As currently required for federally assisted programs by 28 CFR 41.57(b), the agency must make any necessary structural changes in facilities as soon as practicable, but in no event later than three years after the effective date of these regulations. Where structural modifications are required, a transition plan will be developed within six months of the effective date of the regulations. Aside from structural changes, all other necessary steps to achieve compliance shall be taken within sixty days. The Commission is considering whether the Federal Advisory Committee Act (5 U.S.C. app.) is applicable to the proposed consultation requirements included in § 6.150(d).

Section 6.151 Program accessibility: New construction and alterations

Overlapping coverage exists with respect to new construction under section 504, section 502 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 792), and the Architectural Barriers Act of 1968, as amended (42 U.S.C. 4151–4157). Section 6.151 provides that those buildings that are constructed or altered by, on behalf of, or for the use of the agency shall be designed, constructed, or altered to be readily accessible to and usable by handicapped persons in accordance with 41 CFR 101–19.600 to 101–19.607. This standard was promulgated pursuant to the Architectural Barriers Act of 1968, as amended (42 U.S.C. 4151–4157). Because new and altered buildings subject to this regulation are also subject to the Architectural Barriers Act, the proposed rules would adopt the existing Architectural Barriers Act standard for section 504 compliance. Adoption of this standard will avoid duplicative and possibly inconsistent standards.

Existing buildings leased by the agency after the effective date of the regulations are not required to meet the new construction standard. They are subject, however, to the requirements of §6.150.

Section 6.160 Communications

Section 6.160 requires the agency to take appropriate steps to ensure effective communication with personnel of other Federal entities, applicants, participants, and members of the public. These steps will include procedures for determining when auxiliary aids are necessary under § 6.160(a)(1) to afford a handicapped person an equal opportunity to participate in, and enjoy the benefits of, the agency's program or activity. They will also include an opportunity for handicapped persons to request the auxiliary aids of their choice. This expressed choice will be given primary consideration by the agency (§ 6.160). The agency will honor the choice unless it can demonstrate that another effective means of communication exists or that use of the means chosen would not be required under § 6.160(e). That paragraph limits the obligation of the agency to ensure effective communication in accordance with *Davis* and the circuit court opinions interpreting it (*See supra* preamble § 6.150(a) (3)). Unless not required by § 6.150(e), the agency will provide auxiliary aids at no cost to the handicapped person.

However, the agency need not take any action that it can demonstrate would result in a fundamental alteration in the nature of a program or activity or in undue financial and administrative burdens. The Commission expects that compliance with § 6.160 would in most cases not result in undue financial and administrative burdens on the agency. In determining whether financial and administrative burdens are undue, all agency resources available for use in the funding and operation of the conducted program or activity should be considered. Under the proposed rules, the burden of proving that compliance with § 6.160 would fundamentally alter the nature or a program of activity or would result in undue financial and administrative burdens rests with the agency. The decision that compliance would result in such alteration or burdens must be made by the agency in a written statement of the reasons for reaching that conclusion. Any person who believes that he or she or any specific class of persons has been injured by the agency's decision or failure to make a decision may file a complaint under the compliance procedures established in § 6.170.

In some circumstances, a notepad and written materials may be sufficient to permit effective communication with a hearing-impaired person. In many circumstances, however, they may not be, particularly where the hearing-impaired applicant or participant is not skilled in spoken or written language. Then, a sign language interpreter may be appropriate. For vision-impaired persons, effective communication might be achieved by several means, including readers and audio recordings. In general, the agency will make clear to the public (1) the communications services it offers to afford handicapped persons an equal opportunity to participate in or benefit from its programs or activities, (2) the opportunity to request a particular mode of communication, and (3) the agency's preferences regarding auxiliary aids if it can demonstrate that several different modes are effective.

The agency will ensure effective communication with vision-impaired and hearing-impaired persons involved in hearings conducted by the agency. Auxiliary aids must be afforded where necessary to ensure effective communication at the proceedings. If sign language interpreters are necessary, the agency may require that it be given reasonable notice prior to the proceeding of the need for an interpreter. Moreover, the agency need not provide individually prescribed devices, readers for personal use or study, or other devices of a personal nature. § 6.160(a)(1)(ii). For example, the agency need not provide wheelchairs, eye glasses, or hearing aids to applicants or participants in its programs.

Paragraph (b) requires the agency to provide information to handicapped persons concerning accessible services, activities, and facilities. Paragraph (c) requires the agency to provide signage at inaccessible facilities that directs users to locations with information about accessible facilities.

Paragraph (d) requires the agency to take appropriate steps to provide handicapped persons with information that is disseminated under § 6.111 regarding section 504 rights and protections.

Section 6.170 Compliance procedures

Paragraph (a) specifies that paragraphs (c) through (l) of this section establish the procedures for processing complaints other than employment complaints.

Paragraph (b) provides that the agency will process employment complaints according to existing regulations of the EEOC (29 CFR Part 1613) pursuant to section 501 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 791).

The agency will designate an official, the Rehabilitation Act Officer, who will be responsible for coordinating implementation of this section (§ 6.170(c)).

Under proposed section 6.170(d), any person who believes that he or she or a specific class of persons of which he or she is a member has been discriminated against may file a complaint within 180 days from the date of the alleged discrimination. The proposed regulations also provide that any person who believes that a denial of his or her service will result or has resulted in discrimination prohibited by section 504 may file a complaint under this part. This provision was included based on comments on the Department of Justice's notice, as well as the facts in *United States* v. *Baylor Medical Center*, 564 F. Supp. 1495 (N.D. Tex. 1983). In that case, an interpreter was permitted to file a section 504 complaint on his own behalf when he was denied admission to a hospital to provide assistance to a hearing-impaired person undergoing surgery. The agency may extend the time limit when the complainant shows good cause. Good cause could be found if, for example, (1) the complainant could not reasonably be expected to know of the act or event said to be discriminatory; or (2) the complainant mistakenly filed with the wrong agency and was not informed of the mistake within the 180 days.

Paragraph (e) requires the agency to notify the Architectural and Transportation Barriers Compliance Board upon receipt of a complaint alleging that a building or facility subject to the Architectural Barriers Act or section 502 was designed, constructed, or altered in a manner that does not provide ready access and use to handicapped persons.

The agency is required to accept and investigate all complete complaints (§ 6.170(f)(1)). If it determines that it does not have jurisdiction over a complaint, it shall promptly notify the complainant and make reasonable efforts to refer the complaint to the appropriate entity of the Federal government (§ 6.170(f)(3)). If a complaint is not complete when it is filed, the agency will notify the complainant within 30 days that additional information is needed. The complainant must furnish the necessary information within 30 days of receipt of the notice, or the complaint will be dismissed without prejudice.

Paragraph (g) requires the agency to provide to the complainant, in writing, findings of fact and conclusions of law, the relief granted if noncompliance is found, and notice of the right to appeal. One appeal within the agency will be provided (§ 6.170(h)). The appeal will not be heard by the same person who made the initial determination of compliance or noncompliance. A provision in the prototype that would have authorized the Assistant Attorney General for Civil Rights to grant the agency an extension of time in which to respond to a complaint or appeal under section 504 was not included in the proposed rules. This proposed oversight role in not statutorily required.

Paragraph (1) permits the agency to delegate its authority for investigating complaints to other Federal agencies. However, the statutory obligation of the agency to make a final determination of compliance or noncompliance may not be delegated.

List of Subjects in 11 CFR Part 6

Blind, Civil rights, Deaf, Disabled, Discrimination against handicapped, Equal employment opportunity, Federal buildings and facilities, Handicapped, Nondiscrimination, Physically handicapped.

For the reasons set forth in the preamble, Chapter I, Title 11 of the Code of Federal Regulations is proposed to be amended by adding Part 6 as follows:

PART 6—ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY THE FEDERAL ELECTION COMMISSION

Sec.

6.101 Purpose.
6.102 Application.
6.103 Definitions.
6.104–6.109 [Reserved]
6.110 Evaluation.
6.111 Notice.
6.112–6.129 [Reserved]
6.130 General prohibitions against discrimination.
6.131–6.139 [Reserved]
6.140 Employment.
6.141–6.148 [Reserved]
6.149 Program accessibility: Discrimination prohibited.
6.150 Program accessibility: Existing facilities.
6.151 Program accessibility: New construction and alterations.
6.152–6.159 [Reserved]
6.160 Communications.
6.161–6.169 [Reserved]
6.170 Compliance procedures.
6.171–6.999 [Reserved]

Authority: 29 U.S.C. 794.

§ 6.101 Purpose.

The purpose of this part is to effectuate section 119 of the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978, which amended section 504 of the Rehabilitation Act of 1973 to prohibit discrimination on the basis of handicap in programs or activities conducted by Executive agencies or the United States Postal Service.

§ 6.102 Application.

This part applies to all programs or activities conducted by the agency.

§ 6.103 Definitions.

For purposes of this part, the term—

(a) "Agency" means the Federal Election Commission, 1325 K Street, N.W., Washington, D.C. 20463.

(b) "Auxiliary aids" means services, including attendant services, or devices that enable handicapped persons, including those with impaired sensory,

manual, or speaking skills to have an equal opportunity to participate in, and enjoy the benefits of, programs or activities conducted by the agency. For example, auxiliary aids useful for persons with impaired vision include readers, Brailled materials, audio recordings, and other similar services and devices. Auxiliary aids useful for persons with impaired hearing include telephone handset amplifiers, telephones compatible with hearing aids, telecommunication devices for deaf persons (TDD's), interpreters, notetakers, written materials, and other similar services and devices. Although auxiliary aids are explicitly required only by 11 CFR 6.160(a)(1), they may also be used to meet other requirements of this part.

(c) "Complete complaint" means a written statement that contains the complainant's name and address and describes the agency's actions in sufficient detail to inform the agency of the nature and date of the alleged violation of section 504. It shall be signed by the complainant or by someone authorized to do so on his or her behalf. Complaints filed on behalf of classes or third parties shall describe or identify (by name, if possible) the alleged victims of discrimination.

(d) "Facility" means all or any portion of buildings, structures, equipment, roads, walks, parking lots, rolling stock or other conveyances, or other real or personal property whether owned, leased or used on some other basis by the agency.

(e) "Handicapped person" means any person who has a physical or mental impairment that substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such a impairment. As used in this definition, the phrase: (1) "Physical or mental impairment" includes—

(i) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; and endocrine; or

(ii) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term "physical or mental impairment" includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech, and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, drug addiction, and alcoholism.

(2) "Major life activities" includes functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

(3) "Has a record of such an impairment" means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

(4) "Is regarded as having an impairment" means—

(i) Has a physical or mental impairment that does not substantially limit major life activities but is treated by the agency as constituting such a limitation;

(ii) Has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment; or

(iii) Has none of the impairments defined in 11 CFR 6.103(e)(1) but is treated by the agency as having such an impairment.

(f) "Qualified handicapped person" means—

(1) With respect to any agency program or activity under which a person is required to perform services or to achieve a level of accomplishment, a handicapped person who, with reasonable accommodation, meets the essential eligibility requirements and who can achieve the purpose of the program or activity; and

(2) With respect to any other program or activity, a handicapped person who meets the essential eligibility requirements for participation in, or receipt of benefits from, that program or activity.

(g) "Section 504" means section 504 of the Rehabilitation Act of 1973 (Pub. L. 93–112, 87 Stat. 394 (29 U.S.C. 794)), as amended by the Rehabilitation Act Amendments of 1974 (Pub. L. 93–516, 88 Stat. 1617), and the Rehabilitation, Comprehensive Services, and Developmental Disabilities Act of 1978 (Pub. L. 95–602, 92 Stat. 2955). As used in this part, section 504 applies only to programs or activities conducted by Executive agencies and not to federally assisted programs.

§ 6.104–6.109 [Reserved]

§ 6.110 Evaluation.

(a) Within one year of the effective date of this part, the agency will conduct, with the assistance of interested persons, including handicapped persons and organizations representing handicapped persons, an evaluation of its compliance with section 504. This evaluation will include a determination of whether the agency's policies and practices, and the effects thereof, meet the requirements of this part and whether modification of any such policies or practices is required to comply with section 504. If modification of any policy or practice is found to be required as a result of this evaluation, the agency will proceed to make the necessary modifications.

(b) For at least three years following completion of the evaluation required under paragraph (a) of this section, the agency will maintain on file and make available for public inspection:

(1) A list of the interested persons consulted;

(2) A description of areas examined and any problems identified; and

(3) A description of any modifications made.

§ 6.111 Notice.

The agency will make available to employees, applicants, participants, beneficiaries, and other interested persons information regarding the provisions of this part and its applicability to the programs or activities conducted by the agency. The agency will make such information available to them in a manner it finds necessary to effectively apprise such persons of the protections against discrimination assured them by section 504 and the provisions of this part.

§§ 6.112–6.129 [Reserved]

§ 6.130 General prohibitions against discrimination.

(a) No qualified handicapped person shall, on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity conducted by the agency.

(b)(1) The agency, in providing any aid, benefit, or service, may not, directly or through contractual, licensing, or other arrangements, on the basis of handicap—

(i) Deny a qualified handicapped person the opportunity to participate in or benefit from the aid, benefit, or service;

(ii) Afford a qualified handicapped person an opportunity to participate in or benefit from the aid, benefit, or service that is not equal to that afforded others;

(iii) Provide a qualified handicapped person with an aid, benefit, or service that is not as effective in affording equal opportunity to obtain the same result, to

gain the same benefit, or to reach the same level of achievement as that provided to others;

(iv) Provide different or separate aids, benefits, or services to handicapped persons or to any class of handicapped persons than is provided to others unless such action is necessary to provide qualified handicapped persons with aids, benefits, or services that are as effective as those provided to others;

(v) Aid or perpetuate discrimination against a qualified handicapped person by providing significant assistance to an agency, organization, or person that discriminates on the basis of handicap in providing any aid, benefit, or service to beneficiaries of the recipient's program, except that this paragraph does not apply to candidates or conventions receiving public financing under Title 26, United States Code.

(vi) Deny a qualified handicapped person the opportunity to participate as a member of planning or advisory boards; or

(vii) Otherwise limit a qualified handicapped person in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving the aid, benefit, or service.

(2) The agency may not deny a qualified handicapped person the opportunity to participate in programs or activities that are not separate or different, despite the existence of permissible separate or different programs or activities.

(3) The agency may not, directly or through contractual or other arrangements, utilize criteria or methods of administration the purpose or effect of which would—

(i) Subject qualified handicapped persons to discrimination on the basis of handicap;

(ii) Defeat or substantially impair accomplishment of the objectives of a program or activity with respect to handicapped persons; or

(iii) Perpetuate the discrimination of another agency.

(4) The agency may not, in determining the site or location of a facility, make selections the purpose or effect of which would—

(i) Exclude handicapped persons from, deny them the benefits of, or otherwise subject them to discrimination under any program or activity conducted by the agency; or

(ii) Defeat or substantially impair the accomplishment of the objectives of a program or activity with respect to handicapped persons.

(5) The agency, in the selection of procurement contractors, may not use criteria that subject qualified handicapped persons to discrimination on the basis of handicap.

(6) The agency may not administer a certification program in a manner that subjects qualified handicapped persons to discrimination on the basis of handicap, nor may the agency establish requirements for the programs or activities of certified entities that subject qualified handicapped persons to discrimination on the basis of handicap. However, the programs or activities of entities that are certified by the agency are not, themselves, covered by this part.

(c) The exclusion of nonhandicapped persons from the benefits of a program limited by Federal statute or Executive order to handicapped persons or the exclusion of a specific class of handicapped persons from a program limited by Federal statute or Executive order to a different class of handicapped persons is not prohibited by this part.

(d) The agency shall administer programs and activities in the most integrated setting appropriate to the needs of qualified handicapped persons.

§ 6.131–6.139 [Reserved]

§ 6.140 Employment.

No qualified handicapped person shall, on the basis of handicap, be subjected to discrimination of employment under any program or activity conducted by the agency. The definitions, requirements, and procedures of section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791), as established in 29 CFR Part 1613, shall apply to employment in federally conducted programs or activities.

§§ 6.141–6.148 [Reserved]

§ 6.149 Program accessibility: Discrimination prohibited.

Except as otherwise provided in 11 CFR 6.150 and 11 CFR 6.151, no qualified handicapped person shall be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination under any program or activity conducted by the agency because the agency's facilities are inaccessible to or unusable by handicapped persons.

§ 6.150 Program accessibility: Existing facilities.

(a) *General.* The agency will operate each program or activity so that the program or activity, when viewed in its entirety, is readily accessible to and usable by handicapped persons. This paragraph does not—

(1) Necessarily require the agency to make each of its existing facilities accessible to and usable by handicapped persons;

(2) Require the agency to take any action that it can demonstrate would result in a fundamental alteration in the nature of a program or activity or in undue financial and administrative burdens. The agency has the burden of proving that compliance with § 6.150(a) would result in such alterations or burdens. The decision that compliance would result in such alteration or burdens must be made by the agency after considering all agency resources available for use in the funding and operation of the conducted program or activity, and must be accompanied by a written statement of the reasons for reaching that conclusion. If an action would result in such an alteration or such burdens, the agency shall take any other action that would not result in such an alteration or such a burden but would nevertheless ensure that handicapped persons receive the benefits and services of the program or activity.

(b) *Methods.* The agency may comply with the requirements of this section through such means as redesign of equipment, reassignment of services to accessible buildings, assignment of aides to beneficiaries, home visits, delivery of services at alternate accessible sites, alteration of existing facilities and construction of new facilities, use of accessible rolling stock, or any other methods that result in making its programs or activities readily accessible to and usable by handicapped persons. The agency is not required to make structural changes in existing facilities where other methods are effective in achieving compliance with this section. The agency, in making alterations to existing buildings, will meet accessibility requirements to the extent compelled by the Architectural Barriers Act of 1968, as amended (42 U.S.C. 4151–4157) and any regulations implementing it. In choosing among available methods for meeting the requirements of this section, the agency will give priority to those methods that offer programs and activities to qualified handicapped persons in the most integrated setting appropriate.

(c) *Time period for compliance.* The agency will comply with the obligations established under this section within sixty days of the effective date of this part except that where structural changes in facilities are undertaken, such changes will be made within three years of the effective date of this part, but in any event as expeditiously as possible.

(d) *Transition plan.* In the event that structural changes to facilities will be undertaken to achieve program accessibility, the agency will develop, within six months of the effective date of this part, a transition plan setting forth the steps necessary to complete such changes. The plan will be developed with the assistance of interested persons, including handicapped persons and organizations representing handicapped persons. A copy of the transition plan will be made available for public inspection. The plan will, at a minimum—

(1) Identify physical obstacles in the agency's facilities that limit the accessibility of its programs or activities to handicapped persons;

(2) Describe in detail the methods that will be used to make the facilities accessible;

(3) Specify the schedule for taking the steps necessary to achieve compliance with this section and, if the time period of the transition plan is longer than one year, identify steps that will be taken during each year of the transition period;

(4) Indicate the official responsible for implementation of the plan; and

(5) Identify the persons or groups with those assistance the plan was prepared.

§ 6.151 Program accessibility: New construction and alterations.

Each building or part of a building that is constructed or altered by, on behalf of, or for the use of the agency shall be designed, constructed, or altered so as to be readily accessible to and usable by handicapped persons. The definitions, requirements, and standards of the Architectural Barriers act, 42 U.S.C 4151–4157, as established in 41 CFR 101–19.600 to 101–19.607, apply to buildings covered by this section.

§§ 6.152–6.159 [Reserved]

§ 6.160 Communications.

(a) The agency will take appropriate steps to ensure effective communication with applicants, participants, personnel of other Federal entities, and members of the public.

(1) The agency will furnish appropriate auxiliary aids where necessary to afford a handicapped person an equal opportunity to participate in, and enjoy the benefits of, a program or activity conducted by the agency.

(i) In determining what type of auxiliary aid is necessary, the agency will give primary consideration to the requests of the handicapped person.

(ii) The agency need not provide individually prescribed devices, readers for personal use or study, or other devices of a personal nature.

(2) Where the agency communicates with applicants and beneficiaries by telephone, telecommunications devices for deaf persons (TDD's), or equally effective telecommunication systems will be used.

(b) The agency will ensure that interested persons, including persons with impaired vision or hearing, can obtain information as to the existence and location of accessible services, activities, and facilities.

(c) The agency will provide signage at a primary entrance to each of its inaccessible facilities, directing users to a location at which they can obtain information about accessible facilities. The interntional symbol for accessibility shall be used at each primary entrance of an accessible facility.

(d) The agency will take appropriate steps to provide handicapped persons with information regarding their section 504 rights under the agency's programs or activities.

(e) This section does not require the agency to take any action that it can demonstrate would result in a fundamental alteration in the nature of a program or activity or in undue financial and administrative burdens. The agency has the burden of proving that compliance with § 6.160 would result in such alterations or burdens. The decision that compliance would result in such alteration or burdens must be made by the agency after considering all agency resources available for use in the funding and operation of the conducted program or activity, and must be accompanied by a written statement of the reasons for reaching that conclusion. If an action required to comply with this section would result in such an alteration or such burdens, the agency will take any other action that would not result in such an alteration or such a burden but would nevertheless ensure that, to the maximum extent possible, handicapped persons receive the benefits and services of the program or activity.

§§ 6.161–6.169 [Reserved]

§ 6.170 Compliance procedures.

(a) Except as provided in paragraph (b) of this section, this section applies to all allegations of discrimination on the basis of handicap in programs or activities conducted by the agency.

(b) The agency will process complaints alleging violations of section 504 with respect to employment according to the procedures established in 29 CFR 1613 pursuant to section 501 of the Rehabilitation Act of 1973 (29 U.S.C 791).

(c) Responsibility for implementation and operation of this section shall be vested in the Rehabilitation Act Officer.

(d)(1)(i) Any person who believes that he or she or any specific class of persons of which he or she is a member has been subjected to discrimination prohibited by this part may file a complaint with the Rehabilitation Act Officer.

(ii) Any person who believes that a denial of his or her services will result or has resulted in discrimination prohibited by this part may file a complaint with the Rehabilitation Act Officer.

(2) All complete complaints must be filed within 180 days of the alleged act of discrimination. The agency may extend this time period for good cause.

(3) Complaints filed under this part shall be addressed to the Rehabilitation Act Officer, 1325 K Street, NW., Washington, D.C. 20463.

(e) The agency will notify the Architectural and Transportation Barriers Compliance Board upon receipt of any complaint alleging that a building or facility that is subject to the Architectural Barriers Act of 1968, as amended (42 U.S.C. 4151–4157), or section 502 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 792), are not readily accessible and usable to handicapped persons.

(f)(1) The agency will accept and investigate a complete complaint that is filed in accordance with paragraph (d) of this section and over which the agency has jurisdiction. The Rehabilitation Act Officer will notify the complaint and the respondent of receipt and acceptance of the complaint.

(2) If the Rehabilitation Act Officer receives a complaint that is not complete (See 11 CFR 6.101(c)), he or she will notify the complaint within 30 days of receipt of the incomplete complaint, that additional information is needed. If the complaintant fails to complete the complaint within 30 days of receipt of this notice, the Rehabilitation Act Officer will dismiss the complaint without prejudice.

(3) If the Rehabilitation Act Officer receives a complaint over which the agency does not have jurisdiction, the agency will promptly notify the complaint and will make reasonable efforts to refer the complaint to the appropriate governmental entity.

(g) Within 180 days of the receipt of a complete complaint for which it has jurisdiction, the agency will notify the complaint of the results of the investigation in a letter containing—

(1) Findings of fact and conclusions of law;

(2) A description of a remedy for each violation fund; and

(3) A notice of the right to appeal.

(h) Appeals of the findings of fact and conclusions of law or remedies must be filed by the complainant within 90 days of receipt from the agency of the letter required by § 6.170(g). The agency may extend this time for good cause.

(i) Timely appeals to the agency shall be addressed to the Rehabilitation Act Officer, Federal Election Commission, 1325 K Street, NW., Washington, D.C. 20463.

(j) The agency will notify the complainant of the results of the appeal within 60 days of the receipt of the request. If the agency determines that it needs additional information from the complainant, it shall have 60 days from the date it receives the additional information to make its determination on the appeal.

(k) The time limits cited in Paragraphs (g) and (j) of this section may be extended by the agency for good cause.

(l) The agency may delegate its authority for conducting complaint investigations to other Federal agencies, except that the authority for making the final determination may not be delegated.

§§ 6.171–6.999 [Reserved]

Certification of No Effect Pursuant to 5 U.S.C. 605(b) (Regulatory Flexibility Act)

I certify that the attached proposed rules will not have a significant economic impact on a substantial number of small entities because the proposed regulations would impact only on the Commission's own programs and activities, not those of regulated entities. Therefore, no Regulatory Flexibility analysis is required.

Dated: June 22, 1984.

Lee Ann Elliott,

Chairman, Federal Election Commission.

[FR Doc. 84-17103 Filed 6-26-84; 8:45 am]

BILLING CODE 6715-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 84-ASO-13]

Proposed Transition Area, Monroe, Georgia

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to designate the Monroe, Georgia, transition area to accommodate Instrument Flight Rule (IFR) operations at the Monroe Municipal Airport. This action will lower the base of controlled airspace from 1,200 to 700 feet above the surface in the vicinity of the airport. An instrument approach procedure, based on the proposed Monroe Non-directional Radio Beacon (NDB), is being developed to serve the airport and the controlled airspace is required for protection of IFR aeronautical operations.

DATE: Comments must be received on or before: August 1, 1984.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Attn: Manager, Airspace and Procedures Branch, ASO-530, P.O. Box 20636, Atlanta, Georgia 30320.

The official docket may be examined in the Office of the Regional Counsel, Room 652, 3400 Norman Berry Drive, East Point, Georgia 30344, telephone: (404) 763-7646.

FOR FURTHER INFORMATION CONTACT: Ronald T. Niklasson, Airspace Specialist, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: (404) 763-7646.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 84-ASO-13." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Manager, Airspace and Procedures Branch (ASO-530), Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) that will designate the Monroe, Georgia, transition area. This action will provide controlled airspace for aircraft executing a new instrument approach procedure to the Monroe Municipal Airport. If the proposed designation of the transition area is found acceptable, the operating status of the airport will be changed to IFR. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in FAA Order 7400.6 dated January 3, 1984.

List of Subjects in 14 CFR Part 71

Aviation safety, Airspace, Transition area.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to designate the Monroe, Georgia, transition area under § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR part 71) as follows:

Monroe, GA [New]

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Monroe Municipal Airport (Lat. 33°46'57"N., Long. 83°41'31"W.); within 3 miles each side of the 212° bearing from the Monroe RBN (Lat. 33°44'15"N., Long. 83°43'37"W.) extending from the 6.5-mile radius area to 8.5-miles southwest of the RBN; excluding that portion which coincides with the Covington transition area.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983))

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. If, 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. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in East Point, Georgia, on June 15, 1984.

George R. LaCaille,

Acting Director, Southern Region.

[FR Doc. 84-17035 Filed 6-26-84; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF COMMERCE

Minority Business Development Agency

15 CFR Part 1400

[Docket No. 40563-4063]

Determination of Group Eligibility for MRBA Assistance

AGENCY: Minority Business Development Agency (MBDA), Commerce.

ACTION: Notice of proposed rulemaking.

SUMMARY: To be eligible to receive MBDA assistance, an applicant must qualify as a socially or economically disadvantaged individual, business enterprise, or group. The purpose of this proposed rule is to provide guidance to groups, not enumerated in E.O. 11625 and not previously designated by the Secretary of Commerce as eligible for assistance, who believe they are entitled to participate in MBDA funded programs. As proposed, upon adequate showing to the Secretary of Commerce by representatives of a group that the group is, as a whole, socially or economically disadvantaged, the Secretary will designate the group as such and individual members of the group will be eligible for MBDA assistance.

DATE: Comments must be submitted on or before August 27, 1984.

ADDRESS: Send comments to: Herbert S. Becker, Assistant Director, Office of Advocacy, Research and Information, United States Department of Commerce, Minority Business Development Agency, 14th and Pennsylvania Ave. NW., Room 5709, Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT: Ron Isler, (202) 377-1712.

SUPPLEMENTARY INFORMATION: Pursuant to Executive Order 11625 the Minority Business Development Agency (MBDA) provides program funds to recipients who then provide management and technical assistance to persons determined to be socially or economically disadvantaged. The Executive Order lists certain groups whose members have been determined to be socially or economically disadvantaged and who are therefore eligible to receive MBDA assistance. The Secretary may designate other groups as eligible for assistance if the group has made an adequate showing of social or economic disadvantage. However, no formal application procedures have been established for groups which wish to be designated as socially or economically disadvantaged.

The purpose of this proposed rule is to provide a set of formal procedures for groups which wish to be designated by the Secretary as socially or economically disadvantaged for purposes of participation in MBDA programs. The proposed rule will provide guidance to applicants in three areas. First, the rule will indicate what information will be submitted to the Department of Commerce and in what order that information should be arranged.

Second, the rule indicates the kind of evidence which will tend to persuade in the determination of social or economic disadvantage. In addition, other relevant information submitted will be considered.

Finally, the rule describes the decision-making process involved in making a determination of social or economic disadvantage. Provision has also been made for reconsideration of a decision, but only at the absolute discretion of the Secretary.

Executive Order 12291

The Director of MBDA has determined that his rule is not a "major rule" within the meaning of section 1(b) of Executive Order 12291.

Regulatory Flexibility Act

This proposed rule is exempt from the notice and comment requirements of the Administrative Procedure Act under 5 U.S.C. 553(a)(2) because it is a matter of related to grants. Therefore, the requirements of the Regulatory Flexibility Act do not apply.

Paper Work Reduction Act Statement

In preparation for compliance with section 3504(h) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3504 (h)), the Department of Commerce has completed the necessary requirements in preparing the regulation for review of its information collection provisions by the Office of Management and Budget (OMB). Final approval of the information collection provisions by OMB is pending and comments may be sent to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for the Department of Commerce.

List of Subjects in 15 CFR Part 1400

Minority groups, Minority businesses, Technical assistance.

Authority: 15 U.S.C 1512; Executive Order 11625, 3 CFR 616-20 (1971-75), 36 FR 19967 (1971); and Executive Order 12432, 3 CFR 198-99 (1983), 48 FR 32551 (1983).

Accordingly, a new Chapter XIV, Minority Business Development Agency, is hereby established and a new Part 1400, Determination of Group Eligibility for NBDA Assistance, is added to Title 15 of the Code of Federal Regulations as set down below.

PART 1400—DETERMINATION OF GROUP ELIGIBILITY FOR MBDA ASSISTANCE

Sec.

1400.1 Purpose and scope.
1400.2 Definitions.
1400.3 Request for determination.
1400.4 Evidence of social or economic disadvantage.
1400.5 Decision.
1400.6 Construction.

Authority: 15 U.S.C. 1512; Executive Order 11625, 3 CFR 616-20 (1971-75), 36 FR 19967 (1971); and Executive Order 12432, 3 CFR 198-99 (1983), 48 FR 32551 (1983).

§ 1400.1 Scope and purpose.

(a) The purpose of this part is to set forth regulations for determination of group elegibility for MBDA assistance.

(b) In order to be eligible to participate in an MBDA funded program an applicant must qualify as a socially or economically disadvantaged individual, business enterprise, or group. Executive Order 11625 provides the authority to establish eligibility requirements for participation in programs funded by the Minority Business Development Agency (MBDA). It specifically designates Blacks, Puerto-Ricans, Spanish-speaking Americans, American Indians, Eskimos, and Aleuts as economically or socially disadvantaged groups eligible for MBDA assistance. Other groups designated so

far by the Secretary are listed below in paragraph (c). The purpose of this regulation is to provide guidance to groups, not enumerated in Executive Order 11625 and not previously designated by the Secretary of Commerce as eligible for assistance, who believe they are entitled to formal designation as "socially or economically disadvantaged" under the Executive Order. Upon adequate showing to the Secretary of Commerce by representatives of a group that the group is, as a whole, socially or economically disadvantaged the Secretary will designate the group as such and the group will be presumed eligible for MBDA assistance. Formal designation by the Secretary under Executive Order 11625 establishes eligibility status only for MBDA funded programs. Formal recognition by the Secretary will not establish eligibility for any other Federal or Federally funded programs.

(c) The Secretary has previously designated Hasidic Jews and Asian Pacific Americans as eligible for assistance.

§ 1400.2 Definitions.

For the purpose of the regulations in this part:

(a) *Social disadvantage.* Socially disadvantaged individuals are those persons who have been subjected to racial or ethnic prejudice or cultural bias because of their identity as members of a group without regard to their individual qualities.

(b) *Economic disadvantage.* Economically disadvantaged individuals are those persons whose ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities, as compared to others in the same line of business and competitive market area who are not economically disadvantaged.

§ 1400.3 Request for determination.

A group wishing to apply for designation as socially or economically disadvantaged pursuant to Executive Order 11625 shall submit a written application to the Director of the Minority Business Development Agency, United States Department of Commerce, Washington, D.C., 20230, containing the following information:

(a) Statement of Request: a brief statement clearly indicating that the applicant seeks formal recognition as socially or economically disadvantaged.

(b) Description of Applicants: a detailed sociological, ethnic and/or racial description, as appropriate, of the group they represent which indicates that the group and the traits of its members are sufficiently distinctive to warrant a determination of social or economic disadvantage.

(c) Summary of the Applicant's submission: a one page summary of their Submission.

(d) Presentation of Argument: a narrative description of the documentation in support of their claim of social or economic disadvantage. (Applicants should support their claim of social or economic disadvantage with the criteria described under § 1400.4, "Evidence of Social or Economic Disadvantage.")

(e) Conclusion: summary of applicant's arguments in support of the claims of social or economic disadvantage.

§ 1400.4 Evidence of social or economic disadvantage.

(a) The representative of the group requesting formal designation should establish social or economic disadvantage on the basis of a preponderance of the evidence. Social or economic disadvantage must be chronic, long standing and substantial, not fleeting or insignificant. In determining whether a group has made an adequate showing that it has suffered chronic racial or ethnic prejudice or cultural bias for the purposes of this regulation, the Secretary shall determine whether this group has suffered the effects of discriminatory practices over which its members have no control. Applicants must demonstrate that such social or economic conditions have produced impediments in the business world for members of the group which are not common to all business people in the same or similar business and marketplace.

(b) Evidence which will be considered in determining whether groups are socially or economically disadvantaged includes but is not limited to:

(1) *Social disadvantage.* Social disadvantage is evidenced by systematic exclusion, based solely upon racial, ethnic or cultural bias, from those opportunities and institutions which afford individuals the chance to improve and advance themselves. This includes the following:

(i) Evidence of educational discrimination in professional and business schools in comparison to educational opportunities available to those not considered to be members of socially disadvantaged groups.

(ii) Evidence of employment discrimination suffered by members of the group in comparison to employment opportunites available to individuals not considered to be members of socially disadvantaged groups.

(iii) Evidence of the kinds of businesses and business transactions in which group members are engaged in comparison to the kinds of businesses and business transactions engaged in by individuals not considered to be members of socially disadvantaged groups.

(iv) Evidence of denial of access to organizations, groups, or professional societies whether in business or in school, based solely upon racial and/or ethnic considerations.

(v) Any other evidence of denial of opportunity or access to those things which would enable the individual to advance the quality of his life, available to individuals not considered to be socially disadvantaged but unavailable to group members.

(2) *Economic disadvantage.* Economic disadvantage is evidenced by an inability of the individual to compete in the system due to impaired capital and credit opportunities. Evidence includes:

(i) Statistical profile outlining the income level and standard of living enjoyed by members of the group in comparision to the income level and standard of living enjoyed by individuals not considered to be members of economically disadvantaged groups.

(ii) Availability of capital and credit to group members in comparison to the availability of capital to individuals not considered to be members of economically disadvantaged groups.

(iii) Availability of technical and managerial resources to group members in comparison to the technical and managerial resources available to individuals not considered to be members of economically disadvantaged groups.

(iv) Any other evidence of impaired capital or credit opportunity.

§ 1400.5 Decision.

(a) *Procedure.* After receipt of an application requesting formal designation as a socially or economically disadvantaged group, the Department of Commerce may publish a notice in the **Federal Register** that formal designation of this group will be considered. This notice may request comment from the public on the propriety of such a designation. The Department may gather additional information which supports or refutes the group's request. Any member of the public, including Government representatives, may submit information in written form. It is the responsibility of the applicant, however, to submit all relevant information which it wishes

considered in its request for a determination of group eligibility.

(b) *Decision.* A decision will be made within 120 days of the receipt of the request. The decision will be published in the **Federal Register.** Applicants will also be informed in writing.

(c) *Reconsideration.* All questions of eligibility and procedural requirements shall be resolved by the Secretary of Commerce whose decision shall be final. An applicant may request reconsideration of a decision. Applicants requesting reconsideration should provide any information discovered subsequent to the Secretary's initial decision which would further their claim. Reconsideration shall be at the absolute discretion of the Secretary.

§ 1400.6 Construction.

Nothing in this regulation shall be construed as subjecting any functions vested in, or assigned pursuant to law to any Federal department or agency or head thereof to the authority of any other agency or office exclusively, or as abrogating or restricting such functions in any manner.

Dated: June 19, 1984.

James H. Richardson Gonzales,

Director, Minority Business Development Agency.

[FR Doc. 84-17014 Filed 6-26-84; 8:45 am]

BILLING CODE 3510-21-M

DEPARTMENT OF TREASURY

Internal Revenue Service

26 CFR Part 1

Income Tax, Taxable Years Beginning After December 31, 1953; Limitation on Foreign Tax Credit for Foreign Oil and Gas Taxes

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: In the Rules section of this issue of the **Federal Register,** the Internal Revenue Service adopts final regulations relating to the limitation on the foreign tax credit with respect to taxes paid on foreign oil related income. Section 1.907(c)-1 (e) and (f) of those final regulations reserved certain rules that would apply in defining a taxpayer's extraction and oil related income, and this document serves as the notice of proposed rulemaking for those reserved rules. The regulations would provide the public with the guidance needed to comply with the Tax Reduction Act of 1975 and would affect all taxpayers claiming a foreign tax credit for taxes paid with respect to foreign oil related income.

DATE: Written comments and requests for a public hearing must be delivered or mailed by August 27, 1984. The amendments are proposed to be effective for taxable years ending after December 31, 1974, and beginning before January 1, 1983.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR-149-83), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Mary Frances Pearson of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224, Attention: CC:LR:T (LR-149-83), or call (202)-566-3289.

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 907 (c)(1) and (c)(2) of the Internal Revenue Code of 1954. These amendments are proposed to conform the regulations to section 601(a) of the Tax Reduction Act of 1975 (89 Stat. 54). They do not reflect the changes in section 907(c) made by section 211(b) of the Tax Equity and Fiscal Responsibility Act of 1982 (96 Stat. 449), hereafter referred to as TEFRA.

On November 17, 1980, the **Federal Register** published proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 907 of the Internal Revenue Code of 1954 (45 FR 75695), hereafter referred to as the 1980 notice. These proposed amendments were adopted as final regulations and appear in the Final Rules section of this issue of the **Federal Register.** Section 1.907(c)-1 (e) and (f) of those final regulations reserved certain rules that would apply in defining a taxpayers's extraction and oil related income and this document serves as the notice of proposed rulemaking for those reserved rules.

1980 Notice

Section 907(a) limits the foreign tax credit otherwise allowed for taxes paid on foreign oil and gas extraction income (extraction income). Extraction income is essentially income from the production of oil and gas. Generally, creditable foreign taxes paid on foreign producing income may not exceed the product of the extraction income and the marginal U.S. corporate tax rate (currently 46 percent).

Prior to the enactment of section 907, producers of foreign oil were generating excess foreign tax credits attributable to their producing operations. The excess credits arose because the effective foreign tax rate on the producing income for exceeded the U.S. rate on the same income. There were some serious questions whether the amounts paid to certain countries and claimed as income tax credits were really deductible royalties. Moreover, the excess credits (if they could be used at all) could be used under section 904 against the U.S. tax and other foreign-source income which, frequently, was low-taxed income completely unrelated to the oil and gas business. Section 907(a) deals with one problem—the generation of the excess credits in the first instance.

Section 907(b) deals (prior to its amendment by TEFRA) with the other problem—the use of excess foreign tax credits against the U.S. tax on foreign income unrelated to the oil and gas business. Section 907(b) creates a separate section 904 limitation for a taxpayer's foreign oil related income. In addition to extraction income, foreign oil related income includes income from processing, transporting, and distributing oil or gas and their primary products, and from selling assets used in these activities. Through section 907(b), Congress permits the major oil companies some of the same benefits accorded other taxpayers under section 904 for using excess credits paid on a particular class of foreign income against the U.S. tax on another class, so long as the classes of income are related to the oil and gas business.

Extraction income is defined in section 907(c)(1). The 1980 notice of proposed rulemaking generally defined extraction income narrowly and in a way to isolate that income which a producing country would excessively tax, i.e., payments in connection with the production of oil and gas where it is difficult to determine whether they are creditable taxes or royalties. For example, assume that a producer must make monthly payments or royalties and taxes to the producing country. The revenues to be paid to the sovereign are collected by the producer and temporarily invested in assets that generate interest income. The interest income would not have been extraction income under the 1980 notice. However, the interest income also would not have been foreign oil related income for purposes of applying the separate section 904 limitation if it were not extraction income, because section 907 (c)(1)(A) (defining extraction income) and section 907(c)(2)(A) (including

extraction income in foreign oil related income) are mirror images of each other.

The Treasury Department does not believe that Congress intended that the interest income in the example above be neither extraction income nor foreign oil related income. Sections 907 (c)(1) and (c)(2) list activities the taxable income from which is extraction or foreign oil related income. Under the statute, the interest income in the example above certainly seems to be income directly attributable to the extraction of minerals and not to the passive investment of excess funds. It is certainly consistent with the intent underlying section 907 (b) and the separate section 904 limitation to characterize the interest income as foreign oil related income. Although the major reason for the reduction of taxes on extraction income under section 907 (a) was the imposition on producing income of excessive foreign taxes under circumstances that raised concerns over the creditability of these taxes, there is no indication that Congress intended that extraction income in section 907 (c)(1) was to be defined exclusively with that reason in mind.

The fact that the interest income in the example above may not be taxed by the foreign country is not a valid reason to characterize it as neither extraction nor foreign oil related income when to do so would deprive the producer of the benefits of averaging lowly and highly taxed income under the overall limitation of section 904—a benefit Congress intended to preserve so long as the income was related to the oil and gas business.

The regulations in essence propose that income directly related to (rather than directly derived from) the actual conduct of the activities in section 907 (c)(1) and (c)(2) may be extraction or foreign oil related income. Moreover, the regulations propose special rules for income derived from the performance of certain services and from the lease or license of property used by the lessor, licensor, or another person in the active conduct of the relevant activities.

Service and Rental Income

The 1980 notice of proposed rulemaking contained a rule (proposed § 1.907 (c)–1 (b)(2)) providing that income from the performance of extraction services would be extraction income (in the absence of an economic interest in the minerals in place) if the consideration received depended in whole or in part on the amount of minerals discovered or extracted. This proposed rule was derived from a statement made in 1975 on the floor of the House by Mr. Ullman, the former Chairman of the Committee on Ways and Means, when asked how section 907 would treat a drilling service company whose income comes not from extraction of oil but from the provision of services (121 *Cong. Rec.* H2383, March 26, 1975). Mr. Ullman stated that if the amount received for the services depended on the amount of oil found or extracted, one had extraction income. If it did not, he said, one had foreign oil related income; this comment cannot be suppported under section 907 (c)(1)(A) and (c)(2)(A) for the same reasons discussed above.

The Treasury Department believes that Mr. Ullman's comment (regarding classification of service income as extraction income) went to an arrangement where the driller had a working interest that constituted an economic interest in the minerals in place. The Treasury Department does not believe that Congress intended to subject independent drilling service companies to the requirements of section 907 in the absence of that economic interest. Moreover, the Treasury Department believes that this general notion (independent persons are not subject to section 907) should apply not only to extraction services but also to any similar service that relates to the oil and gas business.

Similarly, a person that is not actively engaged in the activities listed in section 907 (c)(1) or (c)(2) but whose income comes from the mere ownership of property leased to another who uses the property in the conduct of such activities should not have extraction or oil related income.

Proposed Regulations

The proposed regulations would provide as a general rule that a person may have extraction or oil related income from the performance of certain directly related services and the lease of related property, whether or not the services are performed for, or the property leased to, a related person.

However, a person will not have extraction or oil related income from these activities if one of two conditions exist. These conditions are intended to identify those persons who are "independents" and those persons whose income is income described in section 907 (c)(1) or (2).

The first condition is that neither the person performing the services or leasing the property, nor any related person, has extraction or oil related income from the active conduct of the activities described in section 907 (c)(1) or (c)(2).

The second condition is that less than 50 percent of the person's gross income from sources outside the United States, which is exclusively related to the performance of services or the lease of property directly related to the activities in section 907 (c)(1) or (2), is derived from related persons. However, this second condition will not apply to a person rendering the services or leasing the property if 50 percent or more of that person's total gross income from sources outside the United States is attributable to extraction or oil related income from the active conduct of the activities described in section 907 (c)(1) or (2).

The proposed regulations generally define related person as it is defined in section 954 (d) (3) (relating to Subpart F income) and also define the terms "directly related services" and "lease of related property."

The rules proposed by this document are similar (but not identical) to the rules in the 1980 notice of proposed rulemaking, which were, however, limited to the performance of services directly related to, or bareboat charters of, a means of transportation.

The Treasury Department did consider alternatives to the rules proposed by this document. One alternative would have been to limit the service and lease income to that derived from related persons. Another alternative would have been to characterize the income received by the payee (from a related person) as either extraction or other oil related income in the same proportion that the payor (a related person) reduced its extraction or other oil related income under § 1.861–8 and section 907. Thus, extraction services performed for a related person in a county where that person has a net operating loss would be oil related income and not extraction income. See section 907(c)(4) (as in effect before TEFRA). Taxpayers should be aware of the fact that the Treasury Department is still considering adopting this latter alternative (as a final regulation) for related income if the final regulations provides that the service and lease income may include income from unrelated persons.

TEFRA

Section 212 of TEFRA subjects certain oil related income to the Subpart F provisions in taxable years beginning after 1982. Section 211 of TEFRA amended section 907 in relevant part by changing the definition of oil related income so that it no longer includes extraction income as defined in section 907(c)(1). However, section 211 of TEFRA also added to oil related income the "performance of any other related service."

These amendments are proposed to give taxpayers the opportunity to comment on certain aspects of section 907 prior to its amendment by TEFRA.

Regulatory Flexibility Act and Executive Order 12291

Although this document is a notice of proposed rulemaking which solicits public comment, the Internal Revenue Service has concluded that the proposed regulations are interpretative and that the notice and public comment procedural requirements of 5 U.S.C. 553 do not apply. Accordingly, these proposed regulations do not constitute regulations subject to the Regulatory Flexibility Act [5 U.S.C. Chapter 6]. The Commissioner of the Internal Revenue Service has also determined that this proposed regulation is not a major regulation as defined in Executive Order 12291 and therefore a regulatory impact analysis is not required.

Drafting Information

The principal author of this notice of proposed rulemaking is Donald K. Duffy of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices in the Service and Treasury Department participated in the development of this proposed regulation.

List of Subjects in 26 CFR 1.861–1—1.997–1

Income taxes, Aliens, Exports, DISC, Foreign Investment in U.S., Foreign tax credit, Source of income, United States investment abroad.

PART 1—[AMENDED]

Proposed Amendments to the Regulations

The proposed amendments to 26 CFR Part 1 are as follows:

Section 1.907(c)–1 is amended by adding the text of paragraphs (e) (3), (4), (5), and (6) and by adding the text of new paragraph (f) to read as set forth below.

§ 1.907(c)–1 Definitions relating to FORI and FOGEI.

* * * * *

(e) *Terms and items common to other FORI and FOGEI.*

* * * * *

(3) *Interest on working capital.* Other FORI and FOGEI may include interest on bank deposits or on any other temporary investment which is not in excess of funds reasonably necessary to meet the working capital requirements and the specifically anticipated business needs of the person that is engaged in the conduct of the activities listed in paragraphs (b) and (c) of this section.

(4) *Exchange gain or loss.* Exchange gain (and loss) may be other FORI and FOGEI.

(5) *Allocation.* Interest income and exchange gain (or loss) described, respectively, in paragraphs (e) (3) and (4) of this section are allocated among other FORI, FOGEI, and any other class of income relevant for purposes of the foreign tax credit limitations under any reasonable method which is consistently applied from year-to-year.

(6) *Facts and circumstances.* Income not described elsewhere in this section may be other FORI, FOGEI if, under the facts and circumstances in the particular case, the income is in substance directly attributable to the activities described in section 907(c) (1) or (2). For example, assume that a producer in the North Sea suffers a casualty caused by an explosion, fire, and resulting destruction of a drilling platform. Insurance proceeds received for the platform's destruction in excess of the producer's basis is extraction income if the excess constitutes income from sources outside the United States. In addition, income from an insurance policy for business interruption may be extraction income to the extent the payments under the policy are geared directly to the loss of income from production and are treated as income from sources outside the United States. In further example, assume that an oil company has an exclusive right to buy all the oil in country X from Y, an instrumentality of the foreign sovereign which owns all of the oil in X. The oil company does not have an economic interest in any oil in country X. Y has a temporary cash-flow problem and demands that the oil company make advance deposits for the purchase of oil not yet delivered. In return, Y grants the oil company a discount on the price of the oil when delivered. Income represented by the discount on the later disposition of the oil is other FORI described in section 907(c)(2)(D). The result would be the same if Y credited the oil company with interest on the advance deposits, which had to be used to purchase oil (the interest income would be other FORI).

(f) *Directly related income*—(1) *In general.* This paragraph (f) includes in other FORI and FOGEI income from the performance of directly related services (as defined in paragraph (f)(2) of this section) or from the lease or license of related property (as defined in paragraph (f)(3) of this section). This paragraph (f) does not apply to a person if—

(i) Neither that person nor a related person (as defined in paragraph (f)(4) of this section) has FOGEI described in paragraph (b) of this section (other than subparagraph (4) thereof) or other FORI described in paragraph (c) of this section (other than subparagraph (7) thereof), or

(ii) Less than 50 percent of that person's gross income from sources outside the United States which is related exclusively to the performance of services and from the lease or license of property is attributable to services performed for (or on behalf of), leases to, or licenses with, related persons, but

(iii) Subdivision (ii) of this paragraph (f)(1) will not apply to a person if 50 percent or more of that person's total gross income from sources outside the United States is FOGEI and other FORI (as both described in subdivision (i) of this paragraph (f)(1)).

(2) *Directly related services.* Directly related services are those services that are directly related to the active conduct of the activities described in section 907 (c)(1)(A) or (c)(2) (B) through (D). These services include, for example, extraction (including exploration) services, services performed in relation to the distribution of minerals or primary products or in connection with the operation of a refinery, or the types of services described in § 1.954–6(d) (other than subparagraph (4) thereof) which relates to foreign base company shipping income. The services described in this paragraph (f)(2) include those performed for a person that is not a related person. Directly related services do not include, for example, insurance, accounting, or managerial services in the nature of stewardship.

(3) *Leases and licenses.* A lease or license of related property is the lease or license of assets used (or held for use) by the lessor, licensor, or another person (including the lessee or a sublessee) in the active conduct of the activities described in section 907 (c)(1)(A) or (c)(2) (A) through (D). The leases or licenses described in this paragraph (f)(3) include, for example, a lease of a means of transportation under a bareboat charter hire, of drilling equipment used in extraction operations, or the license of a patent, know-how, or similar intangible property used in extracting, transporting, distributing or processing minerals or primary products. This paragraph (f)(3) applies even though the parties are not related persons.

(4) *Related person.* A person will be treated as a related person for purposes of this paragraph (f) if that person would be so treated within the meaning of section 954(d)(3) (as applied by substituting the word "corporation" for the word "foreign corporation").

(5) *Gross income.* A foreign corporation shall be treated as a domestic corporation solely for the purpose of applying the gross-income rules in paragraph (f)(1) (ii) and (iii) of this section.

Roscoe L. Egger, Jr.,

Commissioner Internal Revenue.

[FR Doc. 84-16702 Filed 6-20-84; 8:45 am]

BILLING CODE 4830-01-M

GENERAL SERVICES ADMINISTRATION

41 CFR Parts 101-21

Federal Buildings Fund, Reimbursable Services

AGENCY: Public Buildings Service, General Services Administration.

ACTION: Proposed rule.

SUMMARY: GSA proposes to amend its regulations for incurring and collecting obligations for reimbursable services in excess of reimbursable work authorization estimates. Total obligations may be incurred against reimbursable work authorizations (RWAs) with a total authorization amount of $1,000 or less in an amount exceeding the authorized amount by up to $100. Total obligations may be incurred against RWA's with an authorized amount in excess of $1,000 by up to 10 percent of the amount or $1,000, whichever is less, unless such action would result in the estimated maximum costs exceeding $500,000 for which no specific congressional prospectus project approval exists. The proposed changes are intended to clarify the policy and to satisfy circumstances where it would be impractical, infeasible or uneconomical to obtain another authorization from the agency to increase the authorized amount to cover all costs incurred. Failure of GSA to notify the agency that the obligations will exceed the authorized amount regardless of amount, does not relieve the agency of paying actual costs.

DATE: Comments must be received on or before: July 27, 1984.

ADDRESS: Comments should be addressed to: General Services Administration, PBS, Office of Buildings Management (PB), Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: James Marsden, Office of Buildings Management, (PB), 202-566-1563.

SUPPLEMENTARY INFORMATION: The billing procedure for reimbursable services was revised from fixed-price billing in advance to quarterly billing in an amount equal to obligations accumulated for the billing period, for all except above-standard-level recurring reimbursable work. This procedure was published in the Federal Property Management Regulations (FPMR) as Amendment D-79 dated August 23, 1982, and in the **Federal Register** on September 20, 1982 (47 FR 41361).

In reference to incurring obligations in excess of the estimate, the FPMR states in part:

> GSA will make every effort to obtain approval and certification of additional funds before incurring any obligations in excess of the estimate; however, failure of GSA to notify the agency that obligation will exceed the estimate does not relieve the agency of paying actual costs.

The clause in the FPMR binding the agencies to pay actual cost was included in recognition of the fact that in a limited number of circumstances it would be impractical, infeasible or uneconomical to obtain another authorization from the agency to increase the estimate to cover all costs incurred.

The following are examples of such circumstances:

(1) Costs associated with a particular RWA may be incurred and exceed the authorized amount before initial accounting information is received by the performing organization.

(2) The cost to obtain an amended RWA may exceed the total cost of a relatively low cost RWA or the cost of processing an RWA.

(3) Stopping work on an RWA prior to obtaining formal authorization for additional work required would be a serious inconvenience to the client agency or would substantially increase the cost of completing the RWA.

(4) The time frame of the reimbursable job is of extremely short duration.

The preceding are not intended to be all inclusive, but rather represent the types of circumstances which might exist which would make it impractical or infeasible to obtain another authorization from the client agency when obligations are incurred which would exceed the authorized amount.

GSA, in its efforts to improve the management of the reimbursable program, are proposing the following changes. GSA would not obtain approval and certification of additinoal funds when:

(1) Total obligations are incurred against RWAs with an authorized amount of $1,000 or less in an amount not exceeding the authorized amount by $100; and

(2) Total obligations are incurred against RWAs with an authorized amount in excess of $1,000 in an amount not exceeding the authorized amount by 10 percent or $1,000, whichever is the less amount. However, if the estimated maximum costs will result in an excess of $500,000 for which no specific congressional prospectus project approval exists, GSA is required to get prior prospectus authorization from Congress.

GSA will make every effort to notify the agencies when obligations will exceed the authorized amount. However, there may be circumstances, as discussed above, when GSA will not be able to notify an agency before incurring obligations in excess of the preceding parameters. This failure of GSA to notify the agency does not relieve the agency of paying actual costs, regardless of the dollar amount, and does not constitute a valid reason for chargeback or short paying the bill.

List of Subjects in 41 CFR Part 101-21

Federal buildings and facilities, Government property management.

PART 101-21—FEDERAL BUILDINGS FUND

GSA proposes to amend Part 101-21 as follows:

1. The authority citation for Part 101-21 reads as follows:

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c)

Subpart 101-21.6—Billings, Payments, and Related Budgeting Information for Space and Services Furnished by the General Services Administration

2. It is proposed to amend § 101-21.604 by revising paragraph (e) to read as follows:

§ 101-21.604 Billing procedures for reimbursable charges.

* * * * *

(e) GSA Form 2957, Reimbursable Work Authorization, must be completed before reimbursable work is begun. This authorization must describe the work or services ordered and include an estimate of the cost of the work described. Work authorizations must be signed by a responsible official capable of authorizing the obligation and committing the agency to payment of the charges, must contain a citation to the appropriation or funds to be charged, and must have statement that funds in the amount of the stated estimate are available for immediate obligation for the requested work. GSA will make every effort to obtain approval and certification of additional funds before incurring any obligations in excess of

the estimate except when : (1) Total obligations are incurred against reimbursable work authorizations with a total authorized amount of $1,000 or less in an amount exceeding the authorized amount by up to $100 and; (2) total obligations are incurred against reimbursable work authorizations with an authorized amount in excess of $1,000 by up to 10 percent of the amount or $1,000, whichever is less, unless such action would result in the estimated maximum costs exceeding $500,000 for which no specific congressional prospectus project approval exists. However, failure of GSA to notify the agency that obligations will exceed the authorized amount, regardless of the dollar amount, does not relieve the agency of paying full actual costs.

* * * * *

Dated: June 6, 1984.

Wolfgang Zoellner,

Acting Commissioner, Public Buildings Service.

[FR Doc. 84-17028 Filed 6-26-84; 8:45 am]

BILLING CODE 6820-23-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Park 74

[Docket No. 19918; RM-2235; RM-3914; FCC 84-158]

FM Broadcast Translator Stations

AGENCY: Federal Communications Commission.

ACTION: Memorandum opinion and order.

SUMMARY: This Memorandum Opinion and Order dismisses a Petition for Rulemaking that would restructure the nature of the FM broadcast translator service and terminates without further action a proceeding to place additional restrictions on FM broadcast station licensee involvement in operating distant translator stations. This action is necessary because the requested amendments would conflict with other recently amended rules intended to expand full local FM service to much of the country needing such local service.

FOR FURTHER INFORMATION CONTACT:, John W. Reiser, Mass Media Bureau, (202) 632-9660.

SUPPLEMENTARY INFORMATION: .

Memorandum and Order; Proceeding Terminated

In the matter of Amendment of Part 74, Subpart E of the Commission's Rules Pertaining to FM Radio Broadcast Translator Stations; FCC 84-158, 34543; Docket 19918, RM-2235; Amendment of Subparts F and L of Part 74 to permit use of alternative input sources for FM broadcast translator stations and to permit uniform 10 watt FM translator power; RM-3914.

Adopted: April 11, 1984.

Released: May 18, 1984.

By the Commission: Commissioner Rivera concurring in the result.

Introduction

1. By Petition for Rule Making filed May 27, 1981, the Moody Bible Institute of Chicago ("Moody") petitioned for amendment of Subparts F and L of Part 74 of the Commission's rules to expand the services of FM broadcast translators.[1]

2. The amendments requested would permit FM translators to broadcast program material received via microwave and satellite circuits, broadcast programs specifically originated for a national audience via unattended translators, and originate unlimited hours of local and recorded programs. Moody requested that FM translators be authorized in all areas of the country with a uniform 10 watt transmitter power. In addition, Moody requested that licensees of FM translator stations be permitted to use TV auxiliary Microwave channels on a secondary non-interference basis for extending the programming of the primary stations to locations beyond the normal reception range of the primary FM stations and to obtain alternative program sources.

3. Moody notes that the current rules restrict translators to the simultaneous rebroadcasting of FM signals received "off air" from a primary FM station or another FM translator. This limitation, Moody, claims, makes it necessary to use large, expensive antennas to receive the primary signal and rebroadcast it to the shielded community. The same signal could be more easily and clearly received via satellite microwave transmission, and the transmitter could be located so as to maximize reception quality to the public. The result, Moody says, would be less expense for the licensee and better service to the public. Moody argues that this problem could also be minimized by the use of "FM broadcast relay stations." Its petition requests amendment of Subpart F of Part 74 to permit the use of Bands A, B, and D by such relay stations on a secondary non-interference basis to other TV auxiliary stations.

4. Moody emphasizes that FM translator rules originated from existing TV translator rules but that while the Commission has recognized the potential of television translators through the use of a variety of input sources, the same technological developments have not generated similar consideration for FM translators.[2] The Commission has, for example, permitted TV translators to be relicensed as low power TV stations so that, in addition to simultaneous retransmission of off air signals of TV broadcast stations, they may also broadcast unlimited periods of locally originated programs and programs obtained by recordings, satellite, microwave and other sources.[3]

5. Moody argues that requests for waivers to permit construction of satellite-fed FM translators filed by other parties indicate interest in regulatory reform. Moody further contends that new technologies provide the potential for enhanced service and program diversity to the public via translators. Satellite and microwave feeds, if authorized, could offer more dependable transmission and increased translator service areas, so as to maximize the signal reception in targeted areas.

6. Moody also requests that LPFM service be authorized on a parity with low power television with respect to program origination potential. The authority to originate local programming, it claims, would be consistent with the Commission policy that led to expansion of secondary television service. Origination capability would be especially responsive to the needs of smaller communities that lack a population base sufficient to support a full power FM broadcast station. Local programming responsive to community needs and "narrowcasting" aimed at specific population demographics could be supported. The use of additional input feeds in combination with authority to originate programming would provide the greatest potential for diversity of aural services to the listening public.

7. Finally, Moody contends that translators should be allowed to operate with 10 watts transmitter power regardless of their geographic location. The maximum power of a particular translator, within this range, would continue to be limited by the interference protection standards which secondary broadcast services must adhere to or cease operation. Moody argues that the rules should not arbitrarily limit the power of translator stations in certain locations if they can,

[1] 47 CFR 74.1201-74.1284; 47 CFR 74.601-74.682.

[2] *Report and Order* in BC Docket No. 20539, 42 RR 2d 101 (1977).

[3] *Report and Order* 47 FR 21468, 51 RR 2d 476 (1982).

in fact, operate with higher power and not cause prohibited interference.

8. The Commission published a Notice of Petition for Rule Making requesting comments on Moody's Petition. Ninety-nine comments were received. Fourteen formal comments were filed by broadcasters, networks, industry trade organizations and other communications companies. Informal comments were submitted by 85 individuals across the nation. In response to the initial comments the Commission received four reply comments including two from petitioner, Moody Bible Institute.

Regulatory Background

9. The Commission currently authorizes three types of stations to provide FM broadcast service to the public: full-service stations,[4] translator stations, and booster stations. Full-service stations provide primary service to most of the public while translators and boosters provide "fill-in" service. specifically, translators and boosters receive the signal of a full-service station and simultaneously rebroadcast it to a community or area otherwise unable to receive the primary station's signal. Translators are secondary stations in that they must not cause interference to reception of full-service broadcast stations.

10. The service area of a translator may extend outside the service area of the primary station and can be licensed to any qualified individual, organized group of individuals, local civil government body, and with certain limitations, broadcast station licensees.[5] Translators are frequency conversion devices that receive an incoming signal on one frequency, amplify it, and "translate" it to another for simultaneous rebroadcast. The existing rules permit them to translate ". . . the signals of an FM broadcast station or another FM translator station which have been received directly through space, converted, and suitably amplified." [6] Translators may also broadcast locally-originated material in case of an emergency, or to request or acknowledge contributions. In the latter case, they are limited to a maximum transmission time of 30 seconds each hour.

11. Translators may operate with a maximum transmitter power output ("TPO") of either 1 or 10 watts depending upon their location. Stations located east of the Mississippi River and in Zone I–A are limited to 1 watt.[7] There is no limit on the effective radiated power translators may achieve with directional antennas.

Review of Comments

12. As noted earlier, the Commission received nearly 100 comments, formal and informal, in response to Moody's Petition for Rule Making. The formal comments were evenly split on whether FM translators should be allowed to use a variety of input feeds and have expanded origination capacity. In general, those favoring the authorization of additional input sources also favored expanded origination capacity or a new "low power FM" service.

13. American Broadcasting Companies Inc. ("ABC") and the National Association of Broadcasters ("NAB") were generally in favor of expanding translator access to satellite programming and microwave transmissions but were opposed to the institution of a LPFM service authorizing unlimited origination. The NAB and the National Radio Broadcasters Association (NRBA) voiced similar requests for a Commission inquiry into the economic and administrative impact that would result from implementation of Moody's proposal. They asked that the Commission carefully consider the administrative demands that would be generated by the expected filing of thousands of applications. They also asked that such an inquiry consider the potential for serious economic injury to small full service radio stations. There comments expressed the concern that LPFM stations would divide the market by airing programming from satellites and distant microwave feeds causing local full service stations and their local programming to perish from the air waves. These issues are also addressed in an outstanding *Further Notice of Proposed Rulemaking* in Docket 19918, adopted by the Commission on March 22, 1978, (43 FR 14695).

14. A number of these comments also addressed the need for changes in the current translator ownership restrictions contained in the rules.[8] M/A COM urged the Commission to avoid imposing any ownership limitations on who may own FM translators. John A. Watkins and Wycom Corporation suggested the Commission delete its existing restrictions. The National Citizens Committee for Broadcasting ("NCCB"), on the other hand, stated that it could support "reasonable ownership limitations." The ownership restrictions were also discussed by those parties opposing the Moody petition. These parties felt that the Commission should consider rule changes so FM licensees could establish translators outside their 1 mV/m contours or assist groups interested in doing so. Thomas W. Read submitted a petition for rule making seeking changes in the FM translator rules so *commercial* FM station licensees could operate translators anywhere within 150 miles of their station.[9]

15. Opposing comments from Cascade Broadcasting Corporation cited the economic impact FM translator stations would have on local full service stations. It maintained that local stations are frequently marginal operations and translator stations could drive them out of business. The NRBA echoed these comments stating that the establishment of a large number of translator stations could deleteriously affect the health of the broadcast industry. On the other hand, the NCCB argued that the "economic injury" issue posed by current broadcasters is without merit where marketplace sensitivity is paramount.

16. Some commenters were concerned about adequate interference standards for protection of full service stations, NAB, ABC, Read Broadcasting System ("Read") and the NRBA all referenced the need to plan for the impending drop-in of several new full service FM stations contemplated by our actions in BC Docket 80–90. The commenters generally suggested that no LPFM assignments could be made before the completion of this proceeding to provide adequate interference protection to the full service broadcasters.

17. Family Stations, Inc. ("Family") submitted late-filed comments in support of both translator access to additional input feeds and a uniform 10 watt power limit. It did not support Moody's origination proposal reasoning that there was no compelling public interest need for small originating stations. In addition, it stated that origination potential was likely to encourage the submission of more

[4] "Full service stations" as used herein refers to FM broadcast stations licensed under Subpart 3 of Part 73 of the Commission rules, 47 CFR 73.201–73.346.

[5] See, 47 CFR 74.1232.

[6] 47 CFR 74.1231.

[7] Zone I–A is the Commission's designation for that part of California below the 40th parallel. Stations located elsewhere may operate with 10 watts.

[8] Section 74.1232(d) prevents licensees of FM broadcast stations from establishing translators outside their service area. Specifically, it prohibits any licensee of a FM broadcast station, or any applicant that has received support from such a licensee, from being authorized to operate a commercial translator outside the 1 mV/m contour of the primary station and within the 1 mV/m contour of another commercial station assigned to a different community.

[9] Mr. Read's petition was accepted as a comment on the Moody petition.

applications which would compound the processing problems without an offsetting benefit potential. The 85 informal comments received from radio listeners across the nation were unanimously in favor of expanded authority for translators. Most of the comments were specifically interested in receiving Moody's religious programming by way of satellite and microwave feeds to translators.

18. Moody's reply to the Family comments agreed that its position on origination had some merit. Moody accordingly amended its proposal to propose that origination be limited to 90 minutes weekly rather than unlimited as initially proposed. This limit on origination would not stimulate a flood of applications, it reasoned, yet it would still provide for some local programming. Moody's second reply comment maintained that the low power of FM translator stations is one reason why they will not be able to compete with full service stations. It again stated that it felt that the majority of the new FM translator stations would be located in rural areas. Finally, it suggested that full service stations could establish translators at their 1 mV/m "contour fringe" to "bolster their economic position."

19. NCCB and Moody responded to those commenters fearful of excessive competition if the FM translator rules were modified. NCCB stated that "* * * enhanced competition is healthy for the radio marketplace, beneficial to the public, and a necessary prerequisite to any further consideration of deregulation of broadcasting." The translator service, it stated, should not be used to further concentrate control of the industry as would occur if the suggestions of the NAB, ABC, and Read were followed and only the ownership rules in Section 74.1232 were modified. Instead, it argued "* * * that [low power FM translators] should be used as a means of opening up media access to 'historically under represented groups' and should be implemented in an expeditious and even-handed manner." ABC's reply comments stated that no significant increase in local service would be likely to result from FM translator stations. It agreed with NAB's view that the restricted service contours and budgets of FM translator stations were unlikely to generate production or original local programming.

Discussion and Analysis

20. The Commission recognizes the benefits that could flow from Moody's suggested rule changes, but we do not believe that this is the proper time to undertake the significant expansion of the FM service which would likely result from that proposal. We note, for example that the number of FM translator applications filed in recent months has dramatically increased, and it appears that many of the applicants are anticipating the establishment of a new FM low power service similar to the low power TV service. Some parties have filed a large number of applications for many locations in population centers that, if granted, would virtually preclude other applicants. Moreoever, informal inquiries indicate that, in addition to educational and religious organizations, real estate firms, aspiring disk jockeys and entertainers, political and public interest organizations, operators of stadia and auditoria, athletic organizations, amusement parks, golf courses, ski and other resort operators, summer camps, outdoor theater operators, and numerous other commercial enterprises would also be interested in operating their own low power radio stations.

21. Thus, it is clear that institution of a LPFM service would be greeted by the same application interest as LPTV, and similar processes would have to be developed to handle the staggering application flow.[10] Assuming that the necessary automated engineering standards could be developed, the Commission would require substantial increases in staff and equipment to handle the demand and resolve mutual exclusivities. Even assuming that these impediments could be overcome, this does not appear to be the proper time to open an inquiry that could result in substantial increases in the number of secondary stations occupying the FM band.

22. The Commission has recently amended its FM technical rules to permit additional classes of stations and permit Class A stations to operate in channels that had been reserved for Class B and C use.[11] As a result of those rule changes and in an effort to control the workload, the Commission adopted a *Notice of Proposed Rulemaking* in Docket 84–231, proposing 684 additions to the FM table of allotments.[12] That *Notice* also requested interested parties to submit counterproposals to the Commission's list. At this stage of the proceeding, it is impossible to predict the number of counterproposals that will be received and the number of channels that will ultimately be added under Docket 84–231. Moreover, upon conclusion of Docket 84–231, the Commission expects to receive numerous additional requests for new FM station allotments in compliance with the rules adopted in Docket 80–90. To propose new rules to permit the expanded growth in translator stations, even on a secondary basis, while attempting to complete the FM omnibus rulemaking would not only be counter-productive for us, but misleading for prospective translator operators. Although translators would be on notice of their secondary rights to a channel, once established, the Commission may have difficulty in the forced removal of an established service. At this point, translator applicants would find it virtually impossible to accurately choose channels insulated from the impact of Dockets 80–90 and 83–231.

23. Moreover, the situation in FM is not directly analogous to TV, in which the Commission has authorized the use of microwave and satellite fed translators. Initially, we note that virtually the entire population of the United States receives off the air radio service, but TV service is much less extensive. Thus, strong policy considerations mitigated in favor of changes in the TV translator rules which permitted first microwave and satellite feeds and then low power televisions. These same considerations are not present in FM where virtually all of the United States receives some aural service. Furthermore, the TV video signal is amplitude modulated. Such signals are subject to noise interference to which FM is immune. Thus greater needs existed for a microwave means of feeding TV translators. Also most microwave systems are designed to operate with a constant amplitude output signal typical of FM operation. Linear amplification of an amplitude modulated video signal requires more complex equipment.

24. Recognizing that there may have been a number of impediments to Commission action on its proposal, Moody made several informal suggestions revising its proposal in ways designed to avoid perceived difficulties. As revised, the Moody proposal would permit microwave and satellite program sources only for FM translators operating in the noncommercial part of the FM band. Moreover, rebroadcast

[10] The list of potential users for such a low power radio service would be almost limitless. The RF Devices branch of the Commission's Office of Science and Technology and the Mass Media Bureau are continuously receiving inquiries from those expressing an interest in operating a limited range special purpose service in the brandcast bands because of the availability of low cost receivers.

[11] Docket 80–90, 48 FR 29486, June 27, 1983.

[12] 49 FR 11214, March 26, 1984.

would be permitted only for the program of full service noncommercial educational FM stations, and extended local origination would not be permitted. Finally, there would be no change in the current translator power output limitations.

25. Even as amended, we do not believe it appropriate to commence a rulemaking proceeding on the Moody proposal. Indeed, some of the proponent's changes introduced further complications which mitigate against further action at this time. Permitting satellite or microwave fed FM translators to operate only in the noncommercial band will likely increase the interest in such stations. Although that increase is not expected to be as substantial as contemplated for a LPFM service, it will impact a part of the spectrum with significant existing problems.

26. The first 21 channels in the FM band are reserved for noncommercial use. However, we have found that stations operating on the lower channels of the reserved band have the potential to cause interference to the reception of TV Channel 6. There is also the possibility of interference to the reception of TV Channels 7 and 8, particularly in distant areas where TV booster amplifiers are frequently used. In Docket 20735, the Commission is looking into this interference problem and seeking means to reduce the possibility of it occurring when additional noncommercial educational stations are authorized. One course of action under consideration may place limits on the location and power of stations using some of those channels. Because of their low power, FM translators must be located within the population center of the area to be served. This is also the area that is most susceptable to TV interference complaints. Accordingly, proceeding with a proposal to authorize additional stations in the noncommercial band is not appropriate until we have resolved these interference issues.

27. The selection of the noncommercial band would also complicate the Commission's engineering review of FM translator applications. Noncommercial FM stations are not allotted and licensed according to class and distance separations as are commercial stations. Therefore, a simple distance separation scheme for licensing translators cannot be used in the reserved educational band. An accurate calculation of each full service station's contour would be required to determine the actual protection contour, similar to the difficult calculation procedure used in processing LPTV applications. The Commission staff does not have sufficient information on FM antenna systems in the computer files to conduct this type of application processing. Thus, it is reasonable to expect that the increase in the complexity of the required engineering review would more than outweigh the limitation on the number of applications that could be expected.

28. FM translators in the noncommercial band would also impede the growth of full service stations in that band and effectively re-create the Class D stations. In Docket 20735, the Commission found that the large number of limited range 10 watt Class D stations that had been authorized were impeding licensing of more efficient Class B and C stations that would provide public radio programming to otherwise unserved areas. The *Report and Order*, released in 1978 terminated acceptance of new Class D applications and required existing Class D stations to either upgrade to Class A facilities (100 watts minimum) or move to a non-reserved commercial channel. Class D stations that chose to move to the commercial band no longer had primary status, but could only operate on a secondary non-interference basis. Many Class D stations requested that the Commission permit them to remain on their original noncommercial channel, with secondary status, but the Commission declined to do so. Although a number of the Class D stations elected to move to commercial channels, many others elected to increase their power, and remain in the noncommercial band, resulting in a number of currently pending mutually exclusive applications for power increases. Therefore, to now propose to amend the rules in a manner that would encourage translator or low power operation in that band would be completely counter-productive.

29. The Moody proposal also bears on another Commission rule making proceeding which warrants consideration at this time. In 1974, the Commission was concerned with an emerging pattern of use of FM translators to extend the service areas of existing FM stations rather than to fill in areas of inadequate reception. In the *Notice of Proposed Rulemaking* in Docket 19918, the Commission proposed rules that would prohibit competitive expansion of an FM station's service area through translators where the area to be served was already within the primary service area of two other radio stations.[13] The Commission also proposed a rule which provided for the termination of translator operation upon sixty days notice. This sixty day rule was adopted in the *First Report and Order* in that Docket.[14] In 1978, the Commission issued a *Memorandum Opinion and Order Further Notice of Proposed Rule Making* in Docket 19918.[115] The Commission therein determined that the two signal limitation was not an appropriate tool for the control of the use of translators for competitive expansion. Rather, the Commission proposed to prohibit the participation of the primary station in the operation of any translators outside their primary area. Upon review of the record accumulated as a result of the *Further Notice*, we find that there has been no additional information brought forth establishing that the present limitations on FM station licensee operation or control of translator stations are inadequate. Accordingly, it appears that no further action is warranted at this time and the Commission takes this opportunity to terminate Docket 19918 without amending the rules.

30. We do not believe that the decision herein is inconsistent with the new Section 7 of the Communications Act.[16] Congress therein declared that it shall be the policy of the United States to encourage the institution of new technologies and services and "[c]onsistent with sound spectrum management, the Commission shall, to the maximum feasible extent, encourage the introduction of new and additional services by new applicants, existing licenses, or other persons." Initially, the service proposed by Moody would not be a "new" service within the meaning of the law. Rather, the service would be an extension of an existing service utilizing existing technology. The proposed changes would merely make a large number of additional stations feasible. Moreover, the proposal is, at this time, inconsistent with sound spectrum management. As indicated above, the Commission is engaged in the study of major changes in the allotment of FM stations. Sound spectrum management requires that we resolve those proceeding before undertaking extension of existing FM translator service.

31. While we must conclude that it is untimely to initiate action on these proposals now, we are not concluding that these ideas will not prove desirable

[13] 39 FR 1867, 44 FCC 2d 794.

[14] 43 FR 14660, publishecd April 7, 1978.

[15] 43 FR 14695, publishecd April 7, 1978.

[16] Federal Communications Commission Authorization Act of 1983, Pub. L. 98–214.

in the future. Three specific ongoing efforts must be completed before the Commission or perspective ongoing efforts must be completed before the Commission or perspective applicants would be able to ascertain with any degree of accuracy where or how many new FM translator stations can be accomodated. First, the three year period during which existing less-than-maximum facility Class C stations can be upgraded must pass so that the configuration of those existing stations will become final. Second, our ongoing proceeding to define future protection criteria between television Channel 6 and the FM radio service must be completed so that minimum TV Channel 6—FM coordination distances can be specified. Third, we must complete the ongoing Omnibus allotment proceeding in Docket 84–231 examining hundreds of new station allotments being created as a result of BC Docket 80–90. Once these three proceedings are completed, the full service station picture will have cleared enough to make a reasoned evaluation of the desirability of expanded FM translator operation. We invite the petitioners to resubmit at that time.

32. For the reasons stated above, it is ordered, that the Petition for Rulemaking RM–3914, filed by the Moody Bible Institute is denied.

33. It is further ordered, for the reasons stated above, The Rulemaking Proceeding in Docket No. 19918 is hereby terminated.

34. It is further ordered, that the Secretary shall cause this *Memorandum Opinion and Order* to by published in the FCC Reports.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 84–17112 Filed 6–26–84; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 90

[PR Docket No. 84–608; RM–4765; FCC 84–267]

Proposal To Allow 800 MHz Conventional and Trunked Stations Operating on Four Specific Mountaintop Sites in the San Diego, California Area To Increase Effective Radiated Power

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission proposes to allow 800 MHz conventional and trunked stations operating on four specific mountaintop sites in San Diego, California to increase effective radiated power. The action is being proposed in order to resolve 800 MHz coverage problems in the San Diego area.

DATES: Comments are due by July 30, 1984 and replies by August 14, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Herb Zeiler, Private Radio Bureau, Rules Branch, (202) 634–2443.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 90

Private land mobile radio services, Radio.

Proposed Rulemaking

In the matter of amendment of § 90.635(d) of the Commission's Rules and Regulations to allow 800 MHz conventional and trunked stations operating on four specific mountaintop sites in the San Diego area to increase effective radiated power, (PR Docket No. 84–608 RM–4765).

Adopted: June 15, 1984.

Released: June 22, 1984.

By the Commission.

1. Motorola, Inc. ("Motorola") has petitioned the Commission to amend § 90.635(d), Table 2 of the Commission's Rules and Regulations to allow 800 MHz conventional and trunked stations located on the mountaintop sites of Palomar, Otay, Woodson, and Miguel in San Diego, California to operate with an effective radiated power (ERP) of up to 500 watts.[1] Further, petitioner has requested that the Commission allow this increase in power at these sites on an interim basis during the pendency of the rule making.

2. Section 90.635(d), Table 2 lists the maximum power permitted at various antenna heights above average terrain (HAAT) for base stations operating in the 851–866 MHz band.[2,3] Under the current rules, the maximum ERP permitted for conventional stations located on Palomar (HAAT 2606') is 35 watts and for trunked stations 140 watts. At the Otay site (HAAT 2258') conventional stations may operate with 50 watts and trunked stations 200 watts. For stations located at the Woodson site (HAAT 1829') the maximum ERP permitted is 80 watts for conventional stations and 350 watts for trunked stations. At the Miguel site (HAAT 1867') the maximum ERP is 350 watts, whether the station is conventional or trunked.[4]

Background

3. The power limitations listed in Table 2 were developed in the *Second Report and Order* in Docket 18262.[5] Because the Commission at that time had little practical experience with operations at 800 MHz, a model was developed. The model was designed, in general, to provide a high quality signal within the service area of the typical station. A signal strength of 40 dBu and a service area of 20 miles were assumed for the model. The UHF–TV propagation curves, modified to account for mobile antenna receiving heights and attenuation due to different urban and suburban environments, were then used to determine the appropriate values of power (ERP) at various antenna heights.[6] In adopting the Table, however, the Commission noted that since the powers were based on an average station, service area and terrain, the values may prove unduly restrictive in certain situations. If this in fact occurred, the Commission indicated it would adjust the values accordingly.[7]

4. In 1975 the Commission concluded that a departure from the power table was warranted for stations located in the Los Angeles area.[8] Licensees operating on four nearby mountain peaks were permitted to utilize an ERP of one kilowatt regardless of the station's overall HAAT.[9] In making the Los Angeles exception, the Commission noted that it was taking a practical approach to a special situation.[10] Further, the Commission stated that if similar extenuating circumstances should become evident in other localities it would address them as they arose.

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[1] Petition for Rule Making, RM–4765, filed January 31, 1984.

[2] Antenna height in the Table is specified in terms of antenna height above average terrain (HAAT). HAAT is defined as the height of the center of the radiating element of the antenna above average terrain. *See*, 47 CFR 90.309(a)(4) for the method of calculating HAAT.

[3] For suburban systems the maximum permissible power (ERP) is 500 watts for HAAT's of 500 feet or less. For urban or trunked systems the maximum permissible power is one kilowatt for HAAT's of 1000 feet or less. The maximum power permitted decreases as the station's HAAT increases above these base values.

[4] Miguel is considered an urban site since it is less than 15 miles from the center of San Diego.

[5] *Second Report and Order*, Docket 18262, 46 FCC 2nd 752, adopted May 1, 1974.

[6] *Development of VHF and UHF Propagation Curves for TV and FM Broadcast*, Report No. R–6602, Federal Communications Commission, Office of the Chief Engineer, Research Division, September 7, 1966.

[7] *Second Report and Order, supra.*

[8] *Memorandum Opinion and Order*, Docket 18262, 51 FCC 2nd 945, 979, adopted March 19, 1975.

[9] The four mountaintop sites are Santiago Peak, Sierra Peak, Mount Lukens, and Mount Wilson. 47 CFR 90.362(c) and 90.621(b).

[10] In this regard, the Commission recognized that the very large geographic area of urban Los Angeles, its many suburbs and the presence of several very high mountaintop sites, make Los Angeles unique.

5. Petitioner argues that a similar situation now exists in San Diego. According to Motorola, the city of San Diego has evolved into an extensive metropolitan area covering irregular terrain with numerous peaks and valleys. Present power limits, according to Motorola, have resulted in serious coverage problems. Motorola points out that in order to resolve this same type of problem in the Los Angeles area, the Commission allowed 800 MHz licensees operating on mountaintop sites to utilize a higher power. Petitioner argues that the relief needed in San Diego is similar to that afforded Los Angeles.

Discussion

6. In Docket 18262 we specifically noted that the power values developed may not be ideal in every situation and that we would adjust them if necessary in particular cases. In order to meet users' needs, we have consistently attempted to revise the regulations governing the use of the 800 MHz band in light of our experience and in the interest of improving communications service.

7. Urban San Diego and its many suburbs represent a large and diverse geographic area. The local terrain is irregular, varying from relatively flat, to hilly, to very high mountains. Finally, there is the fact that certain 800 MHz systems in nearby Los Angeles are operating at very high antenna sites with power in excess of that normally authorized in other parts of the country. All of these paramenter differ substantially from those on which the 800 MHz model was based. It is apparent, therefore, that there are particular circumstances existing in San Diego which necessitate some change in our current power limitations. Motorola contends that the maximum power limit should be raised to 500 watts.[11] Upon initial analysis, this appears to be a reasonable increase in the power limits in light of the particular terrain involved. For the purposes of this Notice, therefore, we are proposing to raise the maximum permissible power for 800 MHz conventional and trucked stations located on Palomar, Otay, Woodson, and Miguel to 500 watts. We emphasize, however, that a final decision on how much additional power is needed will not be made until the entire record in this proceeding is thoroughly analyzed. We expect comments proposing or supporting a specific power to be accompanied by a detailed technical analysis and other relevant data supporting the position.

8. In considering how much power is appropriate in the San Diego area, we are cognizant of the possible adverse effect upon channel reuse capacity in this area. However, we also note that San Diego is bordered by the Pacific Ocean on the west and the Sierra Nevada Mountains on the east and therefore reuse possibilites to the east and west are minimal. Further, 800 MHz frequency assignments in the San Diego area are made on frequencies 12.5 kHz removed from regularly assignable channels. To the north of the San Diego area, therefore, this proposal should have little impact on reuse.[12] Nevertheless, comments are requested on the general impact of this proposal upon frequency reuse.

9. We also request comments on the potential for interference to other stations in surrounding communities, particularly Los Angeles. Interference potential in any given situation depends on antenna height, path profile, presence of ducting, effective radiated power, and adjacent channel protection, among other factors. A preliminary analysis of the results of a Commission study on anomalous propagation in the Southern California area indicates enchanced signal levels (as compared to R–6602 predictions) on most of the measured over-the-horizon and over-water paths between Los Angeles and San Diego.[13] [14] On the other hand, operation on frequencies 12.5 kHz offset provides approximately 20 dB of protection compared with co-channel operation. Further, some stations in the Los Angeles area are operating with higher powers. We welcome comments on these specific points as well as the overall issue of increased interference potential.

10. Motorola cites *Swift & Co., Inc.* v. *United States*, 3 RR 2d 20001, 335 F. 2d 788 (CA 7th, 1964) for the proposition that grant of interim relief during the pendency of a rule making proceeding is a permissible action.[15] While we agree that interim relief is permissible in certain cases, we do not agree, because of the potential harm to other users as described above, that such relief is warranted in this case. *(Cf. In Re Matter of the Inner City Broadcasting Corp. (WLIB), New York, N.Y.*, 44 FCC 2d 806 (1974), in which the Commission declined to grant interim relief pending the completion of a rule making proceeding.) Accordingly, we are denying Motorola's request for interim relief.

Regulatory Flexibility

11. The Commission certifies that Sections 603 and 604 of the Regulatory Flexibility Act of 1980 (Pub. L. 96–354) do not apply to this rulemaking proceeding because the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities since it is geographically confined to a specific portion of one state. Also the proposed change imposes no additional record keeping requirements. The rule changes may have a beneficial effect upon licensees in the San Diego area in that they will enhance the ability to operate these systems with improved coverage. Nevertheless in the interest of assuring potential impacts on small entities are addressed, the Secretary shall cause a copy of this *Notice of Proposed Rule Making*, including the above certification, to be published in the **Federal Register**, and to be sent to the Chief Counsel for Advocacy of the Small Business Administration in accordance with section 605(b) of the Regulatory Flexibility Act, Pub. L. No. 96–354, 94 Stat. 1164, 50 U.S.C. 601 *et seq.* (1981).

12. For purposes of this non-restricted notice and comment rule making proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a notice of proposed rule making until the time a public notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting or until a final order disposing of the matter is adopted by the Commission, whichever is earlier. In general, an *ex parte* presentation is any written or oral communication (other than formal written comments/pleadings and formal oral arguments)

[11] The Motorola proposal would result in approximately a 2–5 dB increase in power for trucked stations located on Palomar, Otay, Woodson, and Miguel, depending upon the specific location. It would result in approximately an 8–12 dB increase for conventional stations located on Palomar, Otay, and Woodson and a 2 dB increase for such stations located on Miguel.

[12] Stations located in the US/Mexico border area (110 km or less from the border) are assigned channels 12.5 kHz lower in frequency then those specified in § 90.613. These frequencies are not presently used outside the border region.

[13] This Southern California Propagation Project was begun in September, 1981, as a result of a large number of complaints concerning interference between co-channel stations in the Private Radio Service located in the Los Angeles/San Diego area. See *Notice of Proposed Rule Making*, Docket 82–244, adopted April 29, 1982.

[14] The degree of enhancement varied with the length of the path and the time of the year. Enhanced fields of 20 dB or more, however, were measured for a significant portion of the year. In addition, mobile measurements collected is San Diego were determined to have a higher standard deviation than usually reported in the VHF Band. This could be attributed to the irregularity of the local terrain in the area.

[15] Reported in the Federal Reporter as *Wilson & Co.* v. *United States*.

between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who submits an oral *ex parte* presentation addressing matters not fully covered in any previously filed written comments for the proceeding must prepare a written summary of that presentation; on the day of oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. See generally, Section 1.1231 of the Commission's Rules, 47 CFR 1.1231.

13. Authority to issue this Notice of Proposed Rule Making is contained in Sections 4(i) and 303(r) of the Communications Act, as amended. Pursuant to procedures set out in Section 1.415 of the Commission's Rules, 47 CFR 1.415, interested persons may file comments on or before July 30, 1984, and reply comments on or before August 14, 1984. The Commission will consider all relevant and timely comments before taking final action in this proceeding. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order.

14. In accordance with the provisions of § 1.419 of the Commission's Rules, 47 CFR 1.419, formal participants shall file an original and 5 copies of their comments and other materials. Participants wishing each Commissioner to have a personal copy of their comments should file an original and eleven copies. Members of the public who wish to express their interest are given the same consideration, regardless of the number of copies submitted. All documents will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, DC.

15. For further information contact Herb Zeiler, Federal Communications Commission, Private Radio Bureau, Land Mobile and Microwave Division, Washington, DC 20554, (202) 634–2443.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

William J. Tricarico,

Secretary.

PART 90—[AMENDED]

Part 90 of Chapter I of Title 47 of the Code of Federal Regulations is proposed to be amended as follows:

Section 90.635(d) is amended by adding a new footnote to Table 2.

§ 90.635 [Amended]

* * * * *

TABLE 2 EQUIVALENT POWER AND ANTENNA HEIGHTS FOR BASE STATIONS IN THE 851–866 MHZ BAND WHICH HAVE A REQUIREMENT FOR A 32 KM (20 MI) SERVICE RADIUS

Antenna height (AAT) (Feet) (meters)	Effective radiated power power (watts) [1 2 5]	
	Urban/trunked	Suburban
• • • • •		
• • • • •		

[5] Applicants in San Diego, California will be permitted to utilize an ERP of 500 watts at the following mountain-top sites: Palomar, Otay, Woodson, and Miguel.

[FR Doc. 84–17113 Filed 6–26–84; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Parts 218 and 225

[FRA Docket No. RSOR–6, Notice No. 5]

Control of Alcohol and Drug Use in Railroad Operations; Change in Hearing Date and Announcement of Technical Conference on Post-Accident Toxicological Testing

AGENCY: Federal Railroad Administration (FRA), DOT.

ACTION: Change of public hearing date and announcement of technical conference.

SUMMARY: On June 12, 1984, FRA published in the **Federal Register** a Notice of Proposed Rulemaking (NPRM) on Control of Alcohol and Drug Use in Railroad Operations. FRA has found it necessary to reschedule the Washington, D.C., public hearing on the NPRM from July 30, 1984, to August 2, 1984. In addition, FRA announces a technical conference on the proposal for post-accident toxicological testing to be held on the afternoon of August 1, 1984, in Arlington, Virginia. These changes are made to facilitate public participation in the rulemaking process and to assure that FRA has adequate information to permit the development of any final rules in this proceeding.

DATES: The public hearing previously scheduled for July 30, 1984, in Washington, D.C., will be held on Thursday, August 2, 1984. The technical conference on post-accident toxicological testing will be held on the afternoon of Wednesday, August 1, 1984.

ADDRESSES: The Washington, D.C., hearing will be held in Room 2230 of the Nassif Building (DOT Headquarters), 400 Seventh Street SW.

The technical conference will be held in the Admiralty Ballroom of the Stouffer's Concourse Hotel, 2399 Jefferson Davis Highway, Arlington (Crystal City), Virginia.

Persons desiring to make oral statements at the hearing or to participate in the technical conference should notify one of the contacts specified below by telephone or provide written notification to the Docket Clerk, FRA (RCC–1), 400 Seventh Street SW., Washington, D.C. 20590. Notification at least five working days prior to the hearing or conference is requested.

FOR FURTHER INFORMATION CONTACT: Walter Rockey, Special Assistant to the Associate Administrator for Safety, FRA, Washington, D.C. 20590 (Telephone: 202–426–0895); or Grady Cothen, Special Assistant to the Chief Counsel, FRA, Washington, D.C. 20590 (Telephone: 202–426–9416).

SUPPLEMENTARY INFORMATION: FRA has found it necessary to make two changes in the public participation schedule announced in the Notice of Proposed Rulemaking (NPRM) on Control of Alcohol and Drug Use in Railroad Operations (49 FR 24252; June 12, 1984):

1. The Washington, D.C., public hearing originally scheduled for July 30, 1984, has been rescheduled for Thursday, August 2, 1984. This change was made to eliminate a conflict with a National Transportation Safety Board (NTSB) symposium on railroad accident investigations.

2. FRA has scheduled a technical conference on post-accident toxicological testing to be convened at 2:00 p.m. on Wednesday afternoon, August 1, 1984, in the Admiralty Ballroom of the Stouffer's Concourse Hotel, 2399 Jefferson Davis Highway, Arlington (Crystal City), Virginia. This informal conference will permit a detailed exchange of views concerning

the logistical and technical issues associated with the post-accident testing proposal. All interested parties are invited to participate in the conference, which will include (i) a short briefing on proposed procedures and (ii) an opportunity to discuss the problems associated with obtaining, handling, and analyzing samples, providing test results to appropriate parties, and interpreting the results. FRA specifically solicits the participation of those who would be involved in the proposed post-accident testing program, including NTSB, participating State agencies, employee representatives, the railroads, representatives of the health care community, and representatives of State and local medical examiners.

Interested persons are also cautioned that the Chicago, Illinois, public hearing will be at the Hotel Continental, 505 North Michigan Avenue (as announced in the **Federal Register** publication of June 12, 1984), rather than the location specified in the original typewritten version of the NPRM.

With these changes, the final schedule for participation in the rulemaking will be as follows:

Public Hearings

Denver, Colorado (Fri., July 6, 1984 at 9:00 a.m.)—Federal Office Building, 1961 Stout St., Room 239.

Chicago, Illinois (Thurs., July 19, 1984 at 10:00 a.m.)—Hotel Continental, 505 North Michigan Avenue.

New Orleans, Louisiana (Mon., July 23, 1984 at 10:00 a.m.)—U.S. Post Office Building, 701 Loyola St., Room 2186.

Washington, D.C. (Thurs., Aug. 2, 1984 at 10:00 a.m.)—Nassif Building (DOT Headquarters), 400 Seventh St., SW., Room 2230.

Technical Conference

Arlington, Virginia (Wed., Aug. 1, 1984 at 2:00 p.m.)—Stouffer's Concourse Hotel, 2399 Jefferson Davis Highway, Admiralty Ballroom.

Comment Closing Date

As previously announced, written comments must be submitted not later than close of business (5:00 p.m.) August 15, 1984.

Issued in Washington, D.C., on June 21, 1984.

John M. Mason,

Chief Counsel.

[FR Doc. 84-17147 Filed 6-26-84; 8:45 am]

BILLING CODE 4910-06-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 642

Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of public hearings; Correction.

SUMMARY: This notice changes the location of a previously announced public hearing (49 FR 24038, June 11, 1984) to review catch limits and other measures to manage mackerel in the Gulf of Mexico.

FOR FURTHER INFORMATION CONTACT: Wayne Swingle, 813-228-2815.

The public hearing on July 19 will convene at 7:00 p.m. at the University of Miami, Rosenstiel School of Marine and Atmospheric Sciences Auditorium, 4600 Rickenbacker Causeway, Miami, Florida.

Dated: June 22, 1984.

Roland Finch,

Director, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 84-17150 Filed 6-26-84; 8:45 am]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 49, No. 125
Wednesday, June 27, 1984

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

June 22, 1984.

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 reinstatements. 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 provide the information; (8) An indication of whether section 3504(h) of P.L. 96-511 applies; (9) Name ant 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, D.C. 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, D.C. 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.

New

- Food and Nutrition Service

Evaluation of Expedited Service in the Food Stamp Program
One Time Only
State or Local Governments: 331 responses; 166 hours; not applicable under 3504(h)
Linda Egrove (703) 756-3115.

Reinstatement

- Agricultural Stabilization and Conservation Service

Record of Transfer of Allotment or Quota
ASCS-378
On Occasion
Individuals or Households, Farms: 245,000 responses; 61,250 hours; not applicable under 3504(h)
Jay Poole (202) 447-2715.

Revised

- Agricultural Stabilization and Conservation Service

Certifications for Eligibility to Receive Price Support on Flue-Cured Tobacco
MQ-32
Annually
Individuals or Households, Farms: 110,000 responses; 5,000 hours; not applicable under 3504(h)
Douglas Richardson (202) 447-4281.

- Animal and Plant Health Inspection Service

Brucellosis Program (9 CFR 51, 78 and Cooperative Agreement) VS 1-47, 1-68, 4-1, 4-1D, 4-4, 4-6, 6-35, 4-33-D, 4-35, 4-59
On Occasion, Monthly, Annually, Triennially
State or Local Government, Farms: 10,487 responses; 4,353 hours; not applicable under 3504(h)
Dr. G. H. Frye (301) 436-8711.

- Agricultural Stabilization and Conservation Service

Application for Review of Farm Marketing Quota
MQ-53
On Occasion
Individuals or Households, Farms: 256 responses; 64 hours; not applicable under 3504(h)
Jay Poole (202) 447-2715.

Extension

- Food and Nutrition Service

7 CFR Part 210-National School Lunch Program
Recordkeeping, Monthly, Quarterly, Annually
State or Local Governments, Non-profit Institutions: 2,147,512 responses; 22,495,415 hours; not applicable under 3504(h)
Barbara Semper (703) 756-3620.

- Agricultural Stabilization and Conservation Service

Daily Warehouse Summary
MQ-8, MQ-82
On Occasion
Businesses or Other For-Profit: 17,500 responses; 5,250 hours; not applicable under 3504(h)
Jay Poole (202) 447-2715.

Jane Benoit,
Acting Department Clearance Officer.

[FR Doc. 84-17108 Filed 6-26-84; 8:45 am]
BILLING CODE 3410-01-M

Commodity Credit Corporation

[1984-Crop Peanuts]

1984-Crop Peanut Program Determination Regarding National Average Support Levels for Quota and Additional Peanuts and the Commodity Credit Corporation Minimum Price for Export Sales for Edible Use of Additional Peanuts Pledged as Collateral for Price Support Loans

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice of Determinations.

SUMMARY: The purpose of this notice is to affirm determinations with respect to the 1984 crop of peanuts which were announced by the Secretary of Agriculture on February 15, 1984, regarding the following: (1) The national average support level for quota peanuts, (2) the national average support level for additional peanuts and (3) the Commodity Credit Corporation (CCC) minimum price for export sales for edible uses of additional peanuts pledged as collateral for price support loans.

EFFECTIVE DATE: February 15, 1984.

FOR FURTHER INFORMATION CONTACT: Kenny Robison, Agricultural Economist, Agricultural Stabilization and Conservation Service, USDA, Room 3736-South Building, P.O. Box 2415, Washington, D.C. 20013, (202) 447-5188

The Final Regulatory Impact Analysis is available upon request.

SUPPLEMENTARY INFORMATION:

This notice has been reviewed under USDA procedures required by Executive Order 12291 and Departmental Regulation No. 1512–1 and has been classified "not major." It has been determined that the provisions of this notice will not result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local governments, or geographical regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The title and number of the Federal Assistance Program to which this notice applies to are: Title—Commodity Loans and Purchase, Number—10.051, as found in the Catalog of Federla Domestic Assistance.

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

A notice that the Secretary was preparing to make determinations with respect to the price support levels for the 1984 crop of quota and additional peanuts and the CCC minimum price for export sales for edible uses of additional peanuts pledged as collateral for price support loans was published in the **Federal Register** on January 12, 1984 (49 FR 1543). Quota peanuts are defined in section 358 of the Agricultural Adjustment Act of 1938 as peanuts which are produced on a farm having a farm poundage quota. Additional peanuts are, essentially, all other peanuts. The support levels for quota and additional peanuts are determined in accordance with section 108A of the Agricultural Act of 1949 (the "1949 Act"). The establishment of a minimum price for export sales for edible use of additional peanuts pledged as collateral for price support loans is discretionary with the Secretary.

A total of twenty-four comments were received in response to the January 12 notice. Most of these comments addressed more than one of the price determinations which were the subject of that notice. Twenty-three comments were recieved on the support level determination for quota peanuts. Of these, fourteen favored increasing the levels, some by an unspecified amount.

Others recommended various increases resulting in support levels ranging up to $750 per ton. Eight comments favored using, in lieu of the new method of formatting costs of production set forth in the January 12 notice, the previous method used by the Department of Agriculture (USDA) to compute and to present production costs. One respondent, without further comment, recommended following the requirements of the 1949 Act in establishing the quota support level. Fourteen comments were received with respect to the proposed determination of the support level for additional peanuts. Nine respondents recommended establishing the level of support for additional peanuts at a level estimated to ensure that there will be no losses to CCC. One respondent recommended no change in the level of support for additional peanuts from the level which was applicable to the 1983 crop (i.e, $185/ton). Three of those commenting recommended increases from the average level of support for additional peanuts which was applicable to the 1983 crop to levels ranging from from $200 to $230 per ton. Twelve comments were received on the CCC minimum price for export sales for edible use of additional peanuts pledged as collateral for price support loans. Prices ranging from $475 to $550 per ton were recommended.

For the reasons set forth below, the Secretary on February 15, 1984 announced for the 1984 crop of peanuts the following: (1) A national average quota peanut support level of $550 per ton; (2) a national average additional support level of $185 per ton; and (3) a minimum price of $425 per ton for export sales for edible uses of additional peanuts pledged as collateral for price support loans.

A. National Average Quota Support Rate

Section 108A(1) of the 1949 Act provides that the 1984 national average quota support rate shall be the 1983 quota support rate of $550 per ton adjusted to reflect the increase, during calendar year 1983, in the national cost of peanut production excluding any increase in the cost of land, except that in no event shall the national average support rate for the 1984 crop exceed the national average support rate for the 1983 crop by more than 6 percent. Based upon the Department's analysis of the 1982 and 1983 costs as set forth in the table in the January 12 notice using a trend yield per pound analysis, it was determined that the cost of producing peanuts in 1983 was below the cost of producing peanuts in 1982. Accordingly it was concluded that the national average quota support level for the 1984 crop of $550 per ton, which is the same as the level applicable to the 1983 crop, would be appropriate.

The use of the new format for persenting cost of production data was the subject of a number of comments which expressed the view that the new format tends to show lower total costs of production and is, therefore, unfair. This objection is without merit since the new format was used to make the comparison in production costs between both the 1982 and 1983 crop years. Moreover, use of the old format and trend yields to estimate the change in costs between 1982 and 1983 also shows a decrease in costs of producton of about the same magnitude as that shown by the new format. The new format was developed by the Economic Research Service of the Department of Agriculture after 6 years of study and consultation with numerous organizations and is being used for all commodities.

Some comments challenged the estimated levels of costs components shown in the table in the January 12 notice. These estimates were obtained from national survey data and are the most reliable estimates available. One comment suggested that a trend yield shoud not be used for per pound comparison purposes. However, the year-to-year per unit cost variability caused by abnormal weather and related factors, particularly in the Virginia-Carolina area covering Virginia, North Carolina and parts of South Carolina, would have been accentuated if trend yields were not used.

1984—Crop Peanuts Price Support Levels

TABLE 45.—PEANUT PRODUCTION COSTS, U.S., 1982-1983 [1]

[Dollars per planted acre]

Item	1982 [2]	1983 [3]
Cash receipts:		
Primary crop	656.52	546.58
Secondary crop	11.00	10.78
Total	667.52	557.36
Cash expenses:		
Seed	63.43	63.49
Fertilizer	20.83	19.56
Lime and gypsum	14.57	13.68
Chemicals	82.92	86.90
Custom operations	7.49	7.68
Fuel and lubrication	35.88	34.54
Repairs	20.56	20.24
Drying	42.14	34.70
Total, variable expenses	287.81	280.79
General farm overhead	27.12	27.72

TABLE 45.—PEANUT PRODUCTION COSTS, U.S., 1982–1983 [1]—Continued

[Dollars per planted acre]

Item	1982 [2]	1983 [3]
Taxes and insurance	7.45	8.73
Interest	98.66	94.40
Total, fixed expenses	133.22	130.85
Total, cash expenses	421.03	411.63
Receipts less cash expenses	246.49	145.73
Capital replacement	53.17	58.31
Receipts less cash expenses and replacements	193.32	87.42
Economic costs:		
Variable expenses	287.81	280.79
General farm overhead	27.12	27.72
Taxes and insurance	7.45	8.73
Capital replacement	53.17	58.31
Allocated returns to owned inputs:		
Operating capital	12.09	11.64
Other nonland capital	19.73	21.35
Land	38.32	37.82
Labor [4]	33.23	34.23
Residual to management and risk	186.60	76.77
Net returns to owned inputs	291.97	181.81
Trend yield (lbs./planted acre)	2,618.29	2,665.00
Total cash expenses plus capital replacement, land, and labor:		
Dollars per planted acre	545.75	541.99
Dollars per pound with trend yield	.2084	.2034

[1] Based on 1982 survey data.
[2] Preliminary.
[3] Projected.
[4] This item includes hired labor (a cash expense) and unpaid labor; they could not be separately identified given available survey data.

B. National Average Additional Support Rate

In accordance with section 108A(2) of the 1949 Act, the following three factors were taken into consideration in determining the national average support rate for additional peanuts:

1. *Demand for peanut oil and meal.* The projected quantity of peanuts available for crushing in 1984/85 marketing year (August 1, 1984 through July 31, 1985), a residual of edible use, will be 225 thousand tons compared with 188 thousand tons for 1983/84 marketing year. Peanut oil and meal prices are expected to average 33 cents per pound and $174 per ton, respectively, for the 1984/85 marketing year.

2. *Expected prices of other vegetable oils and meals.* In 1983/84, the world aggregate production of oilseeds is estimated to be 182 million short tons (165.3 million metric tons), 8 percent lower than 1982/83. Virtually all the reduction is expected to occur in the U.S. Soybeans account for 48 percent of the world oilseed production while peanuts account for 12 percent. Soybeans lead the demand-supply price patterns for oilseeds. Tight supplies and higher prices dominate the 1983/84 marketing year U.S. soybean outlook. It is estimated that 1983/84 soybean oil prices will average 28 cents per pound compared to 20.6 cents per pound for the 1982/83 marketing year. Soybean meal prices are expected to average $215 per ton, compared with $187 per ton for 1982/83. Soybean acreage will likely increase in 1984. The projected increase in production will offset the drawdown in 1983/84 carryout stocks. Demand for oil and meal is expected to strengthen. Soybean oil prices are projected to decrease 3 percent from 1983/84 prices. Soybean meal prices are projected to decrease 19 percent from 1983/84 price.

3. *Demand for peanuts in foreign markets.* The demand for U.S. peanuts in foreign markets is expected to strengthen as U.S. exports move toward the 1978/79 level achieved prior to the drought-reduced 1980 crop. The U.S. is expected to supply 425 thousand short tons to the export market in the 1984/85 marketing year, 75 thousand tons above the 350 thousand ton estimate for 1983/84 marketing year.

Section 108A(2) provides further that the support rate must be established at a level estimated to ensure no loss to CCC from the sale or disposal of additional peanuts placed under loan. Peanuts are pooled by type and other factors and separate pools are maintained for quota and additional peanuts. Under the pool concept, net gains from a pool are redistributed to producers, while a net loss in a pool is realized by CCC. It is expected that all peanuts in some additional loan pools will be sold for domestic crushing. Further, it has been determined based on the consideration of the market factors set forth above that the estimated average crushing price for loan collateral 1984-crop additional peanuts would be $275 per ton. Since CCC's handling and related costs were estimated to be $85 per ton, it was, therefore, estimated that the expected effective revenue from crushing sales would be $190 per tone. Accordingly, it was concluded that a national average support rate for additional peanuts of $185 per ton would be appropriate to provide a cushion against lower than expected crushing prices, higher than expected costs, or other factors which could result in a loss to CCC from the sale or disposal of additional loan collateral peanuts.

C. CCC Minimum Price for Export Sales for Edible Use of Additional Peanuts Pledged as Collateral for Price Support Loan

As indicated, the determination of a CCC minimum price for export sales for edible use of additional peanuts pledged as loan collateral is discretionary with the Secretary. As set out in the January 12 notice, if the price is established too high, sales of the peanuts for edible uses can be discouraged in which case the peanuts will have to be sold for crushing at low prices. Further, private sales can be discouraged because of speculation by producers that the high CCC price can be achieved, in effect, through pool dividends. If the minimum sales price were established too low the producer's returns can be reduced to the extent that the low price is considered by handlers as the actual price at which the peanuts will be sold by CCC thereby causing them, based on that speculation, to reduce their bids for peanuts in private sales. Based on expected world prices, it was concluded that a CCC minimum price of $425 per ton for export sales for edible use of additional peanuts would be appropriate.

Since the only purpose of this notice is to affirm the determinations announced by the Secretary on February 15, 1984, with respect to the 1984 levels of support for quota and additional peanuts and the CCC minimum price for export sales for edible use of additional peanuts pledged as collateral for price support loans, it has been determined that no further public rulemaking is required regarding the following:

Determinations

(1) The national average level of support for the 1984 crop of quota peanuts has been determined to be $550 per ton. This level of support is applicable to eligible 1984-crop farmers stock peanuts in bulk or in bags, net weight basis.

(2) The national average level of support for the 1984 crop of additional peanuts had been determined to be $185 per ton. This level of support is applicable to eligible 1984-crop farmers stock peanuts in bulk or in bags, net weight basis.

(3) The Commodity Credit Corporation (CCC) minimum price for export sales for edible use of additional peanuts pledged as collateral for price support loans has been determined to be $425 per ton. This CCC minimum sales price is applicable to 1984-crop additional peanuts pledged as loan collateral in accordance with the General Price Support Regulations (7 CFR Part 1446).

Signed at Washington, D.C., on June 22, 1984.

Everett Rank,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 84-17109 Filed 6-26-84; 8:45 am]

BILLING CODE 3410-05-M

Forest Service

Southwestern Region; South Kaibab Grazing Advisory Board; Meeting

The South Kaibab Grazing Advisory Board will meet from 8:30 a.m. until 4:00 p.m. on Thursday, August 2, 1984 and from 8:30 a.m. until 1:00 p.m. on Friday, August 3, 1984. The meetings will be held at the Kaibab National Forest Supervisor's Office, 800 South Sixth Street, Williams, Arizona.

The purpose of this meeting is:

1. Development of Allotment Management Plans
2. Utilization of Range Betterment Funds

The meeting will be open to the public. Persons who wish to attend should notify: Forest Supervisor, Kaibab National Forest, 800 South Sixth Street, Williams, AZ 86046, Telephone: (602) 635-2681.

Those attending may express their views when recognized by the Chairperson.

Dated: June 19, 1984.

Leonard A. Lindquist,

Forest Supervisor.

[FR Doc. 84-17156 Filed 6-26-84; 8:45 am]

BILLING CODE 3410-11-M

Medicine Bow National Forest Grazing Advisory Board; Meeting

The Medicine Bow National Forest Grazing Advisory Board will meet July 23, 1984, at 7:30 a.m. at the Sandstone Work Center on the Hayden Ranger District. The Board, Forest Service personnel and interested public will then proceed to review range improvements, range condition and allotment management on the Hyden Ranger District.

The Board will make recommendations concerning range analysis development of Allotment Management Plans, utilization of Range Betterment Funds and discuss Advisory Board By-laws.

The meeting will be open to the public. Persons who wish to attend and participate should notify Range Staff Officer, Ladd G. Frary, Medicine Bow National Forest (307/745-8971) prior to the meeting date. Public members may participate in discussions during the tour at any time or may file a written statement following the meeting.

Dated: June 18, 1984.

Roger A. Shepard,

Acting Forest Supervisor.

[FR Doc. 84-17049 Filed 6-26-84; 8:45 am]

BILLING CODE 3410-11-M

Soil Conservation Service

Environmental Impact Statement; Bonneville County Road Critical Area Treatment RC&D Measure, Idaho

AGENCY: Soil Conservation Service, Agriculture.

ACTION: Notice of a finding of no significant impact.

FOR FURTHER INFORMATION CONTACT: Stanley N. Hobson, State Conservationist, Soil Conservation Service, 304 North 8th Street, Rm. 345, Boise, Idaho 83702, telephone (208) 334-1601.

Notice

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Bonneville County Road Critical Area Treatment RC&D Measure, Bonneville County, Idaho.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Stanley N. Hobson, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

Bonneville County Road Critical Area Treatment RC&D Measure will control erosion and sediment damage on two critically eroding sites along county roads. Planned treatments include critical area plantings and grading and shaping.

The Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Stanley N. Hobson. The FONSI has also been sent to various Federal, State and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the address on the first page.

Implementation of the proposal will not be initiated until 30 days after the date of this publication in the **Federal Register**.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program—Pub. L. 87-703, 16 U.S.C. 590 a-f, q)

Dated: June 14, 1984.

Stanley N. Hobson,

State Conservationist.

[FR Doc. 84-17084 Filed 6-26-84; 8:45 am]

BILLING CODE 3410-16-M

Environmental Impact Statement; Mendenhall Ditch Company Sprinkler Irrigation Project RC&D Measure, Idaho

AGENCY: Soil Conservation Service, Agriculture.

ACTION: Notice of a finding of no significant impact.

FOR FURTHER INFORMATION CONTACT: Stanley N. Hobson, State Conservationist, Soil Conservation Service, 304 North 8th Street, Rm. 345, Boise, Idaho 83702, telephone (208) 334-1601.

Notice

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Mendenhall Ditch Company Sprinkler Irrigation Project, RC&D Measure, Caribou and Franklin Counties, Idaho.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Stanley N. Hobson, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

This measure concerns a plan for installation of a structural measure to reduce erosion, sedimentation and to conserve water, improve distribution system efficiencies, eliminate weed problems in distribution systems, and maintain or improve the quality of the environment. The planned works of improvement include a gravity sprinkler system and application of conservation practices on private agricultural land.

The Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State and local agencies, and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the address on the first page. The basic data developed during the

environmental assessment are on file and may be reviewed by contacting Mr. Stanley N. Hobson.

Implementation of the proposal will not be initiated until 30 days after the date of this publication in the **Federal Register.**

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program—Pub. L. 87–703, 16 U.S.C. 590 a–f, q)

Dated: June 14, 1984.

Stanley N. Hobson,

State Conservationist.

[FR Doc. 84–17085 Filed 6–26–84; 8:45 am]

BILLING CODE 3410–16–M

Environmental Impact Statements; Thorn Creek Watershed, Idaho and Washington

AGENCY: Soil Conservation Service, Agriculture.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Thorn Creek Watershed, Latah County, Idaho and Whitman County, Washington.

FOR FURTHER INFORMATION CONTACT: Stanley N. Hobson, State Conservationist, Soil Conservation Service, 304 North 8th Street, Rm. 345, Boise, Idaho 83702, telephone (208) 334–1601.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Stanley N. Hobson, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project concerns a plan for land treatment to protect the quality of the land resource, reduce severe erosion on non-irrigated cropland and reduce sediment damage. The planned works of improvement include conservation practices such as conservation tillage systems, permanent vegetation and grassed waterways.

The Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the address on the previous page. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Stanley N. Hobson.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register.**

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program. Office of Management and Budget Circular A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: June 14, 1984.

Stanley N. Hobson,

State Conservationist.

[FR Doc. 84–17086 Filed 6–26–84; 8:45 am]

BILLING CODE 3410–16–M

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

Meeting

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Notice of ATBCB Meeting.

SUMMARY: The Architectural and Transportation Barriers Compliance Board (ATBCB) has scheduled a meeting to be held from 1:00 PM to 5:00 PM, Tuesday, July 10, 1984, to take place in the Main Hall of the Disabled American Veterans (DAV) Headquarters, 807 Maine Avenue, SW., Washington, D.C.

Items: Showing of video tape regarding attitudinal barriers toward disabled people; ATBCB Section 504 regulation for its federally conducted programs and activities; invitation for public comment on the development of interpretive standards for chairs used primarily for enplaning and deplaning passengers having physical limitations; ATBCB FY 1986 budget planning document.

DATE: July 10, 1984—1:00 PM–5:00 PM.

ADDRESS: Disabled American Veterans (DAV) Headquarters, Main Hall, 807 Maine Avenue, SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Larry Allison, Special Assistant for External Affairs, (202) 245–1591 (voice or TDD).

Committee meetings of the ATBCB will be held on Monday, July 9, in the HHS North Building, 330 Independence Avenue, SW., Washington, D.C. and Tuesday morning, July 10, in the second floor meeting area of the Disabled American Veterans (DAV) Headquarters, 807 Maine Avenue, SW., Washington, D.C.

Robert M. Johnson,

Executive Director.

[FR Doc. 84–17101 Filed 6–26–84; 8:45 am]

BILLING CODE 6820–BP–M

DEPARTMENT OF COMMERCE

International Trade Administration

Export Trade Certificate of Review

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of application.

SUMMARY: The Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce has received an application for an Export Trade Certificate of Review. This notice summarizes the conduct for which certification is sought and invites interested parties to submit information relevant to the determination of whether a certificate should be issue.

DATE: Comments on these applications must be submitted on or before July 17, 1984.

ADDRESS: Interested parties should submit their written comments, original and five (5) copies, to: Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, Room 5618, Washington, D.C. 20230.

Comments should refer to this application as "Export Trade Certificate of Review, application number 84–00022."

FOR FURTHER INFORMATION CONTACT: Charles S. Warner, Director, Office of export Trading Company Affairs, International Trade Administration, 202/377–5131, or Eleanor Roberts Lewis, Assistant General Counsel for export Trading Companies, Office of General Counsel, 202/377–0937. These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: Title III of the export Trading Company Act of 1982 (Pub. L. 97–290) authorizes the secretary of Commerce to issue Export trade Certificates of Review. The regulations implementing Title III are found at 48 FR 10596–10604 (Mar. 11, 1983) (to be codified at 15 CCFR Part 325). A certificate of review protects its holder and the members identified in it from private treble damage actions and from civil and criminal liability under

Federal and state antitrust laws for the export trade, export trade activities and methods of operation specified in the certificate and carried out during its effective period in compliance with its terms and conditions.

Standards for Certification

Proposed export trade, export trade activities, and methods of operation may be certified if the applicant establishes that such conduct will:

1. Result in neither a substantial lessening of competition or restraint of trade within the United States nor a substantial restraint of the export trade of any competitor of the applicant,
2. Not unreasonably enhance, stabilize, or depress prices within the United States of the goods, wares, merchandise, or services of the class exported by the applicant,
3. Not constitute unfair methods of competition against competitors engaged in the export of goods, wares, merchandise, or service of the class exported by the applicant, and
4. Not include any act that may reasonably be expected to result in the sale for consumption or resale within the United States of the goods, wares, merchandise, or services exported by the applicant.

The Secretary will issue a certificate if he determines, and the Attorney General concurs, that the proposed conduct meet these four standards. For a further discussion and analysis of the conduct eligible for certification and of the four certification standards, see "Guidelines for the Issuance of Export Trade Certificates of Review," 48 FR 15937–40 (April 13, 1983).

Request for Public Comments

The Office of Export Trading Company Affairs (OETCA) is issuing this notice in compliance with section 302(b)(1) of the Act which requires the Secretary to publish a notice of the application in the **Federal Register** identifying the persons submitting the application and summarizing the conduct proposed for certification. The OETCA and the applicant have agreed that this notice fairly represents the conduct proposed for certification. Through this notice, OETCA seeks written comments from interested persons who have information relevant to the Secretary's determination to grant or deny the application below. Information submitted by any person in connection with the application(s) is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552).

The OETCA will consider the information received in determining whether the proposed conduct is "export trade," "export trade activities," or a "method of operation" as defined in the Act, regulations and guidelines and whether it meets the four certification standards. Based upon the public comments and other information gathered during the analysis period, the Secretary may deny the application or issue the certificate with any terms or conditions necessary to assure compliance with the four standards.

The OETCA has received the following application for an Export Trade Certificate of Review:

Applicant: Great Agassiz Basin Export Trading Company, 112 North University Drive, Suite 385, Fargo, ND 58102.

Telephone: (701) 293–0093.

Application No.: 84–00022.

Date Received: June 11, 1984.

Dated Deemed Submitted: June 14, 1984.

Members in Addition to Applicant: International Enterprises, an Idaho corporation, 1429 Tenth Avenue, South Fargo, ND 58103; Advisors, Inc., a North Dakota corporation, P.O. Box 1681, Fargo, ND 58107; ECO–AG, Inc., an Idaho corporation, 1365 North Orchard Street, #211, Boise, ID 83706; Uebergang-Williams Mineral and Protein Application Co., a partnership under Australian law, c/o P.O. Box 1681, Fargo, ND 58107; and Crary-Williams Attorneys, a North Dakota partnership, P.O. Box 115, Walhalla, ND 58282.

Summary of the Application

A. Export Trade

Great Agassiz Basin Export Trading Company proposes to engage in and export under an export trade certificate of review the following products: (1) All agricultural crops including cash grains, field crops, and vegetables and melons; (2) All types of livestock including livestock, dairy farms, poultry and eggs, and other animals specialties such as fish farms; (3) Food and kindred products including meat products, dairy products, grain mill products, prepared feed and feed ingredient for animals and fowls, sugar and confectionery products, and fats and oils.

B. Export Trade Activities and Methods of Opertations

On behalf of itself and its members, Great Agassiz intends to engage in the following export trade activities and methods of operation:

(1) Great Agassiz will determine prices for the products it intends to export. Such prices will be based upon acquisition costs of base goods to which Great Agassiz may add handling, labeling, and shipping costs and its own mark-up.

(2) Exclusive agreements may be entered into with U.S. suppliers.

(3) Issuance of new stock in Great Agassiz, transfer of stock and other restrictions on stockholders of Great Agassiz shall be at the discretion and/or approval of the directors of Great Agassiz.

(4) Great Agassiz proposes to enter into joint venture agreements with competitors, including large agribusinesses, whereby foreign orders will be shared when Great Agassiz is unable to fill the order itself. Great Agassiz may share information with its competitors on their export activities.

(5) Great Agassiz proposes to enter into agreements with foreign entities for the pooling of tangible commodities. These agreements may contain any or all of the following provisions:

(a) Price maintenance restrictions;

(b) Price fixing agreements for foreign markets; and

(c) Division of foreign markets.

The OETCA is issuing this notice in compliance with section 302 (b)(1) of the Act which requires the Secretary to publish a notice of the application in the **Federal Register** identifying the persons submitting an application and summarizing the conduct proposed for certification. Interested parties have twenty (20) days from the publication of this notice in which to submit written information relevant to the determination of whether a certificate should be issued.

Dated: June 22, 1984.

Irving P. Margulies,

General Counsel.

[FR Doc. 84–17017 Filed 6–26–84; 8:45 am]

BILLING CODE 3510–DR–M

[C–333–401]

Cotton Shop Towels From Peru; Preliminary Affirmative Countervailing Duty Determination

AGENCY: International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We preliminarily determine that certain benefits which constitute bounties or grants within the meaning of the Tariff Act of 1930, as amended ("the Act"), are being provided to manufacturers, producers, or exporters in Peru of cotton shop towels. The estimated net bounty or grant is 44 percent *ad valorem*. Therefore, we are directing the U.S. Customs Service to

suspend liquidation of all unliquidated entries of cotton shop towels from Peru which are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. The Customs Service shall require a cash deposit or bond on these products in an amount equal to the estimated net bounty or grant. If this investigation proceeds normally, we will make our final determination by September 4, 1984.

EFFECTIVE DATE: June 27, 1984.

FOR FURTHER INFORMATION CONTACT: Andrew Debicki, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone: (202) 377–3965.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

Based upon our investigation, we preliminarily determine there is reason to believe or suspect that certain benefits which constitute bounties or grants within the meaning of section 303 of the Act are being provided to manufacturers, producers, or exporters in Peru of cotton shop towels. The following programs are preliminarily determined to confer subsidies:

- Certificate of Tax Rebate (CERTEX)
- Non-Traditional Export Fund (FENT)

We estimate the net bounty or grant to be 44 percent *ad valorem.*

Case History

On March 28, 1984, we received a petition from Miliken and Company filed on behalf of the U.S. cotton shop towel industry. In compliance with the filing requirements of § 355.26 of the Commerce Regulations (19 CFR 355.26), petitioners alleged that manufacturers, producers, or exporters in Peru of cotton shop towels received, directly or indirectly, benefits which constitute bounties or grants within the meaning of section 303 of the Act. We found that the petition contained sufficient grounds upon which to initiate a countervailing duty investigation and on April 17, 1984, we initiated an investigation (49 FR 15250). We stated at that time that we expected to issue a preliminary determination by June 21, 1984.

Peru is not a "country under the Agreement" within the meaning of section 701(b) of the Act, and, therefore, section 303 of the Act applies to this investigation. The merchandise under investigation is dutiable. Therefore, under this section, the petitioner is not required to allege that, and the U.S. International Trade Commission is not required to determine whether, imports of these products cause or threaten material injury to a U.S. industry.

We presented questionnaires concerning the allegations to the government of Peru at its Embassy in Washington, D.C., on April 24, 1984. On June 7, 1984, we received replies to the questionnaires.

Scope of Investigations

The product covered by this investigation is cotton shop towels. This merchandise is currently classified under item number 336.2740 of the Tariff Schedules of the United States Annotated (TSUSA). Fabrica de Tejidos La Union, Ltda., S.A. (La Union) is the only known Peruvian exporter to the United States of cotton shop towels.

The period for which we are measuring bounties or grants is the calendar year 1983.

Analysis of Programs

A number of programs discussed in this notice are specific provisions of the Law for the Promotion of Exports of Non-traditional Goods (the Export Law). These provisions include:

- Articles 8 and 9, providing preferential investment or reinvestment tax credits to exporters;
- Article 12, providing preferential capital asset depreciation rates to exporters;
- Article 13, providing extended tax exemption periods on reinvested earnings to exporters;
- Article 14, providing tax deductions for exporters who increase permanent employment;
- Article 16, providing exemptions from certain import duties to qualifying exports;
- Article 23, providing tax exemptions and refunds to qualifying export consortia; and
- Article 31, providing preferential shipping rates to exporters.

These programs are described in greater detail in the body of this notice.

In their responses, the government of Peru and La Union provided data for the applicable period. On the basis of our analysis of the petition, the responses to our questionnaires and information available to the Department from previous investigations and administrative reviews, we preliminarily determine the following:

I. Programs Preliminarily Determined To Confer Bounties or Grants

We preliminarily determine that bounties or grants are being provided to manufacturers, producers, or exporters of cotton shop towels in Peru under the following programs:

A. Certificate of Tax Rebate (CERTEX)

Under this program, qualifying exporters are eligible to apply for certificates issued by the government in amounts equal to a percentage of the f.o.b. invoice price of export shipments. The applicable CERTEX percentage is determined by whether the exports are classified as being of low, medium or high value added. CERTEX certificates may be applied against taxes owed the Peruvian government or negotiated as commercial paper.

The CERTEX program is specifically export oriented. The amount of benefits available under the program is based solely on export performance. La Union has participated in the program. Consequently, we preliminarily determine the CERTEX program operates to confer countervailable export bounties or grants on the Peruvian cotton shop towel industry.

To calculate the benefit derived from this program, we divided the total amount of CERTEX certificates issued to La Union by the value of the company's total exports to all markets during the period for which we are measuring bounties or grants. We preliminarily determine the benefit conferred by this program to be 24 percent *ad valorem.*

B. Non-Traditional Export Fund ("FENT")

Under this program, the government of Peru makes short-term financing available to exporters of goods not traditionally exported. There are three types of short-term financing: local currency loans, "foreign currency" loans and mixed local and foreign currency loans. The loans are drawn from a fund established by the Banco Central de Reserve del Peru ("BCRP"), and passed through the Banco Industrial del Peru and a commercial disbursing bank. La Union participated in this program during the period for which we are measuring bounties or grants. Because this program provides preferential financing on the basis of export performance, we preliminarily determine it confers countervailable export bounties or grants on the Peruvian cotton shop towels industry.

La Union reported no local currency loans during the investigative period, but did report receiving "foreign currency" and mixed loans. In the case of foreign currency loans, a company receives soles loans for a maximum 180 days at the concessional annual interest rate of 1 percent. The loans are usually held for less than the maximum period.

Applications for these loans may be made each time the company exports. The amount of the loan cannot exceed 90 percent of the export value of the shipment. At the same time a firm receives the loan proceeds in soles, it must borrow an amount equal to 80 percent of the value of the soles loans in a foreign currency, usually dollars. The foreign currency loan must be deposited with the BCRP. The cost to the firm of borrowing foreign currency exceeds the return on the deposit with the BCRP. Foreign currency loans are of the same duration as the soles loans.

To calculate the bounty or grant, we totalled the principal amounts of La Union's foreign currency loans and converted this sum to the appropriate soles amount. As best available information, we used an average exchange rate for the year to make this conversion. We will, however, consider whether a different method of conversion is more appropriate. This figure was multiplied by the difference between the concessional FENT rate and the average annual commercial rate for short-term loans in Peru to arrive at the gross benefit. We then calculated the net cost to La Union of its foreign currency borrowings and deposits. After converting this amount to soles, we subtracted it from the gross benefit to obtain the net benefit to La Union. On this basis, we preliminarily determine the benefit from this program to be 15 percent *ad valorem*.

As noted, La Union also reported receiving several mixed loans. This alternative permits exporters to obtain pre-shipment financing in both dollars and soles for up to 90 percent of the export value of each shipment. Out of this 90 percent, 50 percent is available in soles and 40 percent is available in dollars. Similar to loans obtained under the foreign currency alternative, mixed loans also involve a requirement that the exporter borrow 32 percent of the total value of the loan in a foreign currency and deposit this amount with the BCRP. The exporter receives the soles equivalent of the foreign currency portion (40 percent) of these loans at a concessional rate of 1 percent. The soles portion of the loans is apparently available only at prevailing commercial rates.

To calculate the benefit from the foreign currency portion of mixed loans, we determined La Union's total foreign currency loan principal for mixed loans obtained during the investigative period. We converted this amount to the appropriate soles equivalent. Using the same methodology described above for foreign currency loans, we then calculated a gross benefit, and a net cost of foreign borrowing and deposits, and calculated a net benefit. We preliminarily determine the benefit from this program to be 5 percent *ad valorem*.

C. Additional Information on Programs Preliminarily Determined To Confer Countervailable Bounties or Grants

In its response to our questionnaire, the government of Peru stated its intent to enact legislation which would eliminate the eligibility for benefits under the CERTEX and FENT programs of exports to the United States of cotton shop towels. By a letter dated June 19, 1984, the Peruvian Ambassador to the United States informed the Department that, on June 17, 1984, the government of Peru promulgated Supreme Decree No. 251–84–EFC eliminating cotton shop towel exports to the United States from eligibility for these programs.

Because we received notice of the government of Peru's action at such a late date, we were unable to consider it in connection with this preliminary determination. We will, however, consider the matter before reaching a final determination.

II. Programs Preliminarily Determined Not To Be Used

We have preliminarily determined that cotton shop towel manufacturers, producers, or exporters in Peru do not use the following programs that were identified in the notice of "Initiation of Countervailing Duty Investigation of Cotton Shop Towels from Peru:"

A. Articles 8 and 9 of the Export Law

There provisions enable exporters to take special advantage of Peruvian tax laws permitting exemptions on certain percentages of net income which they reinvest. Under Decree Law 18350, industries are assigned to one of four priority levels. Each level represents a larger percentage of net income eligible for a tax exemption upon reinvestment. Articles 8 and 9 permit exporters to move up one level on the priority schedule.

The responses of both the government of Peru and La Union indicate the cotton shop towel industry does not participate in this program.

B. Article 12 of the Export Law

This article permits exporters to depreciate fixed assets at rates higher than those allowed non-exporting enterprises.

The responses of both the government of Peru and La Union indicate the cotton shop towel industry does not participate in this program.

C. Article 16 of the Export Law

This article provides that enterprises which export at least 40 percent of their annual production of nontraditional goods will benefit from either suspension of or exemption from duties on their imports of capital goods.

The responses indicate La Union did not import any capital goods which might qualify for Article 16 benefits during the period for which we are measuring bounties or grants.

D. Article 23 of the Export Law

The article provides that consortia which are formed to facilitate exports of nontraditional goods, and which meet certain criteria, will be eligible for tax exemptions and tax refund certificates.

La Union is apparently not a member of a qualifying export consortium. The response of the government of Peru indicates the cotton shop towel industry has not participated in this program.

E. Article 31 of the Export Law

This article permits shippers to make preferential rates available to exporters of nontraditional goods.

The responses of the government of Peru and La Union indicate the cotton shop towel industry has not benefited from this program.

III. Programs for Which Additional Information is Needed

At this time, we do not have sufficient information from petitioner or respondents to determine whether countervailable benefits are being provided, or to quantify the *ad valorem* amount of the possible bounties or grants, with regard to the following programs:

A. Articles 13 and 14 of the Export Law

Article 13 provides an income tax exemption to exporters who capitalize earnings within six years from the year in which the exemption is taken. This is one year longer than the allowable period for non-exporters. Article 14 provides tax deductions to exporters that increase the number of permanent jobs in their industry. Eligibility is determined on a year to year basis. The response of the government of Peru states that the critical situation of the textile industry in Peru has prevented use of the incentives envisioned in Articles 13 and 14. La Union's response indicated the company has not participated in these programs. Because it is not clear from these responses

whether non-participation has simply been assumed as the result of general economic conditions affecting the textile industry, we will seek additional information regarding these programs.

Verification

In accordance with section 776(a) of the Act, we will verify information used in making our final determination.

Suspension of Liquidation

In accordance with section 703(d) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all unliquidated entries of cotton shop towels from Peru which are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the **Federal Register**. The Customs Service shall require a cash deposit or the posting of a bond for each such entry of this merchandise in the amount of 44 percent *ad valorem*. This suspension will remain in effect until further notice.

Public Comment

In accordance with § 355.35 of the Commerce Regulations, if requested, we will hold a public hearing to afford interested parties an opportunity to comment on this preliminary determination at 10 a.m. on July 10, 1984, in Room 3092 at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room 3099B, at the above address within 10 days of this notice's publication. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, a prehearing brief in ata least 10 copies must be submitted to the Deputy Assistant Secretary by July 3, 1984. Oral presentations will be limited to issues raised in the briefs.

All written views should be filed in accordance with 19 CFR 355.35, within 30 days of this notice's publication, at the above address and in at least 10 copies.

Dated: June 21, 1984.

John L. Evans,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 84-17145 Filed 6-26-84; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

Gulf of Mexico Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Gulf of Mexico Fishery Management Council will convene a public meeting at 8 a.m., June 29, 1984, of members of its Shrimp/Stone Crab Ad Hoc Advisory Panel to consider zoning of federal waters off Hernando, Citrus and Pasco Counties, Florida for the coming stone crab season. The meeting will take place at St. Benedict's Church, Route 1, Box 1000, Homosassa, FL. For further information contact the Gulf of Mexico Fishery Management Council, Lincoln Center, Suite 881, 5401 West Kennedy Boulevard, Tampa, FL 33609; telephone (813)-228-2815.

Dated: June 22, 1984.

Roland Finch,

Director, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 84-17158 Filed 6-26-84; 8:45 am]

BILLING CODE 3510-22-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Membership of the Office of the Secretary of Defense (OSD) Performance Review Board

Correction

In FR Doc. 84-16273 beginning on page 25024 in the issue of Tuesday, June 19, 1984, make the following correction: In column three, **SUPPLEMENTARY INFORMATION**, line eight, "1983" should read "1984".

BILLING CODE 1505-01-M

Engineers Corps, Department of the Army

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for the Proposed Marathon Development Project, Regulatory Permit Application No. 15483E49, Alameda County, California.

AGENCY: San Francisco District, U.S. Army Corps of Engineers, Department of Defense.

ACTION: Notice of intent to prepare a DEIS.

SUMMARY:

1. *Proposed Action:* Marathon U.S. Realties, Inc. has appplied for a Department of the Army permit under section 10 of the River and Harbor Act of 1899 (33 U.S.C. 403), and section 404 of the Clean Water Act (CWA) (33 U.S.C. 1344), to authorize the fill of a 134-acre site for the development of an industrial-commercial business center and the development of two nearby sites (a total of 90 acres) as seasonal wetlands. For flood protection, about 34,000 cubic yards of fill would be placed to construct a levee along the western border connecting to the Bockman Canal and Sulfur Creek levees. About 154,000 cubic yards of fill would be placed to bring the site to its finished grade. This 134-acre site would be developed with city streets, all utilities and services for high-tech firms, light manufacturing, offices, warehouses, and similar uses. A preliminary estimate indiates that about 110 acres of the site are wetlands. To mitigate this habitat loss, the applicant proposes to enhance the habitat value of two nearby sites. Two storm water runoff pump stations would remove runoff water from the proposed business center and an adjoining 65-acre, existing industrial tract. The proposed development is located in the cities of Hayward and San Lorenzo, Alameda County, California. The proposed project will provide additional business and employment opportunities and enhance recreational aspects with dedication of open-space areas. The San Francicso District, U.S. Army Corps of Engineers and the City of Hayward Planning Department will prepare a joint Federal/State environmental document for the proposed project.

2. *Alternatives:* The alternatives being considered at this time are:

a. No Action (permit denial).

b. Project proposed by applicant as described above.

c. Project as proposed by applicant with mitigation alternatives other than described above.

d. Project with modified boundaries to minimize impacts upon existing wetland areas.

Additional alternatives identified during the scoping process will also be considered in the DEIS.

3. *Scoping Process:*

a. A public scoping meeting will be held on Wednesday, July 18, 1984, at the Planning Department, Hayward City Center Building, 22300 Foothill Boulevard, Hayward, California 94541. To facilitate attracting the greatest possible public participaton two sessions have been arranged: the afternoon session starts at 2:00 PM at the Planning Department, 8th Floor, and the evening session starts at 7:00 PM in the Plaza Level, Room B. Government agencies, public and private interest groups, and the public are invited to

participate in the scoping process by attending either meeting session or by submitting written comments. The purpose of the scoping meeting will be to identify significant issues and alternatives to be considered in the DEIS.

b. The significant issues which have been identified to date and which will be analyzed in the DEIS include: (1) the change in land use from open space to business/commercial, (2) impacts on fish and wildlife resources including endangered species, (3) water quality concerns, (4) traffic, (5) air quality concerns, (6) project site topography, (7) and increased need for public services. Additional significant issues identified during the scoping process will also be analyzed.

c. Environmental review and consultation as required by sections 401 and 404 of the Clean Water Act, as amended (33 U.S.C. 1341 and 1344); section 307(c) of the Coastal Zone Management Act of 1972, as amended (16 U.S.C. 1456(c)); the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*); the Fish and Wildlife Coordination Act (16 U.S.C. 661 *et seq.*); the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470 *et seq.*); Executive Order 11988, "Floodplain Management," 24 May 1977; Prime and Unique Agricultural Lands, CEQ Memorandum dated 11 August 1980; and other statutes or regulations as may be required by the proposed action; will be conducted concurrently with the NEPA process.

4. It is estimated that the DEIS will be released to the public on or about 19 November 1984.

5. Questions regarding the scoping process or preparation of the DEIS may be referred to Les Tong, Environmental Branch, San Francisco District, U.S. Army Corps of Engineers, 211 Main Street, San Francisco, California 94105 (Commercial 415–974–0439 or FTS 454–0439). General questions concerning the processing of the permit application may be referred to Ken Maynard, Regulatory Functions Branch (Commercial 415–974–0424 or FTS 454–0424) at the same address.

Dated: June 20, 1984.

Edward M. Lee, Jr.,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 84–17060 Filed 6–26–84; 8:45 am]

BILLING CODE 3710–92–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP84–474–000]

American Distribution Co. (Alabama Division); Application

June 22, 1984.

Take notice that on June 8, 1984, American Distribution Company (Alabama Division) (Applicant), 1234 Capital Bank Plaza, Houston, Texas 77002 filed in Docket No. CP84–474–000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas facilities to be located in Alabama and the transportation of natural gas by means of these facilities, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant states that it is a division of American Distribution Company (ADC), which is a newly organized local distribution company. Applicant indicates that ADC would soon complete construction of its distribution facilities located in Texas. Applicant states that ADC has entered into an agreement to purchase 5,000 Mcf of residue gas per day from a sour gas processing plant now being constructed by Collet Ventures, Inc. (Collet), in Washington County, Alabama. Applicant proposes to construct a 40-mile 6-inch pipeline from the tailgate of the Collet plant to a point of interconnection with the facilities of Florida Gas Transmission Company (FGT). Applicant indicates it would transport up to 5,000 Mcf per day for Collet through those facilities and that ADC would take title to the gas at the interconnection of the proposed facilities with those of FGT. Applicant states that FGT will then transport the gas to Texas Eastern Transmission Corporation, which would then transport the gas to ADC's distribution facilities in Texas. Applicant explains that all of the gas purchased in Alabama would be delivered to ADC's sole customer, the Big Three Industries, Inc., which operates a cogeneration plant.

Applicant states that the proposed project would cost approximately $2.1 million. Applicant proposes to charge Collet a transportation fee of $0.45 per Mcf for the first 4,500,000 Mcf of gas delivered through the new system and $0.25 per Mcf thereafter.

Except for the proposed activities of Applicant, it is alleged that ADC's operations are exempt from the provisions of the Natural Gas Act. Accordingly, Applicant requests that simultaneously with the issuance of the authorization herein sought, the Commission also affirmatively and explicitly declare that the jurisdiction of the Commission under the Natural Gas Act over Applicant and the transactions in which it is engaged would extend solely to the acts and services authorized by the requested certificate and that the jurisdiction of the Commission under the Natural Gas Act specifically would not extend to any transaction which, but for the acts and services authorized to be performed pursuant to the requested certificate, would not be subject to such jurisdiction.

In addition, Applicant indicates that based upon revenue projections it would appear that Applicant would be classified as a Class C natural-gas company under 18 CFR Part 204. Applicant asserts that imposition of the Part 204 regulations would be unduly burdensome and requests waiver of those regulations. Applicant also requests that it be required to submit only an annual report as a Class C company and that other reporting requirements under Parts 158, 160, 216 and 225 of the Commission's regulations be waived.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 9, 1984, 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 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). 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 motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the

certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-17134 Filed 6-26-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-489-000]

Arizona Public Service Co.; Filing

June 22, 1984.

The filing Company submits the following:

Take notice that on June 11, 1984 Arizona Public Service Company submitted for filing Supplement No. 4 to Service Schedule E of the Power Coordination Agreement (Agreement) between Arizona and Tucson Electric Power Company (Tucson), Arizona Rate Schedule No. 32.

Arizona states that this Supplement updates to current levels the rate to be charged for firm transmission service. No new facilities will be required in order to supply service under this proposed Supplement.

Arizona requests an effective date of November 1, 1983, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before July 10, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-17135 Filed 6-26-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP84-78-001]

Bayou Interstate Pipeline System; Tariff Filing

June 21, 1984.

Take notice that on June 15, 1984, Bayou Interstate Pipeline System (Bayou) tendered for filing the following revised sheets to its FERC Gas Tariff, Original Volume No. 1:

Substitute First Revised Sheet Nos. 4 and 4A

Bayou states that it is submitting these sheets in conformance with Ordering Paragraph (E) of the Commission's order dated May 31, 1984 in this docket (27 FERC ¶61,329). The Commission ordered Bayou to file revised tariff sheets reflecting elimination of the amount attributable to the amortization of gas plant acquisition adjustment previously included in Bayou's proposed rates.

Bayou further states that by filing these revised sheets, it does not waive its right to seek rehearing of the May 31, 1984, order.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before June 28, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-17136 Filed 6-26-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF84-357-000]

Carolina Methane, Inc.; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

June 22, 1984.

On June 7, 1984, Carolina Methane, Inc., (Applicant) of P.O. Box 1384, Raleigh, North Carolina 27602, submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The facility is located in Beaufort County, near Washington, North Carolina. The primary energy source is biomass in the form of methane gas from peat bogs. the electric power production capacity is approximately 208 kilowatts. The facility will not use natural gas, coal or oil.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-17137 Filed 6-26-84; 8:45 am]

BILLING CODE 6717-10-M

[Docket No. ER80-363-006]

Delmarva Power and Light Co.; Second Revised Compliance Filing

June 22, 1984.

Take notice that on June 6, 1984, Delmarva Power and Light Company (Delmarva) submitted for filing its compliance report pursuant to the Commission's letter order issued May 23, 1984.

Delmarva states that this second revised compliance COS supersedes the revised compliance COS filed on April 18, 1984. This compliance filing also included revised compliance rates and related workpapers.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before July 9, 1984. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file

with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-17138 Filed 6-26-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF84-361-000]

Mutual Energy Co., Inc.; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

June 22, 1984.

On June 11, 1984, Mutual Energy Co., Inc. (Applicant) of 3451 Longview Drive, Suite 130, North Highlands, California 95660, submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The 350 kilowatt hydroelectric facility (P. 8046) will be located in Gooding County, Idaho.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

A separate application is required for a hydroelectric project license, preliminary permit or exemption from licensing. Comments on such applications are requested by separate public notice. Qualifying status serves only to establish eligibility for benefits provided by PURPA, as implemented by the Commission's regulations, 18 CFR Part 292. It does not relieve a facility of any other requirements of local, State or Federal law, including those regarding siting, construction, operation, licensing and pollution abatement.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-17139 Filed 6-26-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TC84-8-000]

Southwest Gas Corp.; Tariff Filing

June 22, 1984.

Take notice that on June 13, 1984, Southwest Gas Corporation, 5241 Spring Mountain Road, Las Vegas, Nevada 89114-5015, tendered for filing in Docket No. TC84-8-000, pursuant to Part 154 of the Commission's Regulations under the Natural Gas Act, Fourth Revised Sheet No. 25C in its FERC Gas Tariff, Original Volume No. 1.

This sheet is proposed to be effective concurrently with the certificate approval of Northwest Pipeline Corporation's (Northwest) application in Docket No. CP81-19 as amended April 24, 1984. Southwest states that the purpose of this tariff sheet change is to amend its index of end-use volumes to reflect the establishment of a new point of delivery from Northwest at Ignacio, Colorado.

Southwest states that a copy of this filing has been mailed to the Nevada Public Service Commission, the California Public Utilities Commission, Sierra Pacific Power Company and CP National.

Any person desiring to be heard or to make any protest with reference to said tariff sheet filing should on or before July 3, 1984, 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 Rule of Practice and Procedure (18 CFR 385.214 or 385.211). 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 motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-17140 Filed 6-26-84; 8:45 am]

BILLING CODE 1717-01-M

[Docket No. ER84-471-000]

Utah Power & Light Co.; Filing

June 22, 1984.

The filing Company submits the following:

Take notice that on June 14, 1984, Utah Power & Light Company (Utah) tendered for filing a proposed cancellation of a service agreement with Mexican Hat Association dated March 27, 1971 on the file with the Federal Energy Regulatory Commission (F.E.R.C.) as part of Utah's F.E.R.C. Electric Tariff.

Utah states that for a number of years, Mexican Hat Association has purchased its energy at wholesale from Utah under F.E.R.C. Rate Schedule RS-1. Under an Agreement of Purchase and Sale between the parties, Utah acquired the properties in and near Mexican Hat, Utah as of May 1, 1984, and will operate them as part of its interconnected system.

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, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before July 10, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-17141 Filed 6-26-84; 8:45 am]

BILLING CODE 6717-01-M

Hearings and Appeals Office

Issuance of Decisions and Orders; Office of Hearings and Appeals; Week of May 7 through May 11, 1984

During the week of May 7 through May 11, 1984, 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

County Fuel Company, Inc., 5/7/84, HRO-0058

County Fuel Company, Inc. (County Fuel) objected to a Proposed Remedial Order (PRO) which the Economic Regulatory Administration (ERA) issued to the firm on May 24, 1982. In the PRO, the ERA found that during the audit period County Fuel sold motor gasoline at the wholesale and retail levels at prices which exceeded the firm's maximum lawful selling prices as governed by 10 CFR 212.93(a). The DOE concluded that the PRO should be issued as a final Remedial Order. Important determinations in the Decision and Order include: (i) A reseller-retailer was required to use the reseller-retailer price rules in determining its

maximum lawful selling prices, and could not use the retailer price rule in the retail portion of its sales and, (ii) § 212.93(a)(4) was a ceiling on the prices a reseller-retailer was permitted to charge under § 212.93(a)(1).

Requests for Modification and/or Rescission

Getty Oil Company, 5/7/84, HRR-0084

Getty Oil Company filed a Motion for Reconsideration of a Decision and Order issued by the Office of Hearings and Appeals (OHA) on February 8, 1984. *Getty Oil Co.*, 11 DOE ¶ 84,047 (1984). That Decision addressed motions for discovery and for evidentiary hearing filed by Getty in connection with certain limited portions of an enforcement proceeding remanded to the OHA by the United States District Court for the District of Delaware. The OHA denied Getty's Motion for Evidentiary Hearing and, in large part, its Motion for Discovery because the District Court had foreclosed many of the issues Getty wished to explore through discovery and an evidentiary hearing. In the present Decision, the OHA also denied Getty's Motion for Reconsideration because the firm did not present any grounds for reconsideration and Getty's wide-ranging discovery requests and requests for an evidentiary hearing, if granted, would substantially delay a final determination of the issues presented to the OHA on remand.

Office of Special Counsel for Compliance, 5/6/85, HRR-0087

The Office of Special Counsel for Compliance (OSC) filed a Motion for Reconsideration of a Remedial Order issued by the Office of Hearings and Appeals (OHA) to Atlantic Richfield Company (Arco) on March 22, 1984. *Atlanaic Richfield Co.*, 11 DOE ¶ 83,087 (1984). In the March 22 decision, the OHA considered all objections raised by Arco to a Proposed Remedial Order (PRO) that OSC issued to the firm on May 1, 1979. In the final Remedial Order OHA sustained the majority of the allegations in the PRO, but did accept a limited number of the objections raised by Arco, and modified the PRO accordingly. In its Motion for Reconsideration, OSC objected to a number of the modifications in the PRO, in particular, rulings that certain Arco property configurations satisfied either the severance tax exception or the royalty owner accountability exception to the property definition set forth in Rulings 1977–1 and 1977–2, and a modification of the provisions concerning the imposition of interest. The OHA granted the Motion for Reconsideration in part, holding that a compelling reason existed to modify the interest provisions because of an inadvertent error in the Remedial Order.

Implementation of Special Refund Procedures

Bob's Oil Co., 5/8/84, HEF-0039

The DOE issued a Decision and Order implementing a plan for the distribution of $2,398 received as a result of a consent order entered into by Bob's Oil Company and the DOE on October 2, 1980. The DOE determined that the settlement fund should be distributed to wholesale customers who purchased motor gasoline from Bob's during the September through November 1979 consent order period. The entire amount of the fund will be distributed to the three wholesale customers identified by the DOE as having been overcharged (in proportion to the alleged overcharges) if no other firms are found to be eligible for refunds.

Refund Application

ADA Resoruces, Inc./Port of Houston Authority, 5/10/84, RQ24–86

The Port of Houston Authority (PHA) filed a plan on how it proposed to use its share of the funds obtained by DOE pursuant to a consent order with Ada Resources, Inc. PHA Proposed to use its share of the Ada settlement funds, $38,749 plus interest, towards the construction and maintenance of navigational aids on the Houston Ship Channel. After reviewing PHA's proposal, the Office of Hearings and Appeals found that the plan, when implemented, will benefit ships calling upon the Port of Houston, members of a class who were injured by the alleged Ada overcharges on bunker "C" fuel. Accordingly, PHA's plan was approved and PHA received its share of the Ada settlement funds.

Dismissals

The following submissions were dismissed

Name	Case No.
Arizona Fuels Corp	DEE-6984.
Brown Oil Co	BEE-0526. RF21-12292. RF21-12293.
Ms. Susan Wright	HFA-0222.

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, D.C. 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: June 15, 1984.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 84–16690 Filed 6–26–84; 8:45 am]

BILLING CODE 6450–01–M

Cases Filed; Office of Hearings and Appeals; Week of May 25 Through June 1, 1984

During the Week of May 25 through June 1, 1984, the appeals and applications for 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 DOE 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, D.C. 20585.

Dated: June 15, 1984.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of May 25 through June 1, 1984]

Date	Name and location of applicant	Case No.	Type of Submission
May 29, 1984	Atlantic Richfield Company, Washington, D.C	HFA-0226	Appeal of an Information Request Denial. If granted: The May 1, 1984, Freedom of Information Request Denial issued by the Office of Fuels Programs would be rescinded, and Atlantic Richfield Company would receive access to certain records on Alaskan North Slope crude oil.
May 30, 1984	Economic Regulatory Administration, Washington, D.C	HRW-0024	Remedial Order Finalization. If granted: The Economic Regulatory Administration has requested that a Proposed Remedial Order issued to General Atlantic Petroleum on January 3, 1984, would be issued as a final Remedial Order.
May 31, 1984	Doma Corporation, Dallas, Texas	HRD-0214 & HRH-0214	Motion for Discovery and Request for Evidentiary Hearing. If granted: Discovery would be granted and an evidentiary hearing would be convened in Connection with the Statement of Objections submitted by Doma Corporation in response to the February 7, 1984, Proposed Remedial Order (Case No. HRO-0204) issued to the firm.

REFUND APPLICATIONS RECEIVED

[Week of May 25 to June 1, 1984]

Date	Name of refund proceeding/name of refund applicant	Case No.
May 29, 1984	Marion/Pride Terminals, Inc.	RF37-4.
May 29, 1984	Marion/GAF Corporation	RF37-5.
May 29, 1984	Marion/Seaman Fisheries	RF37-6.
May 21, 1984	Amoco/Daly's Standard Service	RF21-12341.
May 30, 1984	Marion/International Paper Company	RF37-7.

[FR Doc. 84-16691 Filed 6-26-84; 8:45 am]

BILLING CODE 6450-01-M

Cases Filed; Office of Hearings and Appeals; Week of June 1 Through June 8, 1984

During the Week of June 1 through June 8, 1984, the appeals and applications for 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 DOE 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, D.C. 20585.

Dated: June 19, 1984.

Richard W. Dugan,

Acting Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of June 1 through June 8, 1984]

Date	Name and location of applicant	Case No.	Type of submission
June 4, 1984	Pacific Gas and Electric Company, San Francisco, California.	HFA-0227	Appeal of an Information Request Denial. If granted: The April 6, 1984 Freedom of Information Request Denial issued by the Western Area Power Administration would be rescinded, and Pacific Gas and Electric Company would receive access to certain DOE information.
June 4, 1984	Storey Oil Company, Inc., Grand Junction, Colorado	HRD-0215 & HRH-0215	Motion for Discovery and Request for Evidentiary Hearing. If granted: Discovery would be granted and an evidentiary hearing would be convened in connection with the Statement of Objections submitted by Storey Oil Company, Inc. in response to the April 23, 1984 Proposed Remedial Order issued to Storey Oil Company, Inc. (Case No. HRO-0211).
June 5, 1984	Mustang Fuel Corporation, Oklahoma City, Oklahoma	HQF-0502	Implementation of Second Stage Refund Procedures. If granted: The Office of Hearings and Appeals would implement second-stage procedures in the special refund proceeding instituted to distribute funds remitted to the DOE by Mustang Fuel Corporation (Case No. HEF-0011).
June 7, 1984	Holly Energy, Inc., Houston, Texas	HRD-0216 & HRH-0216	Motion for Discovery and Request for Evidentiary Hearing. If granted: Discovery would be granted and an evidentiary hearing would be convened in connection with the Statement of Objections submitted by Holly Energy, Inc. in response to a Proposed Remedial Order (Case No. HRO-0215) issued to the firm.
June 8, 1984	Richard C. Auchterlonie, Chicago, Illinois	HFA-0228	Apeal of an Information Request Denial. If granted: The April 20, 1984, Freedom of Information Request Denial issued by the Office of Defense Programs would be rescinded and Richard C. Auchterlonie would receive access to certain DOE information.

[FR Doc. 84-16992 Filed 6-26-84; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[PP 4G3035/T448; PH-FRL 2712-8]

American Hoechst Corp.; Establishment of Temporary Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has established temporary tolerances for the combined residues of the herbicide ethyl 2-[4-[(6-chloro-2-benzoxazolyl)oxy]phenoxy]propanoate and its metabolites of 2-[4-[(6-chloro-2-benzoxazolyl)oxy]phenoxy]propanoic acid and 6-chloro-2,3-dihydrobenzoxazol-2-one, in or on the raw agricultural commodities rice seed and straw. These temporary tolerances were requested by American Hoechst Corporation.

DATE: These temporary tolerances expire May 1, 1985.

FOR FURTHER INFORMATION CONTACT: By Mail: Richard Mountfort, Product Manager (PM) 23, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 237, CM#2, 1921 Jefferson Davis Highway, Arlington, VA. (703-557-1830).

SUPPLEMENTARY INFORMATION: American Hoechst Corporation, Agricultural Division, Rt. 202-206 North, Somerville, NJ 08876, has requested, in pesticide petition PP 4G3035 the establishment of temporary tolerances for the combined residues of the herbicide ethyl 2-[4-[(6-chloro-2-benzoxazolyl)oxy]phenoxy]propanoate and its metabolites of 2-[4-[(6-chloro-2-benzoxazolyl)oxy]phenoxy]propanoic acid and 6-chloro-2,3-dihydrobenzoxazol-2-one, in or on the raw agricultural commodities rice seed and straw at 0.02 part per million (ppm) (calculated as parent compound). A temporary tolerance established April 11, 1984, for residues in soybean seed at 0.05 ppm to support 8340-EUP-7 is extended to May 1, 1985, to support the authorized use in soybeans under 8340-EUP-8.

These temporary tolerances will permit the marketing of the above raw agricultural commodities when treated in accordance with the provisions of the experimental use permit 8340-EUP-8 which is being issued under the Federal

Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, (Pub. L. 95–396, 92 Stat 819; 7 U.S.C. 136).

The scientific data reported and other relevant material were evaluated, and it was determined that establishment of the temporary tolerances will protect the public health. Therefore, the temporary tolerances have been established on the condition that the pesticide be used in accordance with the experimental use permit and with the following provisions:

1. The total amount of the active ingredient to be used must not exceed the quantity authorized by the experimental use permit.

2. American Hoechst Corp., must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The company must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

These tolerances expire May 1, 1985. Residues not in excess of these amounts remaining in or on the raw agricultural commodities after this expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary tolerances. These tolerances may be revoked if the experimental use permit is revoked or if any experience with or scientific data on this pesticide indicate that such revocation is necessary to protect the public health.

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

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–534, 94 Stat. 1164, 5 U.S.C. 610–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1984 (46 FR 24950).

(Sec. 408(j), 68 Stat. 516, (21 U.S.C. 346(j)))

Dated: June 13, 1984.

Robert V. Brown,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 84–16535 Filed 6–26–84; 8:45 am]

BILLING CODE 6560–50–M

[PF–377; PH–FRL 2613–1]

ICI Americas, Inc.; Pesticide Tolerance Petitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received pesticide and feed additive petitions relating to the establishment of tolerances for residues of the herbicide fluazifop-butyl (expressed as fluazifop) in or on certain commodities.

ADDRESS: By mail submit comments identified by the document control number [PF–377] and the petition number, attention Product Manager (PM–23), at the following address: Information Services Section (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: Information Services Section (TS–757C), Environmental Protection Agency, 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 filed in response to this notice will be available for public inspection in the Information Services Section office 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: Richard Mountfort (PM–23), Registration Division (TS–767C), Environmental Protection Agency, Office of Pesticide Programs, 401 M St., SW., Washington, D.C. 20460. Office location and telephone number: Rm. 235, CM#2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703–557–1830).

SUPPLEMENTARY INFORMATION: EPA has received pesticide (PP) and feed additive (FAP) petitions as follows from the ICI Americas, Inc., Agricultural Chemicals Division, Wilmington, DE 19897, proposing to amend 40 CFR 180.411 (raw agricultural commodity), and 21 CFR 561.428 (animal feed commodity), by establishment of tolerances for residues of the herbicide fluazifop-butyl (±)-2-[4-[[5-(trifluoromethyl)-2-pyridinyl]oxy]phenoxy]propanoic acid (fluazifop), both free and conjugated, and of (±)-butyl-2-[4-[[5trifluoromethyl)-2-pyridinyl]oxy]phenoxy]propanoate, all expressed as fluazifop in or on the following sugar beet products in accordance with the Federal Food, Drug, and Cosmetic Act. The analytical method for determining residues, is high pressure liquid chromatography (HPLC).

Petition ID	CFR affected	Commodities	Parts per million (ppm)
PP 4F3082	40 CFR 180.411.	Sugar beets (roots).	0.2
FAP 4H5432	21 CFR 561.428.	Sugar beets molasses.	2.0

Secs. 408(d)(2) 68 Stat. 512, (21 U.S.C. 346a(d)(2)), 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1)).

Dated: June 13, 1984.

Robert V. Brown,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 84–16534 Filed 6–26–84; 8:45 am]

BILLING CODE 6560–50–M

[OPP 30000/10F; OPTS–FRL 2612–1]

Lindane; Amendment of Notice of Intent to Cancel Pesticide Products Containing Lindane

AGENCY: Environmental Protection Agency (EPA).

ACTION: Amendment of Notice of Intent to Cancel.

SUMMARY: A Notice of Intent to Cancel Pesticide Products Containing Lindane was issued on September 30, 1983. This Notice amends that Notice of Intent to Cancel to permit continued registration of lindane dip to control fleas, ticks, lice, sarcoptic mange, and scabies on dogs provided certain additional protective measures are instituted. The Agency has determined that continued registration with these additional protective measures will not cause unreasonable adverse effects on the environment.

DATE: June 27, 1984.

FOR FURTHER INFORMATION CONTACT: Judith W. Wheeler, Pesticides and Toxic Substances Division, Office of General Counsel (LE–132P), Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460 (202–382–7510).

The docket of the administrative hearing (FIFRA Docket No. 524, *et al.*) is available for public inspection in the Office of the Hearing Clerk, Room 3708A, 401 M St., SW., Washington, D.C.

from 7:30 a.m. to 4:00 p.m., Monday through Friday, except legal holidays. An administrative file containing public comments and publicly released Agency documents relating to this action is available for public inspection from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays, in Rm. 711, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

SUPPLEMENTARY INFORMATION:

I. Introduction

A. Regulatory Background

On September 30, 1983 EPA issued a Notice of Intent to Cancel Pesticide Products Containing Lindane which was published in the **Federal Register** on October 19, 1983 (48 FR 48512). This Notice, in relevant part, proposed cancellation of the registrations of lindane products for use as dog dips for the treatment of pests other than mites. The decision to cancel registrations for the use of dog dips for the treatment of pests other than mites was a result of a careful evalation of the risks to public health and benefits of this use.

Section 6(b) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) provides that a Notice of Intent to Cancel does not become a final order of cancellation if a person adversely affected by the Notice properly requests an adjudicatory hearing to contest the cancellation. A registrant, Happy Jack, Inc., did request a hearing as to the dog dip use of its product, Happy Jack Kennel Dip. All other registrations for lindane dog dip products for treatment of pests other than mites were cancelled by operation of law at the end of 30 days after receipt or publication of the September 30, 1983 Notice, whichever came later, under the terms of that Notice.

B. Amendment of Notice

This amendment to the September 30, 1983 Notice of Intent to Cancel modifies EPA's determination that the remaining registration of lindane dog dip for treatment of pests other than mites was to be cancelled at the end of 30 days from receipt or publication of the September 30, 1983 Notice, whichever came later. Under the terms of the September 30 Notice as amended by this Notice, the terms and conditions of use of the registration of this product may be amended in accordance with this Notice and, if so amended, the registration may continue in effect. In order to remain in effect under the terms of the amended Notice, this registration must be amended to require certain addtional restrictions on the continued use of this product. These additional restrictions, which are detailed below, are intended to provide additional protection to persons applying lindane dog dip to reduce further the risk of cancer from exposure to the product. Taking into account the benefits of continued registration of lindane dip for use to control fleas, ticks, lice, sarcoptic mange, and scabies on dogs as well as the risks of adverse effects, primarily through applicator exposure, the Agency has determined that continued registration under these terms and conditions will not cause unreasonable adverse effects on the environment. Detailed below are specific requirements for modification of the terms and conditions for the remaining registration and the bases for the determination that such registration will not cause unreasonable adverse effects.

II. Requirement for Modification of Registration Terms and Conditions

In order to avoid cancellation under the terms of the September 30, 1983 Notice of Intent to Cancel, the remaining registration for lindane dip for use to control fleas, ticks, lice, sarcoptic mange, and scabies on dogs must be modified in the following manner, and the labeling of any pesticide product sold under such registration must reflect these modifications:

1. The following statement shall be on the label beneath the "MIX AS DIRECTED" statement under "CAUTION" AN INDIVIDUAL APPLICATOR MUST NOT APPLY THIS PRODUCT MORE THAN TWELVE TIMES PER YEAR.

2. The following statement shall be located on the front panel of the label beneath the product name and in the same size type as the signal word: FOR KENNEL, COMMERCIAL, FARM AND SPORT DOG USES ONLY.

3. Under "DIRECTIONS FOR USE" on the label, the last two sentences shall state:

An individual applicator must not use this product more than twelve times per year. Each treatment of three dogs or fewer should be considered one use.

4. Applicators must wear the following protective clothing during the treament process: elbow-length, waterproof gloves; a waterproof apron; and unlined, waterproof boots.

5. The label shall state that "improper dilution could cause serious injury to your dog."

6. The label shall state that children under the age of thirteen should not be allowed to handle or apply this product.

7. The label shall be revised in accordance with the provisions of the Notice of Intent to Cancel dated September 30, 1983, regarding disposal of dips.

8. The label shall be modified to meet current standards as specified in 40 CFR 162.10. Labels must describe proper handling and disposal, symptoms of poisoning, practical treatment in the event of poisoning, and other warning statements appropriate to the product's toxicity category.

III. Bases for Determinations for Amendment to Cancellation Notice

The September 30, 1983 Notice of Intent to Cancel Pesticide Products Containing Lindane identified the risks associated with the dog dip use of lindane. The estimated cancer risks upon which the regulatory actions in the September 30, 1983 Notice were based were approximately four excess cancers per one million exposed persons. Since the publication of that Notice, the Agency has obtained new information on use patterns for the dog dip use. When this new information was assessed in light of the modifications in conditions and terms of registration identified in Unit II of this Amended Notice of Intent to Cancel, the Agency determined that the use of lindane dip to control fleas, ticks, lice, sarcoptic mange, and scabies in dogs will not result in unreasonable adverse effects on the environment.

The exposure calculations which provided the basis for the regulatory actions contained in the original Notice of Intent to Cancel were based on an assumption of 26 exposures per year. Since the cancellation notice, the Agency has learned that use of this product by kennels and veterinarians is more limited than the Agency previously believed. By modifying the label to limit the number of treatments by one applicator to twelve per year, the exposure of any one individual is reduced substantially from that assumed in the previous assessment. This modification satisfies Agency concerns about the potential of excessive exposure to teenagers working for kennels or veterinarians. Moreover, since the actual treatment time of one dog is under one minute, it is reasonable to allow the treatment of three dogs or fewer to constitute one use.

The requirement for protective clothing (elbow-length, waterproof gloves; waterproof apron; and unlined, waterproof boots) substantially reduces risks from dermal exposure. These garments can be readily obtained at minimal cost.

Implementation of these measures will reduce substantially applicator exposure from the dog dip use and, thus,

will reduce the risk to applicators to an acceptable level. Based on a comparison of the benefits of continued use of lindane dips to control fleas, ticks, lice, sarcoptic mange, and scabies on dogs to these reduced risks, the Agency has determined that the benefits of continued registration as modified herein outweigh the risks of use.

IV. Procedural Matters

This Notice announces the amendment of the September 30, 1983 Notice of Intent to Cancel Pesticide Products Containing Lindane. This action is taken pursuant to the authority granted by section 6(b) of FIFRA and by the Agency's procedural regulations (40 CFR 164.21(b)). This amendment is effective immediately, and affects only the registration of Happy Jack Kennel Dip, Registration No. 2781–3, for which a hearing was requested. Registrations for this use of lindane for which there have been no requests for a hearing have been cancelled by operation of law.

This Notice of Amendment creates no new opportunity to request a hearing pursuant to section 6 of FIFRA. Section 6(b) provides adversely affected persons the right to request a hearing to challenge a notice of intent to cancel a registration of a pesticide product within 30 days. The Notice of Intent to Cancel the use of lindane was issued on September 30, 1983. This Notice of Amendment merely modifies the terms of the September 30 Notice to allow the continued registration for the remaining lindane dip registration for use to control fleas, ticks, lice, sarcoptic mange, and scabies on dogs in accordance with the terms and conditions contained herein. Therefore, this Notice of Amendment is not a notice of intent to cancel nor can any person be adversely affected by this Notice under the terms of section 6 of FIFRA.

Registrants subject to a final cancellation order, as well as other persons, may apply for a new registration in accordance with the terms of the amended notice of intent to cancel and the requirements of the FIFRA and applicable implementing procedures. The registrant of the lindane dog dip product which is not already subject to a final cancellation order may comply with the amended notice of intent to cancel by amending the registration to make the necessary corrections. An application for an amended registration, together with a copy of the amended labeling must be submitted by July 27, 1984 to: By mail: George LaRocca, Product Manager (PM–15), Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

In person, bring material to: Room 204, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA (703–557–2400).

Happy Jack, Inc., petitioner in the lindane cancellation hearing (FIFRA Docket No. 524, *et al.*), is permitted as a matter of right to amend its objections to the September 30, 1983 Notice to reflect the terms of this Notice of Amendment. 40 CFR 164.22(c). Any amendments to objections should be filed within 30 days of the date of publication of this Notice with the Hearing Clerk (A–110), Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Dated: June 11, 1984

John A. Moore,

Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 84–16539 Filed 6–26–84; 8:45 am]

BILLING CODE 6560–50–M

[OPP–180649 OPTS–FRL–2613–4]

Cyromazine; Issuance of Emergency Exemptions for Use of an Unregistered Pesticide

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted a specific exemption for the use of the pesticide chemical cyromazine to the Florida Department of Agriculture and Consumer Services for use on carrots to control leafminers.

DATES: The specific exemption was granted on May 22, 1984, and expires on March 31, 1985.

FOR FURTHER INFORMATION CONTACT: Jack E. Housenger, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency , Rm. 716, CM#2, 1921 Jefferson Davis Highway, Arlington, Virginia 22202, (703–557–1192).

SUPPLEMENTARY INFORMATION: The Florida Department of Agriculture and Consumer Services has declared the existence of emergency conditions with regards to control of leafminers on carrots. The leafminer has been a serious problem for Florida growers and has resulted in extreme economic losses on carrots in the past when registered alternative pesticides have failed to provide control.

After reviewing the applications and other available information, EPA has determined that:

1. A pest outbreak of the leafminers has occurred and registered alternative pesticides will not provide adequate control.

2. Significant economic losses are anticipated without the use of an effective leafminer control.

3. It has been determined that the use of cyromazine as proposed will not pose an unreasonable hazard to man or the environment.

Accordingly, Florida has been granted a specific exemption to use cyromazine on carrots. The specific exemption is also subject to the following conditions:

1. The unregistered pesticide product Trigard 75 WP, which contains the active ingredient cyromazine and is manufactured by the CIBA–GEIGY Corporation, will be used.

2. Trigard 75 WP will be applied at a rate of 0.17 pound active ingredient per acre per application.

3. A maximum of 16 applications may be made at seven-day intervals or as necessary to maintain control.

4. Applications may be made up to the day of harvest.

5. A maximum of 13,000 acres of carrots may be treated.

6. Combined residues of cyromazine and its metabolite melamine are not expected to exceed 1.0 ppm in or on carrots as a result of the approved treatments.

7. The EPA shall be immediately informed of any adverse effects resulting from the use of cyromazine in connection with this exemption.

8. A final report summarizing the results of this program is required to be submitted by July 31, 1985.

(Sec. 18 as amended 92 Stat. 819; (7 U.S.C. 136))

Dated: June 11, 1984

Edwin L. Johnson,

Director, Office of Pesticide Programs.

[FR Doc. 84–16814 Filed 6–26–84; 8:45 am]

BILLING CODE 6560–50–M

([OPP–50618] OPTS–FRL–2613–5)

Pesticides; Issuance of Experimental Use Permits; American Cyanide Co., et al.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted experimental use permits to the following applicants. These permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

FOR FURTHER INFORMATION CONTACT: By mail, the product manager cited in each experimental use permit at the address below: Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

In person or by telephone: Contact the product manager at the following address at the office location or telephone number cited in each experimental use permit: 1921 Jefferson Davis Highway, Arlington, VA.

SUPPLEMENTARY INFORMATION: EPA has issued the following experimental use permits:

241–EUP–108. Issuance. American Cyanamid Company, P.O. Box 400, Princeton, New Jersey 08540. This experimental use permit allows the use of 2,340 pounds of the herbicide ammonium salt of 2-[4,5-dihydro-4-methyl-4-(1-methylethyl)-5-oxo-1*H*-imidazol-2-y1]-3-quinolinecarboxylic acid on soybeans to evaluate the control of various weeds. A total of 12,080 acres are involved; the program is authorized in the States of Alabama, Arkansas, Delaware, Florida, Georgia, Illinois Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Virginia, West Virginia, and Wisconsin. The experimental use permit is effective from May 23, 1984 to August 23, 1985. A temporary tolerance for residues of the active ingredient in or on soybeans has been established. (Robert Taylor, PM 25, Rm. 245, CM#2, (703–557–1800))

241–EUP–109. Issuance. American Cyanamid Company, P.O. Box 400, Princeton, NJ 08540. This experimental use permit allows the use of 3,125 pounds of the herbicides *m*-toluic acid, 6-(4-isopropyl-4-methyl-5-oxo-2-imidazolin-2-y1)-,methly ester and *p*-toluic acid, 2-(4-isopropyl-4-methyl-5-oxo-2imidazolin-2-y1)-, methyl ester on barley and wheat to evaluate the control of various weeds. A total of 5,000 acres are involved; the program is authorized only in the States of Arizona, California, Colorado, Idaho, Minnesota, Montana, Nevada, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, and Wyoming. The experimental use permit is effective from May 7, 1984 to May 7, 1985. This permit is issued with the limitation that all treated crops are destroyed or used for research purposes only. (Robert Taylor, PM 25, Rm. 245, CM#2, (703–557–1800))

8340–EUP–8. Issuance. American Hoechst Corporation, Rt. 202–206 North, Somerville, NJ 08876. This experimental use permit allows the use of 245 pounds of the herbicide ethyl 2-[4-[(6-chloro-2-benzoxazolyl)oxy]phenoxyl]propanoate on rice and soybeans to evaluate the control of selective postemergence annual and perennial grass. A total of 1,518 acres are involved (200 acres for rice and 1,318 acres for soybeans); the program is authorized only in the States of Alabama, Arkansas, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Jersey, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Virginia, and Wisconsin. The experimental use permit is effective from May 25, 1984 to May 1, 1985. This permit is issued with the limitation that soybean feeding restrictions prohibit grazing and the use of treated forage, hay, or straw. A temporary tolerance for residues of the active ingredient in or on rice seeds, soybean seeds, and straw has been established. (Richard Mountfort, PM 23, Rm. 253, CM#2, (703–557–1830))

7969–EUP–19. Issuance. BASF Wyandotte Corporation, 100 Cherry Hill Road, Parsippany, NJ 07054. This experimental use permit allows the use of 204 pounds of the herbicide 3-isopropyl-1H-2,1,3-benzothiadiazin 4(3H)-one 2,2-dioxide on field corn to evaluate the control of various weeds. A total of 1,360 acres are involved; the program is authorized only in the States of Alabama, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Mississippi, Missouri, Nebraska, North Carolina, Ohio, Tennessee, Texas, Virginia, and Wisconsin. The experimental use permit is effective from May 8, 1984 to May 8, 1985. This permit is issued with the limitation that all treated crops are destroyed or used for research purposes only. (Robert Taylor, PM 25, Rm. 245, CM#2, (703–557–1800))

352–EUP–112. Issuance. E.I. du Pont de Nemours and Company, Wilmington, DE 19898. This experimental use permit allows the use of 631 pounds of the herbicide 2-[4-[(6-chloro-2-quinoxalinyl)oxy]phenoxy]propionic acid, ethyl ester on fallow land to evaluate the control of various weeds. A total of 10,000 acres are involved; the program is authorized only in the States of Colorado, Idaho, Kansas, Minnesota, Montana, Nebraska, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, and Wyoming. The experimental use permit is effective from August 1, 1984 to August 1, 1986. (Robert Taylor, PM 25, Rm. 245, CM# 2, (703–557–1800))

352–EUP–113. Issuance. E.I. du Pont de Nemours and Company, Wilmington, DE 19898. This experimental use permit allows the use of 1,100 pounds of the herbicide ethyl 2-[[[[(4-chloro-6-methoxypyrimidin-2-yl)amino]carbonyl]amino] sulfonyl]benzoate on soybeans to evaluate the control of various weeds. A total of 11,000 acres are involved (1,000 acres in 1984, 3,000 acres in 1985, and 7,000 acres in 1986); the program is authorized only in the States of Alabama, Arkansas, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, and Wisconsin. The experimental use permit is effective from May 9, 1984 to September 30, 1986. A temporary tolerance for residues of the active ingredient in or on soybeans has been established. (Robert Taylor, PM 25, Rm. 245, CM# 2, (703–557–1800))

352–EUP–114. Issuance. E.I. du Pont de Nemours and Company, Wilmington, DE 19898. This experimental use permit allows the use of 2,500 pounds of the herbicide 2-[4-[(6-chloro-2-quinoxalinyl)oxy]phenoxy]propionic acid, ethyl ester on cotton to evaluate the control of various weeds. A total of 10,000 acres are involved (3,000 acres in 1984, and 7,000 acres in 1985); the program is authorized only in the States of Alabama, Arizona, Arkansas, California, Georgia, Louisiana, Mississippi, Missouri, Oklahoma, Tennessee, and Texas. The experimental use permit is effective from May 9, 1984 to December 31, 1985. A temporary tolerance for residues of the active ingredient in or on cotton has been established. (Robert Taylor, PM 25, Rm. 245, CM# 2, (703–557–1800))

352–EUP–115. Issuance. E.I. du Pont de Nemours and Company, Wilmington, DE 19898. This experimental use permit allows the use of 2,500 pounds of the herbicide 2-[4-[(6-chloro-2-quinoxalinyl)oxy]phenoxy]propionic acid, ethyl ester on soybeans to evaluate the control of various weeds. A total of 10,000 acres are involved (3,000 acres in 1984 and 7,000 acres in 1985); the program is authorized in the States of Alabama, Arkansas, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota Mississippi,

Missouri, Nebraska, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, South Carolina, South Dakota, Tennessee, Texas, Virginia, and Wisconsin. The experimental use permit is effective from May 9, 1984 to December 31, 1985. A temporary tolerance for residues of the active ingredient in or on soybeans has been established. (Robert Taylor, PM 25, Rm. 245, CM# 2, (703–557–1800))

352–EUP–118. Issuance. E.I. du Pont de Nemours and Company, Wilmington, DE 19898. This experimental use permit allows the use of 44.1 pounds of the fungicide bis(4-fluoro-phenyl)methyl(1H-1,2,4-triazol-1-ylmethyl)silance on peanuts to evaluate the control of early and late leafspot. A total of 50 acres are involved; the program is authorized only in the States of Alabama, Florida, and Georgia. The experimental use permit is effective from June 1, 1984 to June 1, 1985. This permit is issued with the limitation that all treated crops are destroyed or used for research purposes only. (Henry Jacoby, PM 21, Rm. 229, CM# 2, (703–557–1900))

21137–EUP–3. Renewal. EM Industries, Inc. 5 Skyline Drive, Hawthorne, NY 10532. This experimental use permit allows the use of 25.8 pounds of the plant growth regulator 2-chloro-9-hydroxyfluorene-9-carboxylic acid on cucumbers to evaluate its ability to induce seedless fruit set in all female cultures of pickling cucumbers. A total of 400 acres are involved; the program is authorized only in the States of Arizona, California, Colorado, Delaware, Florida, Georgia, Maryland, Michigan, North Carolina, Ohio, South Carolina, and Texas. The permit was previously effective from March 22, 1983 to March 22, 1984 The permit is now effective from May 8, 1984 to May 8, 1985. A temporary tolerance for residues of the active ingredient in or on cucumbers has been established. (Robert Taylor, PM 25, Rm. 245, CM#2, (703–557–1800))

46260–EUP–1. Issuance. International Spike, Inc., 817 East Third St., Lexington, KY 40505. This experimental use permit allows the use of 2.23 pounds of the insecticide disulfoton on roses, young and mature deciduous trees, and evergreen shrubs to evaluate the control of aphids, birch leafminers, holly leafminers, lace bugs, leaf hoppers, mimosa webworms, pine-tip moths, spider mites, and whiteflies. A total of 800 residential sites are involved; the program is authorized only in the States of California, Georgia, Oklahoma, Oregon, Tennessee, and Texas. The experimental use permit is effective from May 5, 1984 to August 20, 1984. This permit is issued with the limitation that the soil applications of spikes are adjacent to only specified ornamental plants. (George La Rocca, PM 15, Rm. 204, CM#2, (703–557–2400))

876–EUP–41. Issuance. Velsicol Chemical Corporation, 34 East Ohio St., Chicago, IL 60611. This experimental use permit allows the use of 2,012 pounds of the herbicide potassium of dicamba on asparagus, barley, corn, various grasses, millets, oats, sorghum, sugarcane, and wheat to evaluate the control of various weeds. A total of 11,214 acres are involved; the program is authorized in the States of Alabama, Arizona, California, Colorado, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, South Dakota, Texas, Virginia, Washington, West Virginia, Wisconsin, and Wyoming. The experimental use permit is effective from May 18, 1984 to May 18, 1985. Permanent tolerances for residues of the active ingredient in or on asparagus, barley, corn, grasses, millets, oats, sorghum, sugarcane, and wheat have been established (40 CFR 180.227). Food and feed additive tolerances for residues of the active ingredient in or on sugarcane molasses have been established (21 CFR 183.465 and 561.417) (Robert Taylor, PM 25, Rm. 245, CM#2, (703–557–1800))

Persons wishing to review these experimental use permits are referred to the designated product managers. Inquiries concerning these permits should be directed to the persons cited above. It is suggested that interested persons call before visiting the EPA office, so that the appropriate file may be made available for inspection purposes from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding legal holidays.

(Sec. 5, Pub. L. 95–396; 92 Stat. 828 (7 U.S.C. 136c))

Dated: June 13, 1984.

Robert V. Brown,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 84–16816 Filed 6–26–84; 8:45 am]

BILLING CODE 6560–50–M

[PF–376; PH–FRL 2614–4]

American Cyanamid Co.; Pesticide Tolerance Petitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received pesticide and feed additive petitions relating to the establishment of tolerance for residues of the insecticide flucythrinate in or on certain commodities.

ADDRESS: By mail submit comments identified by the document control number [PF–376] and the petition number, attention Product Manager (PM–17), at the following address: Information Services Section (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: Information Services Section (TS–757C), Environmental Protection Agency, Rm. 236, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Written comments filed in response to this notice will be available for public inspection in the Information Service Section office at the address above from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

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: Timothy A. Gardner (PM–17), Registration Division (TS–767C), Environmental Protection Agency, Office of Pesticide Programs, 401 M St., SW., Washington, D.C. 20460.

Office location and telephone number: Rm. 207, CM#2, 1921 Jefferson Davis Hwy., Arlington, VA 22202. (703–557–2690).

SUPPLEMENTARY INFORMATION: EPA has received pesticide (PP) and feed additive (FAP) petitions as follows from the American Cyanamid Company, P.O. Box 400, Princeton, NJ 08540, proposing to amend 40 CFR 180.400 (raw agricultural commodities) and 21 CFR 561.435 (animal feed commodities), by establishment of tolerance for residues of the insecticide flucythrinate (±)-of the insecticide flucythrinate (±)-cyano (3-phenoxyphenyl) methol (±)-4-

(difluoromethoxy)-alpha-(1-methylethyl) benzeneacetate in or on the following tomato products in accordance with the Federal Food, Drug, and Cosmetic Act. The analytical method for determining residues, is gas chromatography.

Petition ID	CFR affected	Commodities	Parts per million (ppm)
PP 4F3077	40 CFR 180.400,	Tomatoes	0.2
FAP 4H5431	21 CFR 561.435.	Tomato pomace (dry).	10.5
		Tomato pomance (wet).	1.5

(Secs. 408(d)(2) 68 Stat. 512, (21 U.S.C. 346a(d)(2)), 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1))

Dated: June 19, 1984.

Douglas D. Campt.,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 84-16927 Filed 6-26-84; 8:45 am]

BILLING CODE 6560-50-M

[PP 3G2757/T447; PH-FRL 2614-6]

Pendimethalin; Establishment of Temporary Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has established a temporary tolerance for residues of the herbicide pendimethalin in or on the raw agricultural commodities dry bulb onions and garlic. This temporary tolerance was requested by the American Cyanamid Co.

DATE: This temporary tolerance expires May 1, 1985.

FOR FURTHER INFORMATION CONTACT: Robert J. Taylor, Product Manager (PM) 25, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Office location and telephone number: Rm. 245, CM#2, 1921 Jefferson Davis Highway, Arlington, VA, (703-557-1800).

SUPPLEMENTARY INFORMATION: American Cyanamid Co., P.O. Box 400, Princeton, NJ 08540, has requested in pesticide petition PP 3G2857, the establishment of a temporary tolerance for residues of the herbicide pendimethalin [*N*(1-ethylpropyl)-3,4-demethyl-2,6-dinitrobenzenamine] in or on the raw agricultural commodities dry bulb onions and garlic at 0.1 part per million (ppm).

This temporary tolerance will permit the marketing of the above raw agricultural commodities when treated in accordance with the provisions of experimental use permit 241-EUP-104 which is being issued under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended (Pub. L. 95-396, 92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and other relevant material were evaluated, and it was determined that establishment of the temporary tolerance will protect the public health. Therefore, the temporary tolerance has been established on the condition that the pesticide be used in accordance with the experimental use permit and with the following provisions:

1. The total amount of the active ingredient to be used must not exceed the quantity authorized by the experimental use permit.

2. American Cyanamid Co. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The company must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

This tolerance expires May 1, 1985. Residues not in excess of this amount remaining in or on the raw agricultural commodity after this expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary tolerance. This tolerance may be revoked if the experimental use permit is revoked or if any experience with or scientific data on this pesticide indicate that such revocation is necessary to protect the public health.

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

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 610-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact 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).

(Sec. 408(j), 68 Stat. 516 (21 U.S.C. 346a(j))).

Dated: June 19, 1984.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 84-16923 Filed 6-26-84; 8:45 am]

BILLING CODE 6560-50-M

[OPP-00179; PH-FRL 2614-5]

State-FIFRA Issues Research and Evaluation Group (SFIREG); Open Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: There will be a two-day meeting of the State FIFRA Issues Research And Evaluation Group (SFIREG). The meeting will be open to the public.

DATES: Thurday, July 12, and Friday, July 13, 1984, beginning at 8:30 a.m. each day and ending prior to 12 noon on July 13.

ADDRESS: The meeting will be held at: Hyatt-Regency—Crystal City, 2799 Jefferson Davis Highway, Arlington, VA 22202, (703-486-1234).

FOR FURTHER INFORMATION CONTACT: By mail: Philip H. Gray, Jr., Office of Pesticide Programs (TS-766C), Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Office location and telephone number: Rm. 1115, Crystal Mall No. 2, 1921 Jefferson Davis Highway, Arlington, VA, (703-557-7096).

SUPPLEMENTARY INFORMATION: This will be the eighteenth meeting of the full Group. The tentative agenda thus far includes the following topics:

1. Action items from the March 1984 meeting of the SFIREG.
2. Regional reports.
3. Working Committee reports.
4. Other topics which may arise.

Dated: June 18, 1984.

Susan H. Sherman,

Acting Director, Office of Pesticide Programs.

[FR Doc. 84-16926 Filed 6-26-84; 8:45 am]

BILLING CODE 6560-50-M

[OSWER-FRL-2614-8]

Solid Waste Disposal; Inventory of Open Dumps

AGENCY: Environmental Protection Agency.

ACTION: Notice of Availability of the Inventory of Open Dumps.

SUMMARY: The Resource Conservation and Recovery Act (RCRA or the Act)

provides for publication of an inventory of open dumps. The Act defines "open dumps" as facilities which do not comply with EPA's "Criteria for Classification of Solid Waste Disposal Facilities and Practices" (40 CFR Part 257).

State solid waste management agencies have been evaluating disposal facilities in an attempt to identify facilities which do not comply with the criteria and are, therefore, "open dumps". The facility evaluations leading to publication of the inventory were conducted by State agencies as part of their effort to develop and implement State solid waste management plans in accordance with the Act.

This notice indicates that the fourth installment of the inventory of open dumps is now available.

ADDRESSES: Copies of the inventory of open dumps are available from the State agencies listed in Appendix II, the EPA Regional Offices listed in Appendix I, or at EPA Headquarters, Office of Solid Waste (WH-563-B), 401 M Street, SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Martha A. Madison, Inventory of Open Dumps, Office of Solid Waste (WH-563-B), U.S. EPA, Washington, D.C. 20460; (202) 382-2210.

SUPPLEMENTARY INFORMATION:

Structure of Subtitle D Planning Program

Subtitle D of the Resource Conservation and Recovery Act (RCRA or the Act) established a voluntary program through which participating States develop and implement solid waste management plans. EPA's role in the program has included publishing guidelines for States to follow in developing their plans, providing funds for the States, and approving those adopted State plans which meet the requirements of the Act.

On July 31, 1979, EPA published "Guidelines for Development and Implementation of State Solid Waste Management Plans" (40 CFR Part 256, 44 FR 45066-45086). The Guidelines are based on Section 4003 of the Act, which lists the minimum requirements with which State plans must comply. Section 4007 of the Act provides for EPA approval of State plans meeting the requirements.

Role of the Inventory

One requirement listed in the Act and addressed in the Guidelines is that ". . . the plan shall provide for the closing or upgrading of all existing open dumps within the State . . ." In furtherance of this planning effort, the Act requires that EPA publish an inventory of open dumps. Publication of the inventory will serve to inform the Congress and the public of those facilities which the States have found to be open dumps.

Classification Criteria

For purposes of State planning and the inventory, the Act defines the term "open dump" to mean ". . . any facility or site where solid waste is disposed of which is not a sanitary landfill which meets the criteria promulgated under Section 4004 and which is not a facility for the disposal of hazardous waste." Thus, any facility which fails to comply with any one element of the "Criteria for Classification of Solid Waste Disposal Facilities and Practices" (40 CFR Part 257) is an open dump.

Open Dumping

In addition to establishing a mechanism whereby States, with EPA assistance, provide control over *facilities* which are found to be open dumps, RCRA prohibits the *practice* of open dumping of solid waste as a matter of Federal law.

In EPA's view, the Federal prohibition may be enforced in Federal District Court through the citizen suit provisions in section 7002 of RCRA. The Act does not give EPA authority to take legal action against parties that may violate the open dumping prohibition. Whether specific acts of specific individuals constitute the prohibited practice is a matter for the Federal courts to determine in the context of particular cases after *de novo* review of the facts in each case. In reviewing a case *de novo*, the court is not bound by the State's determination that a facility is an open dump. Rather, the court will make its own finding of fact and rule accordingly.

The open dumping prohibition is a provision of Federal law which stands on its own, separate from the State planning program. The inventory of open dumps is a publication of State findings from State planning efforts to satisfy the requirement of section 4003 of the Act. The inclusion of a facility on the list of open dumps is not an administrative determination by EPA that any particular parties are engaging in the prohibited act of open dumping.

A determination for purposes of the open dump inventory need not preceed an open dumping suit. However, before the results of the inventory may be used to support a legal determination that open dumping has occurred, the court would have to determine that the classification was a correct application of the criteria and that the defendant was responsible for actions violating the criteria. The court would be obliged to review the sufficiency of the State's classification of a facility and not simply defer to the State's decision.

Description of the Inventory

The first installment of the inventory was published on May 29, 1981 (46 FR 29064-29149). It reflected the initial efforts of the States in evaluating a portion of the total universe of facilities and represented a fraction of the total number of open dumps likely to exist. The second publication of the inventory, published on April 29, 1982, by EPA, reflected subsequent efforts of the States in evaluating facilities during FY 1981. Those facilities found by the States to be open dumps were added to the initial list, and facilities found by the States no longer to be open dumps were deleted.

The third installment of the inventory reflected additions and deletions to the list which were provided by the States during FY 1982. New Federal Subtitle D funds were not available during 1982 to supplement State funds. However, States were permitted to use Subtitle D funds carried over from FY 1981. Twenty States submitted additions and deletions for the third installment of the inventory: Alabama, Arizona, California, Connecticut, Florida, Guam, Louisiana, Maine, Maryland, Minnesota, Montana, Ohio, Oklahoma, Oregon, Pennsylvania, Puerto Rico, Texas, Virginia, Washington, and Wisconsin.

This fourth publication of the inventory reflects additions and deletions to the list which were provided by the States during FY 1983. Subtitle D funds were not available to the States during FY 1983, nor were any carryover funds remaining. A few States, however, continued to evaluate a limited number of facilities, and to close or upgrade facilities previously listed on the inventory. Only seven States submitted additions and deletions for this edition of the inventory; Washington, Georgia, Arkansas, Idaho, Louisiana, California, and Pennsylvania.

Actions on Facilities

Because the inventory lists facilities which the States have found to pose a reasonable probability of adverse effects on health or the environment, participating States will be planning for the closure or upgrading of these facilities pursuant to State authority. Specific actions may vary, including issuance of a State administrative order or the gathering of additional data. In some cases, States already have placed listed open dumps on compliance schedules for closure or upgrading prior to publication of this list.

All such actions are to be taken under State law and through State regulatory and administrative procedures. Interested parties may wish to contact the State solid waste management agencies (Appendix II) concerning the current status of any of these open dumps and the responsibilities the agencies have under State law.

State Approaches

EPA's Planning Guidelines require the plans of participating States to provide for an orderly time-phasing of the evaluation of disposal facilities to determine which facilities are open dumps. Thus, there is considerable flexibility for the State to set priorities for evaluating facilities. The establishment of these priorities is part of the State plans subject to the public participation provisions of 40 CFR 256.60.

The States have taken differing approaches in ranking facilities for evaluation and in conducting evaluations. For example, where States already had extensive data on hand, they could more easily rank their facilities for evaluation or make noncompliance determinations. Otherwise, resources had to be expended in locating facilities and gathering information, and fewer determinations would be likely to be made over the year.

For this fourth installment of the inventory, five of the seven participating States provided the Agency with brief descriptions of actions and approaches they have taken in evaluating facilities. These descriptions are included in the report. Further information may be obtained from the State agency personnel listed in Appendix II.

Authority: RCRA 4004.

Dated: June 15, 1984.

Lee M. Thomas,

Assistant Administrator for Solid Waste and Emergency Response.

Appendix I—EPA Regional Office Contracts for Open Dump Inventory

Region I

Conrad Desrosiers, Waste Management Branch, USEPA, John F. Kennedy Building, Boston, MA 02203, (617) 223–5630

Region II

Garrett Smith, Hazardous Waste Program Support Section, USEPA, 26 Federal Plaza, New York, NY 10278, (212) 264–3407

Region III

John Armstead (3HW31), State Program Section, USEPA, 6th and Walnut Streets, Philadelphia, PA 19106, (215) 597–7259

Region IV

Jim Scarbrough, Residuals Management Branch, USEPA, 345 Courtland Street, N.E., Atlanta, GA 30365, (404) 881–3016

Region V

Karl J. Klepitsch, Waste Management Branch, USEPA, 230 South Dearborn Street, 13th Floor, Chicago, IL 60604, (312) 886–7435

Region VI

Pat Hull, State Programs Section, USEPA, 1201 Elm Street, First International Building, Dallas, TX 75270, (214) 767–2645

Region VII

Chet McLaughlin, Hazardous Waste Management Section, USEPA, 324 East 11th Street, Kansas City, MO 64106, (816) 374–6534

Region VIII

Charles Brinkman, Solid Waste Section, USEPA, 1860 Lincoln Street, Denver, CO 80295, (303) 327–2221

Region IX

Charles Flippo, State Programs Section (T–2–1), USEPA, 215 Fremont Street, San Francisco, CA 94105, (415) 974–8245

Region X

Tobias A. Hegdahl, Solid Waste Program, USEPA, 1200 6th Avenue, Seattle, WA 98101, (206) 442–2808

Appendix II—State Solid and Hazardous Waste Agencies

Environmental Protection Agency Office of Solid Waste

March 1984

Alabama

Daniel E. Cooper, Chief, Land Disposal Program, Alabama Dept. of Environmental Management, Solid & Hazardous Waste Mgmt. Div., State Capitol, Montgomery, Alabama 36130, CML (205) 832–6728

Alaska

Stan Hungerford, Air & Solid Waste Management, Dept. of Environmental Conservation, Pouch O, Juneau, Alaska 99811, FTS (907) 465–2635, CML (907) 465–2635

American Samoa

Pati Faiai, Executive Secretary, Environmental Quality Commission, American Samoa Government, Pago Pago, American Samoa 96799, Overseas Operator, (Commercial Call 633–4116)

Randy Morris, Deputy Director, Department of Public Works, Pago Pago, American Samoa 96799

Arizona

R. Bruce Scott, Chief, Bureau of Waste Control, Department of Health Services, State Health Bldg., Room 202, 1740 West Adams St., Phoenix, Arizona 85007, CML (602) 255–1170

Arkansas

Vincent Blubaugh, Chief, Solid & Hazardous Waste Mtls. Div., Department of Pollution Control and Ecology, P.O. Box 9583, 8001 National Drive, Little Rock, Arkansas 72219, CML (501) 562–7444

California

Richard Wilcoxon, Acting Chief, Hazardous Waste Management Branch, Department of Health Services, 714 P Street, Sacramento, California 95814, FTS (916) 324–1789, CML (916) 324–1789

Terry Trumbull, Chairperson, State Solid Waste Management Board, 1020—9th St., Suite 300, Sacramento, California 95814, CML (916) 322–3330

Colorado

Kenneth Waesche, Director, Waste Management Division, Colorado Department of Health, 4210 E. 11th Ave., Denver, Colorado 80220, CML (303) 320–8333

Mr. Orville Stoddard, Deputy Director, Waste Management Division, Colorado Department of Health, 4210 East 11th Ave., Denver, Colorado 80220, CML (303) 320–8333

Commonwealth of North Mariana Islands

George Chan, Administrator, Division of Environmental Quality, Department of Public Health and Environmental Services, Commonwealth of the North Mariana Island, Saipan, Mariana Islands 96950, Overseas Operator: 6984, Cable address: GOV. NMI Saipan

Connecticut

Stephen Hitchock, Director, Hazardous Materials Management Unit, Department of Environmental Protection, State Office Building, 165 Capitol Ave., Hartford, Connecticut 06115, CML (203) 566–5712

Michael Cawley, Connecticut Resource Recovery Authority, 179 Allyn St., Suite 603, Professional Building, Hartford, Connecticut 06103, CML (203) 549–6390

Delaware

William Razor, Supervisor/Resource Engineer, Solid Waste Management Branch, Department of Natural Resources and Environmental Control, 89 King Highway, P.O. Box 1401, Dover, Delaware 19901, CML (302) 736–4781

District of Columbia

Angelos Tampros, Chief, Department of Environmental Services, Pesticides & Hazardous Materials Div., 5000 Overlook Ave., SW., Washington, DC 20032, CML (202) 767–8422

Florida

Robert W. McVety, Administrator, Solid Waste Section, Department of Environmental Regulations, Twin Towers Office Bldg., Room 421, 2600 Blair Stone Road, Tallahassee, Florida 32301, CML (904) 488–0300

Georgia

Harold Reheis, Chief, Land Protection Branch, Environmental Protection Division, Dept. of Natural Resources, 270 Washington St., S.W., Room 822, Atlanta, Georgia 30334, CML (404) 656–2833

Guam

James Branch, Deputy Administrator, EPA, Government of Guam, P.O. Box 2999, Agana, Guam 96910, Overseas Operator, (Commercial Call 646–8863)

Hawaii

Melvin Koizumi, Deputy Director, Environmental Health Division, Dept. of Health, P.O. Box 3378, Honolulu, Hawaii 96801, California FTS Operator, FTS 8–556–0220, CML (808) 548–4139

Idaho

Robert Olson, Supervisor, Hazardous Materials Bureau, Dept. of Health & Welfare, State House, Boise, Idaho 83720, FTS 554–4064, CML (208) 334–4064

Illinois

Robert Kuykendall, Manager, Division of Land Pollution Control, Environmental Protection Agency, 2200 Churchill Rd., Room A–104, Springfield, Illinois 62706, FTS 8–782–0246, CML (217) 782–0246

William Child, Deputy Manager, Division of Land Pollution Control, Environmental Protection Agency, 2200 Churchill Rd., Room A–104, Springfield, Illinois 62706, CML (217) 782–0245

Indiana

David Lamm, Director, Land Pollution Control Division, State Board of Health, 1330 West Michigan St., Room A–304, Indianapolis, Indiana 46206, CML (317) 633–0194

Iowa

Ronald Kolpa, Hazardous Waste Program Coordinator, Dept. of Water, Air & Waste Mgmt., Henry A. Wallace Bldg., 900 East Grand, Des Moines, Iowa 50319, CML (515) 281–8853

Kansas

Dennis Murphey, Director, Bureau of Environmental Sanitation, Dept. of Health & Environment, Forbes Field, Bldg. 321, Topeka, Kansas 66620, CML (913) 862–9360

Kentucky

Alex Barber, Director, Division of Waste Management, Bureau of Environmental Protection, Dept. of Natural Resources and Environmental Protection, 18 Reilly Road, Frankfort, Kentucky 40601, CML (502) 564–6716

Louisiana

John Koury, Administrator, Solid Waste Management Division, Dept. of Environmental Quality, P.O. Box 44066, Baton Rouge, Louisiana 70804, CML (504) 342–1216

Gerald J. Healy, Jr., Administrator, Hazardous Waste Management Division, Dept. of Environmental Quality, P.O. Box 44066, Baton Rouge, Louisiana 70804, CML (504) 342–1227

Maine

David Boulter, Director, Licensing and Enforcement Division, Bureau of Oil and Haz. Materials, Dept. of Environmental Protection, State House—Station 17, Augusta, Maine 04333, CML (207) 289–2651

Maryland

Bernard Bigham, Waste Management Administration, Dept. of Health & Mental Hygiene, 201 West Preston St., Room 212, Baltimore, Maryland 21201, CML (301) 383–5740

Fred Sachs, Chief, Hazardous Waste Division, Waste Management Administration, Dept. of Health & Mental Hygiene, 201 W. Preston Street, Baltimore, Maryland 21201, CML (303) 383–5743

Ronald Nelson, Director, Waste Management Administration, Office of Environmental Programs, Dept. of Health & Mental Hygiene, 201 W. Preston Street, Baltimore, Maryland 21201, CML (301) 383–3123

Massachusetts

William Cass, Director, Division of Hazardous Waste, Department of Environmental Quality Engineering, One Winter Street, Boston, Massachusetts 02108, CML (617) 292–5589

Michigan

Delbert Rector, Chief, Hazardous Waste Division, Environmental Protection Bureau, Dept. of Natural Resources, Box 30028, Lansing, Michigan 48909, CML (517) 373–7917

Allan Howard, Chief, Office of Hazardous Waste Management, Environmental Services Division, Dept. of Natural Resources, Box 30028, Lansing, Michigan 48909, CML (517) 373–2730

(Hazardous Waste, Liquid), David Dennis, Chief, Oil & Hazardous Materials Contol Section, Water Quality Division, Dept. of Natural Resources, Box 30028, Lansing, Michigan 48909, CML (517) 373–2794

(Hazardous Waste, Toxic or Critical Materials), Delbert Rector, Chief, Environmental Services Division, Dept. of Natural Resources, Box 30028, Lansing, Michigan 48909, CML (517) 737–2730

John L. Hesse, Chief, Chemicals & Health Center, Michigan Dept. of Public Health, Box 30035, Lansing, Michigan 48909, CML (517) 373–8050

Minnesota

Dale L. Wikre, Director, Solid & Hazardous Waste Division, Pollution Control Agency, 1935 West County Rd., R–2, Roseville, Minnesota 55113, CML (612) 296–7333

Mississippi

Jack M. McMillan, Director, Division of Solid & Hazardous Waste Management, Bureau of Pollution Control, Dept. of Natural Resources, P.O. Box 10385, Jackson, Mississippi 39209, CML (601) 961–5171

Missouri

David Bedan, Director, Solid Waste Management Program, Dept. of Natural Resources, State Office Bldg., P.O. Box 1368, Jefferson City, Missouri 65102, CML (314) 751–3241

Montana

Duane L. Robertson, Chief, Solid Waste Management Bureau, Dept. of Health & Environmental Services, Cogswell Bldg. Helena, Montana 59602, FTS 8–587–2821, CML (406) 499–2821

Nebraska

Mike Steffensmeier, Acting Director, Hazardous Waste Section, Dept. of Environmental Control, State House Station, P.O. Box 94877, Lincoln, Nebraska 68509, CML (402) 471–2186

Nevada

Verne Rosse, Waste Management Program Director, Division of Environmental Protection, Dept. of Conservation & Natural Resources, Capitol Complex, Carson City, Nevada 89701, CML (702) 885–4670

New Hampshire

Dr. Brian Strohm, Assistant Director, Division of Public Health Services, Office of Waste Management, Dept. of Health & Welfare, Health & Welfare Bldg., Hazen Drive, Concord, New Hampshire 03301, CML (603) 271–4608

New Jersey

Lino F. Pereira, Director, Solid Waste Administration, Division of Environmental Quality, Dept. of Environmental Protection, 32 E. Hanover Street, CN–027, Trenton, New Jersey 08625, CML (609) 292–9121

New Mexico

Tony Drypolcher, Chief, Ground Water & Hazardous Waste Bureau, Environmental Imrovement Division, N.M. Health & Environment Department, P.O. Box 968, Santa Fe, New Mexico 87504, CML (505) 984–0020 Ext. 272

Ray Sisneros, Program Manager, Hazardous Wastes Section, Ground Water & Hazardous Waste Bureau, N.M. Health & Environment Department, P.O. Box 968, Santa Fe, New Mexico 87504, CML (505) 984–0020 Ext. 275

New York

Norman H. Nosenchuck, Director, Division of Solid Waste, Dept. of Environmental Conservation, 50 Wolf Rd., Room 209, Albany, New York 12233–0001, CML (518) 457–6603

North Carolina

O.W. Strickland, Head, Solid & Hazardous Waste Mgmt. Branch, Environmental Health Section, Dept. of Human Services, P.O. Box 2091, Raleigh, North Carolina 27602, CML (919) 733–2178

North Dakota

Jay Crawford, Director, Division of Environmental Waste Management & Research, Dept. of Health, 1200 Missouri Ave., 3rd floor, Bismark, North Dakota 58505, CML (701) 224–2366

Ohio

Steve White, Chief, Division of Solid and Hazardous Waste, Ohio EPA, P.O. Box 1049, Columbus, Ohio 43216, FTS 8–942–8934, CML (614) 466–8934

Oklahoma

H.A Craves, Chief, Industrial & Solid Waste Service, Oklahoma State Dept. of Health, P.O. Box 53551, 1000 N.E. 10th St., Room 803, Oklahoma City, Oklahoma 73152, CML (403) 271–5338

Oregon

Ernest A. Schmidt, Administrator, Solid Waste Management Division, Dept. of Environmental Quality, P.O. Box 1760, 522 S.W. Fifth Avenue, Portland, Oregon 97207, CML (503) 229–5913

Pennsylvania

Donald A. Lazarchik, Director, Bureau of Solid Waste Management, Dept. of Environmental Resources, Fulton Building—8th floor, P.O. Box 2063, Harrisburg, Pennsylvania 17120, CML (717) 787–9870

Puerto Rico

Luis de la Cruz, Director, Solid, Toxics & Hazardous Waste Program, Environmental Quality Board, Box 11488, Santurce, Puerto Rice 00910–1488, CML (809) 725–0439

Rhode Island

John S. Quinn, Jr., Chief, Solid Waste Management Program, Dept. of Environmental Management, 204 Cannon Bldg., 75 Davis Street, Providence, Rhode Island 02908, CML (401) 277–2797

South Carolina

Robert E. Malpass, Chief, Bureau of Solid & Hazardous Waste Management, S.C. Dept. of Health & Environmental Control, J. Marion Simms Bldg., 2600 Bull Street, Columbia, South Carolina 29201, CML (803) 785–5681

South Dakota

Joel C. Smith, Administrator, Office of Air Quality & Solid Waste, Dept. of Water & Natural Resources, Joe Foss Bldg., Pierre, South Dakota 57501, CML (605) 773–3329

Tennessee

Tom Tiesler, Director, Division of Solid Waste Mgmt., Bureau of Environmental Services, Dept. of Public Health, 150 9th Ave., North, Nashville, Tennessee 37203, FTS 8–853–3424, CML (615) 741–3424

Texas

Jack C. Carmichael, Chief, Bureau of Solid Waste Management, Texas Dept. of Health, 1100 West 49th Street, T–602, Austin, Texas 78756, CML (512) 458–7271

Dr. Harry Pruett, Director, Permits Division, Texas Dept. of Water Resources, 1700 North Congress, Room 237–1, P.O. Box 13987 Capitol Station, Austin, Texas 78711, CML (512) 475–2041

Utah

Dale Parker, Director, Bureau of Solid and Hazardous Waste Management Division, P.O. Box 2500, 150 West North Temple, Salt Lake City, Utah 84110, CML (801) 533–4145

Vermont

Richard A. Valentinetti, Director, Air & Solid Waste Programs, Agency of Environmental Conservation, State Office Bldg., Montpelier, Vermont 05602, FTS 8–832–3395, CML (802) 832–3395

Virgin Islands

Robert V. Eepoel, Director, Hazardous Waste Program, Division of Natural Resources, Dept. of Conservation & Cultural Affairs, P.O. Box 4340, Charlotte Amalie, St. Thomas, Virgin Islands 00801, D.C. Overseas Operator 472–6620, CML (809) 774–6420

Virginia

Willian F. Gilley, Director, Division of Solid & Hazardous Waste Management, Virginia Dept. of Health, Madison Bldg, 109 Governor Street, Richmond, Virginia 23219, FTS 8–225–2667, CML (804) 786–5271

Washington

Earl Tower, Supervisor, Solid Waste Mgmt. Division, Dept. of Ecology, Olympia, Washington 98504, CML (206) 459–6317

West Virginia

John Northeimer, Branch Head, Division of Water Resources, Dept. of Natural Resources, 1201 Greenbrier Street, East Charleston, West Virginia 25311, FTS 8–885–5935, CML (304) 384–5935

Wisconsin

Paul Didier, Director, Bureau of Solid Waste Mgmt, Dept. of Natural Resources, P.O. Box 7921, Madison, Wisconsin 53707, FTS 8–(608) 266–1327, CML (608) 266–1327

Wyoming

Charles Porter, Supervisor, Solid Waste Mgmt. Program, State of Wyoming, Dept. of Environmental Quality, Equality State Bank Bldg., 401 West 19th Street, Cheyenne, Wyoming 82002, CML (307) 777–7752

FR Doc. 84–17066 Filed 6–26–84; 8:45 am]
BILLING CODE 6560–50–M.

FEDERAL COMMUNICATIONS COMMISSION

Radio Advisory Committee Meeting July 11, 1984; agenda

Notice is hereby given that the previously announced agenda for the meeting of the Radio Advisory Committee scheduled to be held at 1:30 p.m., July 11, 1984, in Room 330, 1200 19th Street, NW., Washington, D.C., is amended to read as follows:

—Recommendations to the FCC concerning ongoing discussions with Mexico relating to revisions to the United States—Mexican AM Radio Broadcasting Agreement;
—Ratification of the Region 2 AM Agreement signed in December, 1981 at the Regional Administrative Radio Conference held at Rio de Janeior; and
—Other Business.

The meetings of the Committee are public, and are open for participation by all interested persons.

For further information please contact the Committee Chairman, Louis C. Stephens, or Jonathan David, at FCC Headquarters: (202) 632–7792.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 84–17099 Filed 6–26–84; 8:45 am]

BILLING CODE 6712–01–M

Applications for Consolidated Hearing

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant, city and state	File No.	MM Docket No.
A. Rose Development Co.; Inc., Bakersfield CA.	BPH–830830AD	84–609
B. Gloria Tackett; Bakersfield CA.	BPH–840105AB	84–610
C. Paul Yang; Bakersfield CA.	BPH–840105AH	84–611
D. J. and R. Communications; Bakersfield CA.	BPH–840105AT	84–612

2. Pursuant to Section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon issues whose headings are set forth below. The text of each of these issues has been standardized and set forth in its entirety in a sample standardized Hearing Designation Order (HDO) which can be found at 48 FR 22428, May 18, 1983. The issue headings shown below correspond to issue headings contained in the referenced sample HDO. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicant(s)

1. City Coverage, A
2. Air Hazard, D
3. Comparative, All applicants
4. Ultimate, All applicants

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding may be obtained, by written or telephone request, from the Mass Media Bureau's Contact Representative, Room 242, 1919 M Street, N.W., Washington, D.C. 20554. Telephone (202) 632–6334.

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 84–17095 Filed 6–26–84; 8:45 am]

BILLING CODE 6712–01–M

Applications for Consolidated Hearing

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant, city and State	File No.	MM Docket No.
A. James E. Stokes & David Kent, d/b/a/ Valdosta Television, Inc.; Valdosta, GA.	BPH–830317AI	84–613
B. The Rainbow Group (Partnership); Valdosta, GA.	BPH–830426AD	84–614
C. Luz N. Ruiz and Robin Lanier Taylor, d/b/a Valdosta Radio, Inc.; Valdosta, GA.	BPH–830804AB	84–615
D. WGAF, Inc.; Valdosta, GA.	BPH–830808AR	84–616
E. Multi Media Broadcasting, Inc.; Valdosta, GA.	BPH–830808AS	84–617
F. Andrew J. Guest and Reginald Taylor, Jr d/b/a Azalea City Broadcasting; Valdosta, GA.	BPH–830808AT	84–618
G. Lowndes County Broadcasting; Valdosta, GA.	BPH–830808AV	84–619

2. Pursuant to Section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety in a sample standardized Hearing Designation Order (HDO) which can be found at 48 FR 22428, May 18, 1983. The issue headings shown below correspond to issue headings contained in the referenced sample HDO. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicant(s)

1. Air Hazard, C
2. Comparative, all applicants
3. Ultimate, all applicants

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding may be obtained, by written or telephone request, from the Mass Media Bureau's Contact Representative, Room 242, 1919 M Street, N.W., Washington, D.C. 20554. Telephone (202) 632–6334.

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 84–17098 Filed 6–26–84; 8:45 am]

BILLING CODE 6712–01–M

[CC Docket Nos. 84–596 and 84–597; File Nos. 11265–CM–P–80 and 50085–CM–P–81]

Commoncarrier Corp., and Microband Corporation of America; Applications for Construction Permits in the Multipoint Distribution Service for a New Station at Wausau, Wisconsin

Memorandum Opinion and Order

Adopted June 5, 1984.
Released June 20, 1984.
By the Common Carrier Bureau.

1. For consideration are the above-referenced applications. These applications are for construction permits in the Multipoint Distribution Service and they propose operations on Channel 1 at Wausau, Wisconsin. The applications are therefore mutually exclusive and, under present procedures, require comparative consideration. There are no petitions to deny or other objections under consideration.

2. Upon review of the captioned applications, we find that these applicants are legally, technically, financially, and otherwise qualified to provide the services which they propose, and that a hearing will be required to determine, on a comparative basis, which of these applications should be granted.

3. Accordingly, it is hereby ordered, That pursuant to Section 309(e) of the Communications Act of 1934, as amended, 47 U.S.C. 309(e) and Section 0.291 of the Commission's Rules, 47 CFR 0.291, the above-captioned applications are designated for hearing, in a CONSOLIDATED PROCEEDING, at a time and place to be specified in a

subsequent Order to determine, on a comparative basis, which of the above-captioned applications should be granted in order to best serve the public interest, convenience and necessity. In making such a determination, the following factors shall be considered:[1]

(a) The relative merits of each proposal with respect to efficient frequency use, particularly with regard to compatibility with co-channel use in nearby cities and adjacent channel use in the same city;

(b) The anticipated quality and reliability of the service proposed, including installation and maintenance programs; and

(c) The comparative cost of each proposal considered in context with the benefits of efficient spectrum utilization and the quality and reliability of service as set forth in issues (a) and (b).

4. It is further ordered, That Commoncarrier Corporation, Microband Corporation of America and the Chief, Common Carrier Bureau, are made parties to this proceeding.

5. It is further ordered, That parties desiring to participate herein shall file their notices of appearance in accordance with the provisions of §1.221 of the Commission's Rules, 47 CFR 1.221.

6. The Secretary shall cause a copy of this Order to be published in the **Federal Register.**

James R. Keegan,

Chief, Domestic Facilities Division Common Carrier Bureau.

[FR Doc. 84-17088 Filed 6-26-84; 8:45 am]

BILLING CODE 6712-01-M

[CC Docket Nos. 84-598 and 84-599; File Nos. 11264-CM-P-80 and 50084-CM-P-81]

Commoncarrier Corp. and Microband Corporation of America; Applications for Construction Permits in the Multipoint Distribution Service for a New Station at Columbus, Mississippi

Memorandum Opinion and Order

Adopted June 5, 1984.
Released June 20, 1984.
By the Common Carrier Bureau.

1. For consideration are the above-referenced applications. These applications are for construction permits in the Multipoint Distribution Service and they propose operations on Channel 1 at Columbus, Mississippi. The applications are therefore mutually exclusive and, under present procedures, require comparative consideration. There are no petitions to deny or other objections under consideration.

2. Upon review of the captioned applications, we find that these applicants are legally, technically, financially, and otherwise qualified to provide the services which they propose, and that a hearing will be required to determine, on a comparative basis, which of these applications should be granted.

3. Accordingly, it is hereby ordered, That pursuant to Section 309(e) of the Communications Act of 1934, as amended, 47 U.S.C. 309(e) and Section 0.291 of the Commission's Rules, 47 CFR 0.291, the above-captioned applications are designated for hearing, in a consolidated proceeding, at a time and place to be specified in a subsequent Order, to determine, on a comparative basis, which of the above-captioned applications should be granted in order to best serve the public interest, convenience and necessity. In making such a determination, the following factors shall be considered:[1]

(a) The relative merits of each proposal with respect to efficient frequency use, particularly with regard to compatibility with co-channel use in nearby cities and adjacent channel use in the same city;

(b) The anticipated quality and reliability of the service proposed, including installation and maintenance programs; and

(c) The comparative cost of each proposal considered in context with the benefits of efficient spectrum utilization and the quality and reliability of sevice as set forth in issues (a) and (b).

4. It is further ordered, That Commoncarrier Corporation, Microband Corporation of America and the Chief, Common Carrier Bureau, are made parties to this proceeding.

5. It is further ordered, That parties desiring to participate herein shall file their notices of appearance in accordance with the provisions of § 1.221 of the Commission's Rules, 47 CFR 1.221.

6. The Secretary shall cause a copy of this Oder to be published in the **Federal Register.**

James R. Keegan,

Chief, Domestic Facilities Division, Common Carrier Bureau.

[FR Doc. 84-17089 Filed 6-26-84; 8:45 am]

BILLING CODE 6712-01-M

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[1] Consideration of these factors shall be in light of the Commission's discussion in *Frank K. Spain*, 77 FCC 2d 20 (1980).

[1] Consideration of these factors shall be in light of the Commission's discussion in *Frank K. Spain*, 77 FCC 2d 20 (1980).

[MM Docket Nos. 84-605 and 84-606; File Nos. BP-830510AD and BP-830930AA]

Duffield Broadcashing Co. and Dove, Inc.; Construction Permit; Hearing Designation Order

Adopted June 13, 1984.
Released June 20, 1984.
By the Chief, Mass Media Bureau.

In re applications of Duffield Broadcasting Company, Duffield, Virginia, Req: 1120 kHz, 1 kW, D, Dove, Inc., Maryville, Tennessee, Req: 1120 kHz, 0.5 kW, D, For Construction Permit.

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has under consideration the above-captioned applications for new AM broadcast stations.

2. As indicated by the issued specified below the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding. As the proposals are for different communities, we will specify issues to determine pursuant to Section 307(b) of the Communications Act of 1934, as amended, which proposal would better provide a fair, efficient and equitable distribution of radio service. We will also specify a contingent comparative issue, should such an evaluation of the proposals prove warranted.

3. Accordingly, it is ordered, That pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, to be held before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

(1) To determine the areas and populations which would receive primary service from each proposal, and the availability of other primary aural services to such areas and populations.

(2) To determine in light of Section 307(b) of the Communiations Act of 1934, as amended, which of the proposals would better provide a fair, efficient, and equitable distribution of radio service.

(3) To determine in the event it is concluded that a choice between the applicants should not be based solely on considerations relating to Section 307(b), which of the proposals would on a comparative basis, better serve the public interest.

(4) To determine in light of the evidence adduced pursuant to the

foregoing issues, which of the applications, if any, should be granted.

4. It is further ordered, That to avail themselves of the opportunity to be heard and pursuant to § 1.221(c) of the Commission's Rules, the parties shall within 20 days of the mailing of this Order, in person or by attorney, file with the Commission, in triplicate, written appearances stating an intention to appear on the date fixed for hearing and to present evidence on the issues specified in this Order.

5. It is further ordered, That pursuant to Section 311(a) of the Comunications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, the applicants shall give notice of hearing as prescribed in the Rules and shall advise the Commission of the Publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 84-17090 Filed 6-26-84; 8:45 am]

BILLING CODE 6712-01-M

[CC Docket Nos. 84-620 and 84-621; File Nos. 10568-CM-P-80 and 11039-CM-P-80]

Hi Band Broadcasting Co. and Hydra Communications, Inc.; Applications for Construction Permit

In re applications of Hi Band Broadcasting Company, For Construction Permit in the Multipoint Distribution Service for a new station at El Centro, California and Hydra Communications, Inc. For Construction Permit in the Multipoint Distribution Service for a new station at Westmoreland, California.

Memorandum Opinion and Order

Adopted June 15, 1984.
Released June 21, 1984.
By the Common Carrier Bureau

1. For consideration are the above-referenced applications. These applications are for construction permits in the Multipoint Distribution Service and they propose operations on Channel 1 at El Centro and Westmoreland, California. The applications are therefore mutually exclusive and, under present procedures, require comparative consideration. These applications have been amended as a result of informal requests by the Commission's staff for additional information. There are no petitions to deny or other objections under consideration.

2. Upon review of the captioned applications, we find that these applicants are legally, technically, financially, and othewise qualified to provide the services which they propose, and that a hearing will be required to determine, on a comparative basis, which of these applications should be granted.

3. Accordingly, it is hereby ordered, That pursuant to section 309(e) of the Communications Act of 1934, as amended, 47 U.S.C. 309(e) and § 0.291 of the Commission's Rules, 47 CFR 0.291, the above-captioned applications are designated for hearing, in a consolidated proceeding, at a time and place to be specified in a subsequent Order, to determine, on a comparative basis, which of the above-captioned applications should be granted in order to best serve the public interest, convenience and necessity. In making such a determination, the following factors shall be considered:[1]

(a) The relative merits of each proposal with respect to efficient frequency use, particularly with regard to compatibility with co-channel use in nearby cities and adjacent channel use in the same city;

(b) The anticipated quality and reliability of the service proposed, including installation and maintenance programs; and

(c) The comparative cost of each proposal considered in context with the benefits of efficient spectrum utilization and the quality and reliability of service as set forth in issues (a) and (b).

4. It is further ordered, That Hi Band Broadcasting Company, Hydra Communications, Inc. and the Chief, Common Carrier Bureau, are made parties to this proceeding.

5. It is further ordered, That parties desiring to participate herein shall file their notices of appearance in accordance with the provisions of § 1.221 of the Commission's Rules, 47 CFR 1.221.

6. The Secretary shall cause a copy of this Order to be published in the **Federal Register.**

James R. Keegan,

Chief, Domestic Facilities Division, Common Carrier Bureau.

[FR Doc. 84-17094 Filed 6-26-84; 8:45 am]

BILLING CODE 6712-01-M

[CC Docket No. 84-622, etc.]

Jo'Mil Enterprises et al., Application for Construction Permit.

In re applications of JO'MIL ENTERPRISES, CC Docket No. 84-622, File No. 50328-CM-P-82; and MICROBAND CORPORATION OF AMERICA, CC Docket No. 84-623, File No. 50391-CM-P-82; and SOUND ELECTRONICS, INC., CC Docket No. 84-624, File No. 50025-CM-P-83; For Construction Permit in the Multipoint Distribution Service for a new station at Eunice, Louisiana.

Memorandum Opinion and Order

Adopted June 15, 1984.
Released June 21, 1984.
By the Common Carrier Bureau.

1. For consideration are the above-referenced applications. These applications are for construction permits in the Multipoint Distribution Service and they propose operations on Channel 1 at Eunice, Louisiana. The applications are therefore mutually exclusive and, under present procedures, require comparative consideration. These applications have been amended as a result of informal requests by the Commission's staff for additional information. There are no petitions to deny or other objections under consideration.

2. Upon review of the captioned applications, we find that these applicants are legally, technically, financially, and otherwise qualified to provide the services which they propose, and that a hearing will be required to determine, on a comparative basis, which of these applications should be granted.

3. Accordingly, it is hereby ordered, That pursuant to section 309(e) of the Communications Act of 1934, as amended, 47 U.S.C. 309(e) and § 0.291 of the Commission's Rules, 47 CFR 0.291, the above-captioned applications are designated for hearing, in a consolidated proceeding, at a time and place to be specified in a subsequent Order, to determine, on a comparative basis, which of the above-captioned applications should be granted in order to best serve the public interest, convenience and necessity. I making such a determination, the following factors shall be considered:[1]

(a) The relative merits of each proposal with respect to efficient frequency use, particularly with regard to compatibility with co-channel use in nearby cities and adjacent channel use in the same city;

(b) The anticipated quality and reliability of the service proposed, including installation and maintenance programs; and

[1] Consideration of these factors shall be in light of the Commission's discussion in *Frank K. Spain*, 77 FCC 2d 20 (1980).

[1] Consideration of these factors shall be in light of the Commission's discussion in *Frank K. Spain*, 77 FCC 2d 20 (1980).

(c) The comparative cost of each proposal considered in context with the benefits of efficient spectrum utilization and the quality and reliability of service as set forth in issues (a) and (b).

4. It is further ordered, That Jo'Mil Enterprises, Microband Corporation of America, Sound Electronics, Inc. and the Chief, Common Carrier Bureau, are made parties to this proceeding.

5. It is further ordered, That parties desiring to participate herein shall file their notices of appearance in accordance with the provisions of § 1.221 of the Commission's Rules, 47 CFR 1.221.

6. The Secretary shall cause a copy of this Order to be published in the **Federal Register.**

James R. Keegan,

Chief, Domestic Facilities Division, Common Carrier Bureau.

[FR Doc. 84-17091 Filed 6-26-84; 8:45 am]

BILLING CODE 6712-01-M

[MM Docket Nos. 84-603 and 84-604; File Nos. BP-800825AD and BP-820721AE

KBOA, Inc. and Charles M. Anderson; Construction Permit

In re applications of KBOA, Inc., KBOA, Kennett, Missouri, Has: 830 kHz, 1 kW, D, Req: 830 kHz, 10 kW, DA-D and Charles M. Anderson, Franklin, Kentucky, Req: 830 kHz, 0.25 kW, D, For Construction Permit.

Hearing Designation Order

Adopted: June 6, 1984.
Released: June 22, 1984.
By the Chief, Mass Media Bureau.

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has before it the above-captioned mutually exclusive applications.

2. *KBOA, Inc.* This application was originally filed by Earldun Broadcasting, Inc. Subsequently the station was assigned to KTMO, Inc. (BAL-830420FQ—granted May 12, 1983) and then to KBOA, Inc. (BAL-830719EN—granted September 30, 1983). An amendment will be required to formally change the applicant's name from Earldun Broadcasting, Inc. (the name still appearing on the proposal) to KBOA, Inc.

3. As indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive they must be designated for hearing in a consolidated proceeding. As the proposals are for different communities, we will specifiy issues to determine pursuant to section 307(b) of the Communications Act of 1934, as amended, which proposal would best provide a fair, efficient and equitable distruction of radio service. We will also specify a contingent comparative issue, should such an evaluation of the proposals prove warranted.

4. Accordingly, it is ordered, That pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

(1) To determine the areas and populations which would receive primary service from each proposal, and the availability of other primary aural services to such areas and populations.

(2) To determine in light of Section 307(b) of the Communications Act of 1934, as amended, which of the proposals would best provide a fair, efficient and equitable distribution of radio service.

(3) To determine in the event it is concluded that a choice between the applications should not be based solely on considerations relating to Section 307(b), which of the proposals would, on a comparative basis, better serve the public interest.

(4) To determine in light of the foregoing issues, which of the applications should be granted.

5. It is further ordered, That KBOA, Inc. shall amend its application as specified in paragraph 2 above within 30 days of the release of this Order.

6. It is further ordered, That to avail themselves of the opportunity to be heard and pursuant to § 1.221(c) of the Commission's Rules, the applicants shall within 20 days of the mailing of this Order, in person or by attorney, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

7. It is further ordered, That pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, the applicants shall give notice of the hearing within the time and in the manner prescribed in such Rules, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 84-17092 Filed 6-26-84; 8:45 am]

BILLING CODE 6712-01-M

[MM Docket No. 84-576, etc.]

KCBD Associates, et al.; Hearing Designation Order

In re Applications of KCBD Associates, For Renewal of License of Station KSWS-TV, Channel 8 Roswell, New Mexico, MM DOCKET NO. 84-576, File No. BRCT-830516KE; KCBD Associates (Assignor) and Caprock Telecasting, Inc. (Assignee), For Assignment of License of Station KSWS-TV, Roswell, New Mexico, MM DOCKET NO. 84-577, File No. BALCT-830609KO; Caprock Telecasting, Inc. (Assignor) and The Stanley S. Hubbard Trust (Assignee), For Assignment of License of Station KSWS-TV, Roswell, New Mexico, MM DOCKET NO. 84-578, File No. BALCT-830609KP; and Western Sun Broadcasting Company, For a Construction a Permit for a New Commercial Television Station on Channel 8, Roswell, New Mexico, MM DOCKET NO. *84-579*, File No. BPCT-830830KI.

Adopted: May 25, 1984.
Released: June 22, 1984.
By the Chief, Mass Media Bureau.

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has under consideration: (1) The license renewal application of KCBD Associates (Associates) for station KSWS-TV, Roswell, New Mexico; (2) an application for consent to the assignment of the KSWS-TV license from Associates to Caprock Telecasting, Inc. (Caprock); (3) an application for consent to the assignment of the KSWS-TV license from Caprock to The Stanley S. Hubbard Trust (Hubbard); (4) the mutually exclusive application of Western Sun Broadcasting Company (Western) for a construction permit for a new commercial television station on the channel presently used by KSWS-TV; and (5) a petition to deny the assignment applications of KSWS-TV, from Associates to Caprock and from Caprock to Hubbard, filed on July 20, 1983, by New Mexico Broadcasting Co., Inc. (New Mexico) and Caprock's and Hubbard's joint opposition to the petition to deny.

Background

2. On June 9, 1983, Associates filed an assignment application for consent to the sale of its stations, KCBD–TV, Lubbock, Texas, and KSWS–TV, Roswell, New Mexico, to Caprock.[1] Caprock is a wholly-owned subsidiary of Holsum, Inc., licensee of KBIM–TV, Roswell, New Mexico. Since the Commission's one-to-a-market rules, in particular § 73.636(a), prohibit common ownership of two television stations in the same market, an application to assign KSWS–TV to Hubbard was simultaneously filed with the Commission to permit the sale of KCBD–TV and KSWS–TV to Caprock with the immediate spin-off of KSWS–TV to Hubbard. The assignment of KCBD–TV (BALCT–830609KN) was granted pursuant to delegated authority, on August 12, 1983.

Petition to Deny

3. On July 20, 1983, New Mexico filed a petition to deny against the applications assigning the license of KSWS–TV from Associates to Caprock and from Caprock to Hubbard. New Mexico is the licensee of KGGM–TV, Albuquerque, New Mexico, and is the parent corporation of Western, the applicant here for a construction permit for a new commercial television station on channel 8 in Roswell. At the outset of its petition to deny, New Mexico stated its intention of applying for channel 8, the frequency presently used by KSWS–TV. The main thrust of the petition to deny is that in the agreement (Section 3.3) between Caprock and Hubbard, assigning KSWS–TV to Hubbard, Caprock is to be paid an additional one million dollars if Hubbard operates KSWS–TV as a full-service station within five years from settlement. If Hubbard operates KSWS–TV as a full-service station after five years from settlement, but within ten years from settlement, Hubbard will pay Caprock an additional five hundred thousand dollars. The initial consideration from the assignment is two million dollars. Hubbard is licensee of KOB–TV, Albuquerque, New Mexico. New Mexico asserts that the agreement permits Caprock to retain an impermissible financial interest in the operation of KSWS–TV, § 73.1150 of the Commission's Rules, and compromises Hubbard's future control over the station's programming. *Grand Canyon Broadcasters, Inc.*, 9 F.C.C. 2d 830, 836 (1967). In opposition, both Caprock and Hubbard disagree with New Mexico's contention. They state that it is obvious that the station is worth more if operated as a full-service station rather than as a satelitte and the agreement does not in any way inhibit Hubbard from operating the station as it sees fit. In any event, both Caprock and Hubbard have agreed, as a means of resolving this dispute, to delete this provision. On September 26, 1983, an amendment was filed by Caprock and Hubbard deleting Section 3.3 of the agreement. Since the issue raised by New Mexico is moot, New Mexico's petition to deny will be dismissed.

Competing Applications

4. Associates' renewal application and Western's application for a construction permit are mutually exclusive in that they both seek authorization for use of the same frequency in Roswell, New Mexico. Therefore, a hearing must be held to determine whether the KSWS–TV license should be renewed for the purpose of assigning it to Caprock/Hubbard or whether Western should be authorized to use the frequency. In similar situations, the Commission has taken the position that if a renewal application was under challenge, either by petition to deny or competing application, on assignment application filed by the renewal applicant could not be granted until the cloud over the license had been removed. Further, the Commission found that the public interest would be served by comparing the qualifications of the transferor and the new construction permit applicant. *See, e.g., Richards, Transferor,* 14 F.C.C. 429, 430–431 (1950), and the cases cited there. Therefore, if Associates prevails, the renewal and assignment applications will be granted. On the other hand, if Western prevails, it will be awarded the construction permit, the renewal application will be denied, and the assignment applications will be dismissed.

5. No determination has been made that the tower height and location specified by Western would not constitute a hazard to air navigation. Accordingly, an appropriate issue will be specified.[2]

6. As an adjunct to the application of Western for a construction permit for a new commercial television station on the same channel presently used by KSWS–TV, Hubbard filed a petition to deny the license renewal application of New Mexico for KGGM–TV, Albuquerque, New Mexico. As noted above, New Mexico is the parent corporation of Western. The petition was late filed; in fact, it was filed on the same day the KGGM–TV license renewal application was granted, October 27, 1983. Petitions to deny were due no later than September 1, 1983.[3] A review of the petition reveals that it appears to be more an opposition to Western's application for a construction permit than it is a petition to deny the KGGM–TV license renewal application. Therefore, treating the petition as an informal objection, because it was late filed (Section 73.3587 of the Commission's Rules), we will consider Hubbard's allegations raised against New Mexico in this proceeding.

7. In its objection, Hubbard alleges that Western's application was filed for the purpose of obstructing and delaying the pending application for assignment of KSWS–TV to Hubbard. Hubbard further maintains that Western's mutually exclusive application was filed to prevent the competitive advantage New Mexico felt would accrue to Hubbard from its acquisition of KSWS–TV, and that similar motives led New Mexico to file a petition to deny the assignment application. Hubbard states that the Commission has defined such filings as "strike" pleadings and that the filing of such pleadings is not in the public interest and calls into question the basic character qualifications of that licensee.

8. In response to Hubbard's allegations, New Mexico states that its petition to deny the assignment application was entirely proper, since it pointed out deficiencies which were subsequently corrected by the applicants. As to the application for a construction permit for a new station, New Mexico asserts that it too was proper. New Mexico points out that it put Hubbard on notice in its petition to deny that the application for the new station would be filed, though it was not required to do so. Further, the application, itself, upon which Hubbard has relied for information for its petition, sets forth New Mexico's concerns and reasons for filing the application for the construction permit. New Mexico maintains that none of these reasons or concerns, in and of themselves, show any improper conduct on New Mexico's

[1] KSWS–TV was operated as a satellite of KCBD–TV.

[2] The Commission is not in receipt of FAA's determination for Western.

[3] On November 28, 1983, Hubbard filed a petition for reconsideration of that action. Hubbard argues that because its petition to deny was filed on the same day the renewal application was granted, the allegations contained in it were not fully considered. Thus, Hubbard urges that those allegations now warrant reconsideration of the grant of the KGGM–TV license renewal. However, because the pleading merely repeats the allegations raised in the petition to deny, which we are addressing in this Order, the petition for reconsideration and related pleadings will be denied.

part. In his affidavit, which was submitted as part of the response, Bruce Hebenstreits, President of New Mexico, states that the affidavits of Messrs. Reischman and Carriere, submitted by Hubbard, "are basically accurate descriptions of parts of a conversation that I had with them." However, Mr. Hebenstreit further asserts that, in his conversations with them, he consistently emphasized that Roswell was ready for a second full-service television station and that he would build it if no one else would. Mr. Hebenstreit denies that the application for the construction permit was filed for the purpose of obstruction and he declares that it is his desire to operate a full-service station in Roswell because it will better serve the public than would a satellite and because it is a sound business investment.

9. When information comes to our attention that tends to indicate that a licensee is acting in bad faith by filing a pleading the primary intent of which is to improperly delay a proceeding, the Commission will examine and resolve the legitimate public interest question that are raised. *Radio Carrollton, Inc.*, 69 F.C.C. 2d 1139 (1978), *clarified*, 69 F.C.C. 2d 424 (1978), *recon. denied*, 72 F.C.C. 2d 264 (1979), *aff'd mem. sub nom., Faulkner Radio, Inc.* v. *F.C.C.*, No. 79–1749 (D.C. Cir. Oct. 15, 1980), *cert. denied*, 450 U.S. 1041 (1981). *See* also *Little Rock Radio Teleph. Co., Inc.*, 89 F.C.C. 2d 400 (1982). In this respect, the Commission has firmly stated that the crucial consideration in determining whether a pleading is in the nature of a strike petition or strike application is whether the pleading was filed for the primary and substantial purpose of delay. In establishing this policy, the Commission has has to carefully balance the right of any person, licensee or otherwise, to generally conduct business with the Commission against the Commission's duty to protect the public interest from abuse of the administrative process you unwarranted obstruction or delay. And, in considering whether the filing is a strike petition or a strike application, the Commission will not infer the primary purpose to delay from the mere filing because a licensee has a statutory right to bring to the Commission's attention public interest questions raised by a competitor's application. Therefore, in order to justify specification of a strike issue, the charging party must make a strong showing that delay is the primary and substantial purpose of the filing. *Radio Carrollton*, 69 F.C.C. 2d at 1150–1151.

10. In the case at hand, Hubbard has not made the requisite showing. The fact that Western, consistent with Commission's Rules, filed its competing application to protect what it perceives as its competitive position in the Roswell market does not lead to the conclusive presumption that New Mexico acted in bad faith with the primary intent of obstructing and delaying Hubbard's acquisition of KSWS–TV. Similarly, Hubbard's allegations relating to New Mexico's petition to deny the KSWS–TV assignment applications do not, on the basis of the information before us, constitute a strong showing that delay is the primary and substantial purpose of the filing. As the Commission stated in *Radio Carrollton*, there are several factors to be considered. These include; (a) admission of the obstructive purpose, (b) withholding information relevant to the disposition of the requested issues; (c) the absence of any reasonable basis for the adverse allegations in the petition; (d) economic motivation; and (e) other conduct of the licensee, *Id.*, at 1151–1152. In its petition to deny the assignment application, New Mexico pointed out a defect in the contract for assignment. That defect was corrected by the applicants. Also in its petition to deny, New Mexico stated that it would file an application for a construction permit for a new commercial television station in Roswell because it believed that a full-service station was preferable to a satellite and because it believed that Roswell could support a second full-service television station. In its application for the construction permit, Western set out the reasons why it believed Roswell could support a second full-service television station, how the public interest would better served by it, and committed itself to building and operating the proposed new commercial television station. In view of the foregoing, Hubbard's petition to deny the license renewal application of KGGM–TV will be dismissed and, when considered as an informal objection, will be denied.

11. Except as indicated by the issues specified below, Associates and Western are legally, financially, technically and otherwise qualified to operate as proposed. Since the applications are mutually exclusive, the Commission is unable to make the statutory finding that their grant will serve the public interest, convenience and necessity. Therefore, the applications must be designated for hearing in a consolidated proceeding on the issues specified below.

12. Accordingly, it is ordered, That pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications of KCBD Associates and Western Sun Broadcasting Company are designated for hearing in a consolidated proceeding, before an Administraive Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

(1) To determine, with respect to Western Sun Broadcasting Company, whether there is a reasonable possibility that the tower height and location proposed would constitute a hazard to air navigation.

(2) To determine which of the proposals would, on comparative basis, better serve the public interest.

(3) To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

13. It is further ordered, That the Federal Aviation Administration is made a party respondent to this proceeding with respect to Issue 1.

14. It is futher ordered, That the petition to deny filed by New Mexico Broadcasting Co., Inc. against the applications of Caprock Telecasting, Inc., and The Stanley S. Hubbard Trust is dismissed as moot.

15. It is futher ordered, That the petition to deny filed by The Stanley S. Hubbard Trust against the application of New Mexico Broadcasting Co., Inc., for license renewal of Station KGGM–TV, Albuquerque, New Mexico, is dismissed, and when considered as an informal objection, is denied, and its petition for reconsideration is denied.

16. It is further ordered, That to avail themselves of the opportunity to be heard, the applicants and the party respondent herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within twenty (20) days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issued specified in this Order.

17. It is further ordered, That the applicants shall, pursuant to Section 311(a)(2) of the Commissions Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by Section 73.3694(g) of the Rules.

Federal Communications Commission.

Roy J. Stewart,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 84–17093 Filed 6–26–84; 8:45 am]

BILLING CODE 6712–01–M

[MM Docket Nos. 84-574 and 84-575, File Nos. BPCT-801208KG and BPCT-810320KE]

Schuyler-Littlefield Broadcasting Co., and Focus Broadcasting of the Monterey Peninsula, Inc.;[1] Application for Construction Permit; Hearing Designation Order

Adopted: May 25, 1984.
Released: June 22, 1984.

By the Chief, Mass Media Bureau.

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has before it the above-captioned mutually exclusive applications for a construction permit for a new commercial television station to operate on Channel 67, Monterey, California.[2] On November 14, 1983, Schuyler-Littlefield Broadcasting Company (Schuyler) Monterey, California, filed a petition to deny against the application of Focus Broadcasting of the Monterey Peninsula, Inc. (Focus/Monterey) Seaside, California; a second petition to deny was filed by Schuyler on November 29, 1983, and a supplement to the second petition to deny was filed on December 8, 1983. Opposition and reply pleadings were filed in connection with these petitions.

Focus/Monterey

2. *Schuyler's Allegations.* In a petition to deny filed November 14, 1983 Schuyler alleged that the ownership interests of Solomon Atkins, Douglas F. and Beverly Ruhe and William and Judith Geissler in Focus/Monterey represent an "undue concentration of mass communications media" due to their controlling ownership interests in United Press International (UPI), a gatherer and distributor of news and information services. However, those parties withdrew from Focus/Monterey in an amendment filed on November 14, 1983 the "B" cut-off date of that application. Thereafter, on November 29, 1983 Schuyler filed a second petition to deny alleging that the November 14, 1983 amendment was a major amendment requiring a new file number to be assigned to the Focus/Monterey application pursuant to § 73.3572(b).[3] It maintains that the withdrawal of certain parties has produced a new ownership structure that has resulted in "a *de facto*, if not a *de jure* transfer of control of the applicant."[4] Schuyler contends that as a result of the amendment, two brothers, J. Kenton and Dwight W. Allen, together with their wives and children and as the sole general partners of a family partnership called the Allen Investment Company, have become the "dominant force" in the corporation, comprising the majority of the officers and directors of the corporate applicant and controlling nearly 70 percent of its stock. Schuyler claims that the relationships between the Allen family and others in the prosecution of various applications for television stations and the operation of such stations make clear that they operate as a family unit in pursuit of broadcast projects. Thus, taken as a whole, Schuyler argues that the tendered amendment indicates that control of the corporate applicant has been transferred to a group that was not in control at the time the application was originally filed.

3. On December 8, 1983, Schuyler filed a "supplement" to its November 29 petition to deny alleging that after filing that pleading it learned of an unresolved character issue in a Commission proceeding involving some of those individuals who, by the November 14, 1983, amendment, have withdrawn from the Focus/Monterey application. Specifically, in a comparative proceeding for a construction permit for a new commercial television station at Alvin, Texas (MM Docket Nos. 83 440-444), a "real-party-in-interest" issue was requested and added against Focus Communications, Inc. ("FCI"), which is controlled by the Ruhes and Geisslers. Although Schuyler reports that an agreement between the parties settling the Alvin proceeding was approved by the Administrative Law Judge, the character issue against FCI was not resolved prior to the termination of that proceeding. In the absence of a conclusive determination of this issue, Schuyler argues that those parties cannot remove the character issue by merely withdrawing from the corporate applicant and to "the extent to which the departing shareholders' misconduct affects the basic and comparative qualifications of the applicant is a matter which remains for consideration by the Commission." Thus, if the Focus/Monterey application is not assigned a new file number, Schuyler contends that because of their association with FCI, Focus/Monterey is not qualified to be a Commission licensee, requiring its application to be denied or assessed a demerit in a comparative hearing.

4. *The Applicant's Oppositions.* Focus/Monterey opposes each of the Schuyler pleadings arguing that since the Commission deleted its predesignation issue pleading procedures, the petitions must be denied as procedurally defective. It maintains that any concerns Schuyler may have about the Focus/Monterey proposal should be rasied in a post-designation pleading filed pursuant to § 1.229 of the Commission's Rules. As to the substance of Schuyler's allegations, it states that the concern expressed with regard to the interests of the Ruhes, the Geisslers and Atkins in UPI have been rendered moot by their withdrawal from the applicant pursuant to the amendment filed as a matter of right on November 14, 1983. Moreover, Focus/Monterey states that Schuyler has cited no authority and it is aware of none for the proposition that the principals of a news service such as UPI are prohibited from owning television stations. Similarly, Focus/Monterey denies the allegations of unauthorized transfer of control of the applicant contained in Schuyler's November 29, 1983, petition to deny and asserts that such concerns should be raised, if at all, in a post-designation pleading. Although it recognizes that husbands and wives are subject to a spousal attribution of ownership interests, Focus/Monterey maintains that family relationships alone do not provide a basis for attribution of a common control of ownership interests and therefore, Schuyler has failed to establish such a community of interests between brothers, parents and children, in-laws and cousins within the Allen family. Focus/Monterey states that as a result of its November 14, 1983, amendment less than 50 percent of the applicant's stock has changed hands. The applicant further maintains that even if J. Kenton and Dwight W. Allen, as partners of the Allen Investment Company, are each to be attributed with the 15.01 percent interest of the partnership in the applicant as amended, the largest interest held by any individual in Focus/

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[1] Channel 67 is allocated to Salinas-Monterey, California. Seaside is located within 15 miles of Salinas. Although the Commission has abolished its "15 mile rule", the application of Focus Broadcasting of the Monterey Peninsula, Inc. was on file prior to the effective date of the change. Consequently, the "15 mile rule" is applicable to this application. Accordingly, Channel 67 is available for use in Seaside. *Suburban Community Policy*, 53 RR 2d 681, 698 (1983).

[2] See footnote 1, *supra*.

[3] Section 73.3572(b) requires the assignment of a new file number when an amendment to an application results in a transfer of control which would require the filing of "long-form" applications on FCC Form 314 or 315 in the case of an existing station as opposed to a *pro-forma* "short-form" application on FCC Form 316.

[4] Schuyler also maintains that no documentation has been submitted relative to the transfer of stock from the UPI principals to the remaining Focus/Monterey shareholders, thus raising questions of a "continuing involvement" between these parties. However, because the applicant's November 14, 1983, amendment was filed as a matter of right pursuant to § 73.3522(b) of the Commission's Rules, we find no basis for further action on this allegation. See paragraph 9, *infra*.

Monterey would still be a noncontrolling 32.35 percent—Dwight Allen's individual interest (2.33 percent), his interest held jointly with his wife (15.01 percent) and the partnership interest (15.01 percent). See paragraph 7, *infra*.

5. Finally, the applicant asserts that Schuyler's request to specify a character qualification issue against Focus/Monterey because of the unresolved real-party-in-interest against FCI in the Alvin, Texas, proceeding is clearly a matter to be addressed post-designation. Nevertheless, it maintains that the FCI principals have severed their ties with the applicant as a matter of right by the November 14, 1984, amendment and that no interest would be served by examining allegations against persons who are no longer interested parties to this proceeding.

6. *Schuyler's Replies.* In reply to each of the opposition pleadings, the petitioner essentially reiterates its previously raised allegations. It maintains that objections to a "B" cut-off amendment, such as its allegation that Focus/Monterey's November 14, 1983, amendment reflects an unauthorized transfer of control, should be raised at the time it is tendered. Schuyler maintains that because the Allen family is pursuing the Focus/Monterey application as a family project, the Commission must attribute the applicant's stock owned by the individual family members and the Allen Investment Co. to the entire Allen family as a single entity. It asserts that a community of interest is evidenced by not only family relationships, but also the relationships between the Allens and FCI in interrelated commercial television applications and licenses. Schuyler further states that if the Focus/Monterey application is not returned to the processing line in view of its allegations of an unauthorized transfer of control, the Commission must examine the unresolved character issue against the FCI principals and the "growing concentration" of media sources of UPI, contrary to the Commission's ownership policies expressed in § 73.636 of the Rules, against parties who have attempted to sever their ties with the applicant.

7. *Discussion.* As originally filed, the Focus/Monerey application showed that there were 23 persons (including a partnership) with ownership interests. The application was amended on November 14, 1983, to show certain changes in ownership. The effect of the amendment is shown in the following table.

Stockholder	Before amendment (percent)	After amendment (percent)
Jackman L. LeBlanc	15.08	15.08
Jamie L. LeBlanc	15.08	15.08
J. Kenton Allen)		
Mary P. Allen)	5.03	10.00
Douglas P. Allen	1.01	6.00
Dwight W. Allen	1.01	2.33
Dwight W. Allen)		
Carole J. Allen)	1.87	15.01
Dana L. Allen	1.01	6.00
Cheryl E. Allen	1.01	2.33
Carla J. Allen	1.01	2.33
Andrew J. Allen	5.03	10.00
Allen Investment Co.	5.68	15.01
Total	52.82	99.17
Others	47.18	.83

8. From the foregoing, it is apparent that no *de jure* change of control resulted from the November 14, 1983, amendment to the Focus/Monterey application. Less than 50 percent of the applicant's stock changed hands, no individual acquired as much as 50 percent of that stock and the same persons who shared control by virtue of their ownership of 52.82 percent of the stock before the amendment continue to share control by virtue of their ownership of 99.17 percent of the stock. Schuyler's argument that the Commission should attribute the interests of the individual Allen family members and the Allen Investment Co. as a single entity to find that a *de facto* transfer of control has taken place is not persuasive. We find no support for the contention that the relationships between the Allen family and others in various broadcast applications and operations evidence that they operate as a family unit. Our review of the Focus/Monterey application as amended indicates that at least five Allens, Andrew, Carla, Cheryl, Dana and Douglas, have no other attributable broadcast interests other than in this applicant, and that two others, Robert and Marie, have only nonattributable interests in various low-power television and applications. Further, even assuming the contention that the relationship between J. Kenton and Dwight W. Allen requires their interest in Focus/Monterey, along with their wives and the Allen Investment Co., to be attributed as a single entity, Schuyler has nevertheless failed to demonstrate that it is a controlling interest sufficient to find that an unauthorized transfer of control took place. Under that analysis, the largest single interest held in the corporate applicant would be 42.35 percent—Dwight Allen's individual interest (2.33 percent), his interest held jointly with his wife (15.01 percent), the interest of Mary and J. Kenton Allen (10 percent) and the partnerships interest (15.01). Thus, we find that the alleged familial/business relationships between various members of the Allen family is insufficient, on the basis of the materials before us, to create a presumption of a community of interest. *See, e.g., L&S Broadcasting Company et al.*, 6 FCC 2d 535, 537 (1967). *See also, Alexander S. Klein*, 86 FCC 2d 423, 428 (1981); *KTRB Broadcasting Co.*, 46 FCC 2d 605, 607 (1974).

9. Having found that no unauthorized transfer of control of the applicant resulted from the November 14, 1983, amendment to the Focus/Monterey application, it is apparent that that amendment was properly submitted as a matter of right on the "B" cut-off date pursuant to § 73.3572(b) of the Commission's Rules. Therefore, Schuyler's November 14, 1983, petition to deny objecting to parties that have properly withdrawn from the applicant will be dismissed as moot. Inasmuch as we are limited at the pre-designation stage of this proceeding to examine whether the Focus/Monterey application and amendments, as tendered, are acceptable for filing purposes, further discussion of Schuyler's allegations is unwarranted. Those allegations comprise, in essence, a pre-designation petition to specify issues and, as noted by Focus/Monterey, such issue pleadings are no longer permitted. *Revised Processing of Contested Broadcast Applications*, 72 FCC 2d 202, 214 (1979). Therefore, those allegations will be dismissed. This action is without prejudice to Schuyler, however, as it will have an opportunity to raise such allegations, if warranted, post-designation pursuant to § 1.229 of the Commission's Rules. Accordingly, Schuyler's November 29, 1983, petition to deny, "as supplemented," will be denied to the extent indicated herein and dismissed in all other respects.

Schuyler

10. Schuyler specifies Monterey as its community of license and Focus/Monterey specifies Seaside. Consequently, it will be necessary to determine, pursuant to section 307(b) of the Communications Act of 1934, as amended, whether a new station in Monterey or Seaside would best provide a fair, efficient and equitable distribution of television service. If the section 307(b) issue is not determinative (the applications would serve substantial areas in common), the applicants can be considered under the comparative issue.

11. Schuyler is a limited partnership. The general partner is Schuyler Broadcasting Corporation, which is jointly owned by William H. Schuyler

and his wife. They also own all of the stock of Schuyler Communications, Inc., permittee to KSCH(TV) Channel 58, Stockton, California. In order to avoid prohibited overlap of the service contours of these commonly-owned stations (See § 73.636(a) of the Commission's Rules), Schuyler proposes to use a directional antenna to attenuate radiation by the proposed Monterey station toward KSCH(TV). As a result, the maximum-to-minimum ratio in the horizontal plane will be 16.45 db. Schuyler has requested a waiver of § 73.685(e) which limits the maximum-to-minimum ratio to 15 db. Accordingly, an appropriate issue will be specified.

The Competing Applications

12. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. Since the applications are mutually exclusive, the Commission is unable to make the statutory finding that their grant will serve the public interest, convenience, and necessity. Therefore, the applications must be designated for hearing in a consolidated proceeding on the issues specified below.

13. Accordingly, it is ordered, That pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, to be held before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine with respect to Schuyler-Littlefield Broadcasting Company:

(a) Whether circumstances exist to warrant waiver of § 73.685(e) of the Commission's Rules;

(b) Whether, in light of the evidence adduced pursuant to issue (a), the applicant is in compliance with § 73.636(a) of the Commission's Rules.

2. To determine the areas and populations that would receive Grade B or better service from the proposals and the availability of other Grade B services to such areas and populations.

3. To determine, in light of Section 307(b) of the Communications Act of 1934, as amended, which of the proposals would better provide a fair, efficient and equitable distribution of television service.

4. In the event it is concluded from Issue 3, above, that a choice between the applicants should not be based solely on considerations relating to Section 307(b), to determine which proposal would, on a comparative basis, better serve the public interest.

5. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

14. It is further ordered, That the petition to deny filed by Schuyler-Littlefield on November 14, 1983, is dismissed as moot.

15. It is further ordered, That the petition to deny filed by Schuyler-Littlefield on November 29, 1983, as supplemented on December 8, 1983, is denied to the extent indicated herein and dismissed in all other respects.

16. It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

17. It is further ordered, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Roy J. Stewart,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 84-17096 Filed 6-26-84; 8:45 am]

BILLING CODE 6712-01-M

Summit Communication, Inc. and Telecrafter Corp.; Applications for Construction Permits in the Multipoint Distribution Service for a New Station at Gillette, Wyoming; Memorandum Opinion and Order

[CC Docket Nos. 84-601 and 84-602; File Nos. 50077-CM-P-82 and 50125-CM-P-82]

Adopted June 7, 1984.
Released June 20, 1984.
By the Common Carrier Bureau.

1. For consideration are the above-referenced applications. These applications are for construction permits in the Multipoint Distribution Service and they propose operations on Channel 1 at Gillette, Wyoming. The applications are therefore mutually exclusive and, under present procedures, require comparative consideration. There are no petitions to deny or other objections under consideration.

2. Upon review of the captioned applications, we find that these applicants are legally, technically, financially, and otherwise qualified to provide the services which they propose, and that a hearing will be required to determine, on a comparative basis, which of these applications should be granted.

3. Accordingly, it is hereby ordered, That pursuant to section 309(e) of the Communications Act of 1934, as amended, 47 U.S.C. § 309(e) and § 0.291 of the Commission's Rules, 47 CFR 0.291, the above-captioned applications are designated for hearing, in a consolidated proceeding, at a time and place to be specified in a subsequent Order, to determine, on a comparative basis, which of the above-captioned applications should be granted in order to best serve the public interest, convenience and necessity. In making such a determination, the following factors shall be considered: [1]

(a) The relative merits of each proposal with respect to efficient frequency use, particularly with regard to compatibility with co-channel use in nearby cities and adjacent channel use in the same city;

(b) The anticipated quality and reliability of the service proposed, including installation and maintenance programs; and

(c) The comparative cost of each proposal considered in context with the benefits of efficient spectrum utilization and the quality and reliability of service as set forth in issues (a) and (b).

4. It is further ordered, That Summit Communication, Inc., Telecrafter Corporation and the Chief, Common Carrier Bureau, are made parties to this proceeding.

5. It is further ordered, That parties desiring to participate herein shall file their notices of appearance in accordance with the provisions of § 1.221 of the Commission's Rules, 47 CFR 1.221.

6. The Secretary shall cause a copy of this Order to be published in the **Federal Register.**

James R. Keegan,

Chief, Domestic Facilities Division, Common Carrier Bureau.

[FR Doc. 84-17097 Filed 6-26-84; 8:45 am]

BILLING CODE 6712-01-M

[1] Consideration of these factors shall be in light of the Commission's discussion in *Frank K. Spain*, 77 FCC 2d 20 (1980).

[GEN Docket No. 84-607; FCC 84-262]

Preparation for an International Telecommunication Union World Administrative Radio Conference for the Mobile Services; First Notice of Inquiry

Adopted: June 15, 1984.
Released: June 25, 1984.
By the Commission.

Purpose

1. This *Inquiry* is being instituted to begin the Commission's preparations for the upcoming World Administrative Radio Conference (WARC) for the Mobile Services scheduled for 1987, and to invite comments to assist the Commission in developing recommmendations for U.S. proposals for the WARC. The main purposes of this initial *Notice* are: (1) To present the background and preparatory activities leading up to the conference; (2) to solicit comments on issues that should or should not be addressed by the Mobile WARC; and (3) to gather data on the past, current, and projected usage of the high frequency (HF) bands employed by the maritime mobile service. Resolution No. 319 (from the 1983 Mobile WARC) calls for a general review of the HF Bands allocated on an exclusive or shared basis to the maritime mobile service.[1] It is essential that we receive this data from all segments of the maritime industry in order to develop U.S. proposals to address the complexity of issues raised in Resolution No. 319. Future *Notices* in this inquiry proceeding will address other issues to be considered by the conference.

Background

2. The World Administrative Radio Conference (WARC) of 1979 was convened to revise, as necessary, the international Radio Regulations. WARC 79 accomplished only a partial revision of the Radio Regulations, and consequently, it determined to convene a WARC for the mobile services to revise the provisions of the Radio Regulations that relate specifically to these services.[2] A limited Mobile WARC was held in 1983. It addressed essentially only safety and distress matters. The 1982 ITU Plenipotentiary Conference established a six-week Mobile WARC to be convened in August of 1987 (MOB–87) to address the balance of the Radio Regulations pertaining to the mobile services.[3]

It is important to note that the Mobile WARC's of 1983 and 1987 are separate and distinct, and are not first and second sessions. The 39th Session of the ITU Administrative Council in April of this year prepared a list of considerations to be addressed by administrations in preparation for the 1987 Mobile WARC. That list is attached as Appendix 1 to this *Notice*. The Secretary-General of the ITU will issue an official Administrative Council report on conference matters in several months which will include this list of considerations. The agenda for WARC–87 will most likely be adopted by the 40th Session of the Administrative Council in 1985.

Implementation of WARC 79 Final Acts

3. The Final Acts of WARC 1979, which comprise an international treaty, became effective internationally on January 1, 1982, for administrations that ratified the treaty. The United States ratified the treaty on September 6, 1983. In December 1983 the Commission amended Part 2 of the FCC's Rules and Regulations bringing into our domestic Table of allocations the appropriate decisions of the WARC 1979 Final Acts.[4] On this basis we are now beginning our preparation for the 1987 Mobile WARC. There will be a number of related international activities leading up to the conference.

Activities Related to Preparation for the 1987 Mobile WARC

4. After an agenda has been adopted for the Mobile Services conference, it is expected that a special meeting of CCIR Study Group 8 will be proposed for two-three weeks following the final meeting of Study Group 8 in November of 1985. The purpose of this special meeting should be to develop the technical bases for the conference as determined by the agenda and to advise administrations in their preparations for the conference. We anticipate that this special meeting would address all terrestrial mobile, mobile-satellite, radiodetermination, and radiodetermination-satellite services. If a special meeting is not agreed upon, then the final meeting of CCIR Study Group 8 in November 1985 will have to develop the necessary report.

5. The Air Navigation Commission of the International Civil Aviation Organization (ICAO) is currently considering whether to hold a Communications Divisional (Com/Div) Meeting in 1985. If convened, proposed topics for consideration by the meeting include development of the ICAO position for the 1987 Mobile WARC; development of an ICAO position on outstanding ITU resolutions and Recommendations related to the aeronautical mobile and radionavigation services; alignment of ICAO Convention Annex 10 and related documents with the ITU Radio Regulations; and consideration of harmful interference to aeronautical radio services from sources outside the bands allocated exclusively to the aeronautical services. We note that at an April 1981 Com/Div meeting, an initial position was taken by ICAO member states with regard to suggested modifications to the Radio Regulations for consideration at the 1987 Mobile WARC. This initial ICAO position may well be the starting review point if a Com/Div meeting is held.

6. In its March 1984 meeting report to the Maritime Safety Committee, the International Maritime Organization (IMO) Radiocommunications Subcommittee noted that it may have difficulty completing the work requested by the 1983 Mobile WARC for the 1987 Mobile WARC in sufficient time to be considered by administrations in their preparations for this latter conference. However, the Subcommittee will make every attempt to complete its preparations in early 1986.[5] The Subcommittee is preparing a comprehensive list of proposed amendments to the Radio Regulations necessary for the implementation of the Future Global Maritime Distress and Safety System (FGMDSS) or as a consequence of the introduction of the system. IMO is also examining certain non-distress matters in the area of telecommunications.

Maritime Mobile Usage of the High Frequency Bands

7. The United States has long considered the international allotment of maritime HF telephony frequencies to be inadequate. At the World Maritime Administrative Radio Conference, Geneva, 1974 (WMARC 74), the United States took a formal reservation to the Final Acts of the Conference.[6] WMARC

[1] Final Acts of the 1983 Mobile WARC, Geneva.

[2] See WARC 1979 Final Acts, Geneva, Recommendation No. 12 and Resolution No. 202; these are contained in the 1982 Edition of the ITU Radio Regulations.

[3] Resolution No. 1, International Telecommunication Convention, Nairobi, 1982.

[4] See *Second Report and Order*, General Docket No. 80-739, FCC 83-511, 49 FR 2358, adopted November 8, 1983.

[5] See Docket No. 84-45, an on-going proceeding used to prepare for the IMO Radiocommunications Subcommittee meetings.

[6] The reservation reads:

The Delegation of the United States of America formally declares that the United States of America does not, by signature of these Final Acts on its behalf, accept any obligations in respect of the Frequency Allotment Plan for Coast Radiotelephone

Continued

74 adopted a revised Appendix 25, containing a channel allotment plan for coast radiotelephone stations operating in the maritime mobile bands between 4000 and 23000 kHz. The plan allotted each available channel to as many as 35 administrations. In the view of the United States, the plan was unworkable. In actual practice many of the frequencies are subject to interference.

8. This problem continued into the general World Administrative Radio Conference, Geneva, 1979 [WARC 79]. That conference allocated a number of new HF bands to the maritime mobile service.[7] The use of these bands is dependent upon transfer of the existing fixed and mobile services to other bands.[8] The United States, however, in its statement in the Final Protocol, noted that the Conference had failed to provide adequate allocations for the HF maritime mobile service below 10 MHz. The U.S. stated its intention to satisfy maritime mobile requirements in the several HF bands below 10 MHz allocated to the mobile service on a primary basis.

9. The lack of adequate frequencies below 10 MHz and the need to update frequency usage in light of automated communications led Mobile WARC 1983 to adopt Resolution No. 319. This Resolution resulted from a U.S. Proposal to the conference.[9] Mobile WARC 1983 established channeling plans for maritime mobile radiotelephony in the bands 4000–4063 kHz and 8100–8195 kHz based on a 3.0 kHz channel spacing with carrier frequencies on integer multiples of 1 kHz.[10] The conference provided frequencies in the HF maritime mobile bands for use in the FGMDSS.[11] The conference recognized the shortage of radiotelephone frequencies, the congestion and interference on narrow band-direct printing (NB–DP) frequencies, an expected increase in demand for frequencies for duplex and simplex radiotelephony, NB–DP and selective calling (SELCALL) and the importance of keeping frequencies provided for the FGMDSS unchanged as much as possible.[12]

10. Resolution No. 319 specifically tasks the 1987 Mobile WARC to:

A. Carry out a general review and any necessary revision of all HF bands allocated on an exclusive or shared basis to the maritime mobile service.

B. Consider the need for an increase in the number of duplex channels for radiotelephony and narrow-band direct-printing and for additional frequencies for SELCALL.

C. Consider whether 3.0 kHz channel spacing should be used for the future revision of the HF radiotelephone channeling plans, with normal carrier frequencies on integer multiples of 1 kHz.

D. Make every effort to retain unchanged frequencies available for FGMDSS when revising maritime mobile sub-allocations and channeling plans.

11. Within the existing exclusive maritime mobile bands an increase in the number of duplex telephony and NB–DP channels and in frequencies for international SELCALL can only be obtained by revising channels currently indicated for use by international manual Morse Code telegraphy and by using frequencies shared with the fixed service in the 4000 and 8000 kHz bands. This is so because the Resolution considers that the FGMDSS frequency designation made by the 1983 Mobile WARC should remain unchanged, that telephony, NB–DP and SELCALL requirements are increasing, and because a transition in channel spacing in telephony from 3.1 kHz to 3.0 kHz will not significantly increase the number of telephony channels available. Moreover, it is necessary to reallocate approximately 16 continuous wave (CW) radiotelegraphy frequencies in order to obtain one new radiotelephone frequency at 3.0 kHz channel spacing.

12. In conducting its review and in preparing its proposals for MOB 87, the Commission wishes to consider all aspects of current usage data from public coast stations, limited coast stations and ship stations. The following paragraphs describe specific areas of inquiry.

13. From limited coast stations, we seek usage data regarding the 18 frequencies currently available between 4125.0 and 22136.4 kHz for limited coast station use (see § 81.361 of FCC Rules). Such data should include the number of frequencies actually in use, the hours each frequency is in use, the duration and number of calls per hour, the amount of congestion, and the amount of interference experienced by virtue of both domestic sharing and international use assessed separately.

14. From public coast stations, we seek usage data concerning telephony, telegraphy and NB–DP. For each mode of operation, the data should include the number of frequencies actually in use, the hours these frequencies are in use, the duration and number of calls per hour, congestion, and the separate consideration of both domestic and international interference problems.[13]

15. From ship operators, we seek usage data concerning all modes of use, simplex or duplex, the hours of use, congestion and interference problems.

16. From all sources, we seek projections of HF maritime requirements. Whenever possible, these projections should be based on usage trends. We also seek comments on the following specific topics:

a. The advisability of establishing loading criteria as a basis for assigning or reassigning frequencies.

b. The advisability of reassigning frequencies which are or become available by virtue of the closure of stations providing manual Morse radiotelegraphy.

c. The current and projected need for wide band telegraphy (facsimile or other).

d. Anticipated problems and possible solutions which would result from the sharing with the fixed service of the bands 4000–4063 kHz and 8100–8195 kHz.

e. The advisability of proposing various transmission modes, e.g., manual Morse, NB–DP, telephony, within the same frequency bands.

f. Ideas as to how the new WARC 79 HF bands should be subdivided among

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Stations Operating in the Exclusive Maritime Mobile Bands between 4,000 kHz and 23,000 kHz and the associated implementing procedures, and that, although the United States of America will observe the provisions of the Plan and implement procedures to the extent practicable, pending the results of a future World General Administrative Radio Conference, the United States of America reserves its right to take such measures as may be necessary to protect its maritime radiotelephony interests.

Final Acts of the World Maritime Administrative Radio Conference, Geneva, 1974; ITU Geneva at p. 349. The United States indicated at the time of depositing its ratification to the 1979 WARC with the ITU that this reservation is still applicable.

[7] The new bands, as shown in the *Report and Order* in General Docket No. 80–739, supra at (4), in US 235, are as follows: 12230–12330, 16360–16460, 17360–17410, 18780–18900, 19680–19800, 22720–22855, 25110–25210 and 26100–26175 kHz. The WARC also allocated the bands 4000–4063 kHz and 8100–8195 kHz for use by the maritime mobile service on a shared basis with the fixed service. These latter bands are now available for maritime mobile use in the U.S.

[8] See Radio Regulation Nos. 532 and 544, and Resolution No. 8.

[9] See Resolution (B), *Report and Order*, Doc. 80–184 47 FR 31064 adopted June 23, 1982.

[10] Current channeling plans in the existing exclusive maritime mobile bands are based on spacing of 3.1 kHz.

[11] These frequencies are set forth in Article 38 of the Final Acts of the MOB 83 WARC.

[12] These frequencies are set forth in Article 62 of the Final Acts of the MOB 83 WARC.

[13] In May 1983, we surveyed all public coast stations and 20 percent of limited coast stations selected at random to determine the number of messages, by hour and by type, to assist in determining the number of required SELCALL frequencies. The results of the survey are provided here as Appendix 2 to this *Notice*. This survey did not seek message length or use trends which are requested by this *Notice*.

the various operational maritime mobile user categories.

Public Advisory Committee

17. A public advisory committee could prove to be valuable in providing information for the formulation of U.S. proposals, particularly in the Maritime Mobile HF data collection activity. The public is invited to comment on the desirability of forming such a committee.

18. The federal departments and agencies will, within the IRAC and under the sponsorship of the NTIA, develop parallel recommended proposals for the 1987 Mobile WARC to meet their mobile, mobile-satellite, and radio-determination needs.

Conclusion

19. In preparation for the WARC for the Mobile Services to be held in 1987, the Commission seeks data concerning the Maritime Mobile usage of the high frequency bands, and input from the public on issues that should be explored by the conference.[14] In this latter case, we ask that parties refer to Appendix 1 and submit comments on whether the item should be considered by the 1987 Mobile WARC itself. At this time we are not requesting an in-depth exploration of matters contained on the list of issues. Parties may also wish to suggest other items for inclusion on the list. The Commission will develop its proposals in coordination with the National Telecommunication and Information Administration (NTIA) for onward transmission to the Department of State as recommended U.S. proposals to be sent to the ITU for consideration at the Mobile WARC. This proceeding is being initiated to develop U.S. proposals for the conference. It will not promulgate any changes to the Commission's Rule and Regulations. In response to conference action, however, changes may occur to the FCC's Rules and Regulations through further docket proceedings.

Administrative

20. Pursuant to the authority set forth in sections (4)i, 303, and 403 of the Communications Act of 1934, as amended, it is ordered that a Notice of Inquiry is hereby adopted.

[14] Affected Appendices of the International Radio Regulations are Appendix 16 (simplex and duplex telephony channelization), Appendix 25 (Telephony allotment plan); Appendix 31 (Table of frequencies from 4–27.5 MHz allocated exclusively to the maritime mobile service); Appendix 32 (NB–DP paired channeling); Appendix 33 (NB–DP non-paired channeling); Appendix 34 (Table of frequencies assignable for manual Morse telegraphy calling); and Appendix 35 (Table of frequencies assignable for manual Morse telegraph working).

21. Pursuant to applicable procedures set forth in § 1.430 of the FCC's Rules, persons interested in submitting comments to this Notice may do so on or before August 10, 1984; reply comments may be submitted on or before September 10, 1984. Although § 1.419 of the Commission's Rules requires responses will be available for public review during regular business hours in the FCC's Public Reference Room at 1919 M Street NW., Washington DC. Point of contact in this proceeding is Lawrence Palmer, 202/653–8102.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix 1—Considerations of Items of Concern for Preparation for the World Administrative Radio Conference for The Mobile Services, Geneva, 1987 [1]

1. The agenda for the World Administrative Radio Conference, Geneva, 1979, items 1–3, excluded from revision certain articles of the Radio Regulations and certain appendices thereto relating to singel radio services, including the mobile services.

2. The agenda for the World Administrative Radio Conference for the Mobile Services, Geneva, 1983, concentrated mainly upon matters relating to distress and safety communications.

3. As a consequence, certain provisions of the Radio Regulations and certain appendices thereto have not been reviewed since the Ordinary Administrative Radio Conference, Geneva, 1959.

4. Recommendation No. 204 of the World Administrative Radio Conference, Geneva, 1979 as susperseded by Recommendation No. 204 of the World Administrative Radio Conference for the Mobile Services, Geneva, 1983, refers to certain anomalies and the need to bring the Radio Regulations into accord with the needs and practices of the mobile services concerned.

5. There are numerous other Resolutions and Recommendations of the World Administrative Radio Conference for the Mobile Services, Geneva, 1983, many of which request consideration and decision by the next competent World Administrative Radio Conference, i.e. the WARC–MOB 1987.

6. It would, in broad terms, be necessary for that Conference:

(a) To review and, where necessary, revise those parts of the Radio Regulations and certain appendices thereto pertaining to the mobile services, which were excluded from a full review and revision by the World Administative Radio Conference, Geneva, 1979;

(b) To review and, where necessary, further revise those parts of the Radio Regulations which were open to review and revision by the World Administrative Radio Conference for the Mobile Services, Geneva, 1983;

(c) To ensure that, in reviewing and revising the provisions of Chapters IX, X, XI and XII of the Radio Regulations and certain appendices:

(i) The anomalies highlighted in Recommendation No. 204 of the World Administrative Radio Conference for the Mobile Services, Geneva, 1983, are dealt with;

(ii) These four chapters are brought into accord with the current needs and practices of the mobile services concerned;

(d) To review and take appropriate action upon the following Resolutions and Recommendations of the World Administrative Radio Conference, Geneva, 1979, and the World Administrative Radio Conference for the Mobile Services, Geneva, 1983:

WARC 1979

Resolution Nos. 201, 300, 301, 302, 303, 304, 306, 307, 308, 311, 314, 400, 402, 403, 404, 406, 600, 601;

Recommendations Nos. 7, 9, 203, 300, 301, 302, 303, 304, 305, 306, 307, 308, 310, 311, 313, 400, 405, 406, 600, 605.

WARC for the Mobile Services, 1983

Resolutions Nos. 18, 39, 200, 203, 204, 206, 310, 317, 318, 319, 320, 321, 704;

Recommendation Nos. 204, 313, 314, 315, 317, 604, 713.

[(e) To take into account the results of the Region 1 VHF FM Broadcast RARC that pertain to the aeronautical incompatibility situation]

Appendix 2

The following table summarizes the results of a survey of usage on May 16, 1983 in connection with determining the need for digital selective calling frequencies. The table lists the number of messages by type (manual Morse, voice and radioteletype, ship to shore and shore to ship at public coast stations and the number of telephony messages at limited coast stations.

NUMBER OF MESSAGES, BY TYPE, ON MAY 16, 1983

Hour	Ship to shore				Shore to ship				
	CW	Voice	Rtty	Total	CW	Voice	Rtty	Total	Total
0100	134	173	1,018	1,325	82	121	279	482	38
0200	88	122	1,029	1,239	72	169	411	652	36
0300	134	130	931	1,195	68	143	236	447	18
0400	83	126	646	855	40	99	172	311	16
0500	98	111	498	707	15	93	138	246	14
0600	45	105	245	395	24	42	106	122	13
0700	42	118	142	302	11	33	59	103	10

[1] While this is not the official version, we do not anticipate significant changes from the list that will be forthcoming from the ITU Secretary-General.

NUMBER OF MESSAGES, BY TYPE, ON MAY 16, 1983—Continued

Hour	Ship to shore				Shore to ship				
	CW	Voice	Rtty	Total	CW	Voice	Rtty	Total	Total
0800	25	153	161	339	6	35	66	107	14
0900	26	193	87	306	2	50	34	86	13
1000	51	212	146	409	5	35	36	76	21
1100	29	203	326	558	15	105	153	275	44
1200	55	168	473	696	22	14	134	170	88
1300	115	226	765	1,106	43	228	207	478	83
1400	146	263	758	1,167	55	197	312	564	82
1500	153	394	953	1,500	61	83	362	506	81
1600	176	349	930	1,456	96	218	466	780	54
1700	193	360	959	1,512	46	178	520	744	53
1800	201	409	1,004	1,614	84	181	523	788	59
1900	245	355	1,049	1,649	69	189	552	810	86
2000	130	339	1,232	170	69	235	490	794	72
2100	211	317	1,242	1,770	74	212	489	775	85
2200	114	307	1,267	1,668	107	293	485	885	76
2300	127	233	1,123	1,483	69	163	383	615	77
2400	153	233	1,021	140	175	164	391	730	63

[FR Doc. 84-17115 Filed 6-26-84; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA-713-DR]

Missouri; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Missouri (FEMA-713-DR), dated June 21, 1984, and related determinations.

DATE: June 21, 1984.

FOR FURTHER INFORMATION CONTACT: Sewall H.E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 287-0501.

Notice: Notice is hereby given that, in a letter of June 21, 1984, the president declared a major disaster under the authority of the Disaster Relief Act of 1974, as amended, (42 U.S.C. 5121 *et seq.*, Pub. L. 93-288) as follows:

I have determined that the damage in certain areas of the State of Missouri, resulting from severe storms, high winds and flooding beginning on or about June 6, 1984, is of sufficient severity and magnitude to warrant a major-disaster declaration under Pub. L. 93-288. I therefore declare that such a major disaster exists in the State of Missouri.

In order to provide Federal assistance, you are hereby authorized to allocate, from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance in the affected areas. You also are authorized to provide necessary Public Assistance in the affected areas when these requirements are known and an acceptable State commitment for these purposes is provided. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under Pub. L. 93-288 for Public Assistance will be limited to 75 percent of total eligible costs in the designated area.

The time period prescribed for the implementation of section 313(a), priority to certain applications for public facility and public housing assistance, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, and redelegated to me, I hereby appoint Mr. Joseph E. Hayes of the Federal Emergency Management Agency to act as the Federal Coordinating officer for this declared disaster.

I do hereby determine the following areas of the State of Missouri to have been affected adversely by this declared major disaster:

Buchanan County for Individual Assistance only.

Platte County as an adjacent county for Individual Assistance.

Andrew, Atchison, De Kalb and Holt Counties for Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance. Billing Code 6718-02)

Sanuel W. Speck,

Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 84-17051 Filed 6-26-84; 8:45 am]

BILLING CODE 6718-01-M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, D.C. Office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 10 days after the date of the Federal Register in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 224-003800-002.

Title: Long Beach Marine Terminal Agreement.

Parties:

City of Long Beach
California United Terminals

Synopsis: The amendment modifies the basic agreement by extending for one additional year the modification previously approved under Amendment No. 1, whereby compensation paid by California United Terminals for the use of the assigned premises would be equal to compensation paid by comparable terminals at the Port of Long Beach. In addition, the amendment will even out the compensation payments throughout the year rather than having it paid in the first part of each lease year.

Agreement No.: 224-004076-002.

Title: Los Angeles Marine Terminal Agreement.

Parties:

The City of Los Angeles
Marine Terminals Corporation of Los Angeles

Synopsis: The amendment modifies the basic agreement by deleting 6 acres from Marine Terminal's premises at Berth 231, Terminal Island, California, and adds 6 acres to Evergreen Marine Corporation's premises at Berths 232-236. In consideration for the reduction in acreage, the term of Marine Terminal's lease will be extended by two years from March 31, 1986 to March 31, 1988. Charges due under the Port of Los Angeles Tariff No. 3 will be eliminated.

Agreement No.: 224-004087-001.

Title: Los Angeles Marine Terminal Agreement.

Parties:

The City of Los Angeles
Evergreen Marine Corporation (Taiwan) Ltd.

Synopsis: The basic agreement is modified by the Port of Los Angeles by increasing Evergreen's leased premises by 6 acres at Berths 232-236, Terminal Island. The increase in size necessitated

the concurrent reduction of the terminal area assigned to Marine Terminals Corporation.

Agreement No.: 223–004149–001.

Title: Los Angeles Marine Terminal Agreement.

Parties:

The City of Los Angeles
Maritime Services International
(Pasha Maritime Services)

Synopsis: The amendment modifies the basic agreement by changing the name of the tenant at Berths 178–181, Wilmington, California from Maritime Services International to Pasha Maritime Services, and adding to the premises 16.74 acres at Berths 175–177. The minimum guarantee for compensation will be increased to $298,583 per year.

Agreement No.: 202–005680–036.

Title: Pacific-Straits Conference.

Parties:

American President Lines, Ltd.
A.P. Moller-Maersk Line
Sea-Land Service, Inc.

Synopsis: The proposed amendment restates the previously approved agreement, rearranging and rewording it to the extent necessary to comply with the Commission's interim rules concerning the form and content of agreements.

Agreement No.: 202–006060–028.

Title: Pacific/Indonesia Conference.

Parties:

American President Lines, Ltd.
A.P. Moller-Maersk Line

Synopsis: The proposed amendment restates the previously approved agreement, rearranging and rewording it to the extent necessary to comply with the Commission's interim rules concerning the form and content of agreements.

Agreement No.: 202–009836–015.

Title: Malaysia-Pacific Conference Agreement.

Parties:

American President Lines, Ltd.
A.P. Moller-Maersk Line
Sea-Land Service, Inc.

Synopsis: The proposed amendment restates the previously approved agreement, rearranging and rewording it to the extent necessary to comply with the Commission's interim rules concerning the form and content of agreements.

Agreement No.: 024–010600.

Title: New Orleans Marine Terminal Agreement.

Parties:

The Board of Commissioners of the
Port of New Orleans
Ceres Gulf, Inc.

Synopsis: Agreement No. 024–010600 provides that the Board of Commissioners of the Port of New Orleans (Board) will lease to Ceres Gulf, Inc., (Ceres) premises at Berths 4 and 5, Jourdan Road Terminal, New Orleans. Ceres will use the premises as a public multipurpose cargo handling terminal. The lease will run for five years with an extension option of one additional five-year period. Dockage and wharfage charges will be the same as published in the Board's Dock Department Tariff.

By Order of the Federal Maritime Commission.

Dated: June 22, 1984.

Francis C. Hurney,

Secretary.

[FR Doc. 84–17129 Filed 6–25–84; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

American National Bankshares, Inc., et al.; Formations of; Acquisitions by; 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 Compay, Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (49 FR 794) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the 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 July 19, 1984.

A. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *American National Bankshares, Inc.*, Danville, Virginia; to become a bank holding company by acquiring 100 percent of the voting shares of the successor by merger to American National Bank & Trust Company of Danville, Danville, Virginia.

B. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *White County Bancshares, Inc.*, Cleveland, Georgia; to become a bank holding company by acquiring 100 percent of the voting shares of White County Bank, Cleveland, Georgia.

C. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *First Midwest Bancorp, Inc.*, Joliet, Illinois, to acquire 100 percent of the voting shares of the successor by merger to First National Bank of Carthage, Carthage, Illinois.

D. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Corydon State Bancorp.* Corydon, Indiana; to become a bank holding company by acquiring 100 percent of the voting shares of The Corydon State Bank, Corydon, Indiana.

E. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *American National Bancshares, Inc.*, Waco, Texas; to become a bank holding company by acquiring 80 percent of the voting shares of American National Bank, Waco, Texas.

2. *Bancshares, Inc.*, Houston, Texas; to acquire 100 percent of the voting shares of North Belt National Bank, Harris County, Texas, a *de novo* bank.

3. *National Bancshares Corporation of Texas*, San Antonio, Texas; to acquire 100 percent of the voting shares of Borne State Bank, Borne, Texas.

Board of Governors of the Federal Reserve System, June 21, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc–84–17031 Filed 6–26–84; 8:85 am]

BILLING CODE 6210–01–M

Southtrust Corp.; 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 (49 FR 794) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (49 FR 794) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to

banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

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 July 17, 1984.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *SouthTrust Corporation,* Birmingham, Alabama; to engage *de novo* through its subsidiary, SouthTrust Financial Services, Inc., Birmingham, Alabama, in making and servicing loans; issuance and sale of money orders, savings bonds and travelers checks; securities brokerage services; leasing personal or real property; underwriting credit life, accident and health insurance and insurance sales related to extensions of credit.

Board of Governors of the Federal Reserve System, June 21, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-17032 Filed 6-26-84; 8:45 am]

BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

Agency Information Collection Under Review by the Office of Management and Budget

AGENCY: Office of Policy and Management System, GSA.

ACTION: Notice.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the General Services Administration (GSA) plans to request the Office of Management and Budget (OMB) to review and approve the extension of an existing information collection.

ADDRESS: 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: Sheila M. Dutton, Public Buildings Service, Office of Buildings Management, 202-566-1563.

SUPPLEMENTARY INFORMATION:

1. *Purpose.* Applicants complete GSA Form 3453 to request the use of public space in Federal building for a cultural, recreational or educational activity.

2. *Annual reporting burden.* This is estimated as follows:

3. *Obtaining copies of proposals.* Requestors may obtain copies from the Directives and Reports Management Branch (ATRAI), Room 3007, GS Building, Washington, DC 20405, telephone 202-566-0666.

Dated: June 21, 1984.

William W. Hiebert,

Acting Director, Information Management Division.

[FR Doc. 84-17030 Filed 6-26-84; 8:45 am]

BILLING CODE 6820-34-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

Cooperative Agreement Program for Capacity Building in Occupational Safety and Health for State, Territorial, and Local Public Health Departments

The Centers for Disease Control (CDC) announces that competitive applications are invited for cooperative agreements with State, territorial, and local health departments to enable them to build their capacity in three distinct areas: State initiated occupational health activities, occupational injury and fatility surveillance, and occupational/environmental capacity building activities. The cooperative agreements will be awarded and administered by CDC (jointly by the National Institute for Occupational Safety and Health (NIOSH) and the Center for Environmental Health (CEH)) under the research and demonstration grant authority of section 20(a)(1) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 669(a)(1)) and section 301(a) of the Public Health Service Act (42 U.S.C. 241(a)). Program regulations applicable to these grants are in Part 87, "National Institute for Occupational Safety and Health Research and Demonstration Grants," of Title 42, Code of Federal Regulations. Applications responsive to this announcement are not subject to review as governed by Executive Order 12372, Intergovernmental Review of Federal Programs nor regulations (42 CFR Parts 122-123) implementing the National Health Planning and Resource Development Act of 1974, as amended. It is not expected that Office of Management and Budget clearance will be required for this project.

Background

CDC is the Nation's reference center for disease containment and prevention activities. CDC's disease containment and prevention activities have historically been performed either through or with State and local health agencies, as these political subdivisions have principal responsibility for the protection of public health through regulatory authority and the delivery of public health program services. State and local health departments also possess expertise in both disease surveillance and epidemology. That expertise has developed over the years as a direct response to the problems they are charged with resolving. That expertise can and should be used to address occupational safety and health problems in the States' arena.

In 1982, NIOSH surveyed the 54 State and territorial health agencies in an effect to determine their interest in occupational safety and health activities, their current involvement, and to catalog occupational safety and health activities they would like to perform. Of the 54 surveyed, 40 indicated both an interest and desire in a cooperative venture with NIOSH to perform occupational safety and health activities that were not within the jurisdiction of other State or Federal agencies or other State agencies. To address special occupational health problems within their jurisdiction, the States and territorial health agencies proposed activities in the areas of surveillance, since State laws and regulations govern the reporting of basic vital statistics and disease morbidity; epidemiology, in which they have expertise; and special projects, which weds their surveillance systems with

their expertise in epidemiology. The State's desire to perform these activities is based upon their mandate to protect the public's health, in the workplace or elsewhere.

In addition to the two occupational safety and health components found in this request, joint occupational and environmental projects are being supported. Historically, there has been a long series of occupational and environmental health problems requiring the response and cooperation of State and local public health agencies and CDC. These occasions have arisen in industrial and agricultural settings and chemical waste areas where pollution and danger threatened the health of workers, the general population, and the environment all at the same time. Proper responses to these continuing events require improved State capacity in terms of technologic expertise, experienced staff, and uniform methodological approaches.

I. Purpose

This cooperative agreement program is an effort to assist State and local health departments in certain occupational safety and health programs and in the expansion of State capacities in the area of occupational and community environmental public health. This program is intended to assist these agencies in developing and sustaining components to identify, control, contain, or prevent occupationally-related morbidity and mortality. Emphasis is placed upon three areas: State initiated occupational safety and health acitivities, occupational fatality and injury surveillance, and occupational/environmental capacity building activities. In addition, the CDC acknowledges the fact there is often more than one State agency involved in activities addressing environmental and occupationally related morbidity/mortality due to injury or illness. Most favorable consideration will be given to those applications that define the participatory role of other State agencies, NIOSH Educational Resource Centers, and other public and private organizations whose commitment is necessary for project completion. The application should be accompanied by letters of endorsement from those participating agencies and organizations.

II. Collaborative Activities

A. Scope—State Initiated Occupational Health Activities

1. It is recognized that the State Initiated Occupational Safety and Health Activities category is broad in its range. The three activities listed under this category (i.e., Surveillance of Occupational Disease and Conditions; Occupational Epidemiology; and Special Projects) are provided only as examples for the applicants and do not represent distinct subgroups in this category.

2. The applicants should address one or more of the Top Ten Leading Work-Related Diseases and Injuries as defined below:

a. Occupational Lung Diseases: asbestosis, byssinosis, silicosis, coal workers' pneumoconiosis, lung cancer, occupational asthma.

b. Musculoskeletal Injuries: disorders of the back, trunk, upper extremity, neck, lower extremity, traumatically induced Raynaud's phenomenon.

c. Occupational Cancers (other than lung): leukemia; mesothelioma; cancers of the bladder, nose, and liver.

d. Amputations, fractures, eye loss, lacerations, and traumatic deaths.

e. Cardiovascular Diseases: hypertension, coronary artery disease, acute myocardial infaraction.

f. Disorders of Reproduction: infertility, spontaneous abortion, teratogenesis.

g. Neurotoxic Disorders: peripheral neuropathy, toxic encephalitis, psychoses, extreme personality changes (exposure-related).

h. Noise-induced loss of hearing.

i. Dermatologic Conditions: dermatoses, burns (scaldings), chemical burns, contusions (abrasions).

j. Psychologic Disorders; neuroses, personality disorders, alcoholism, drug dependency.

3. *Surveillance of Occupational Disease and Conditions (Counting and Dissemination).* Each State health department has at least one surveillance system within their agency over which they have legal authority. In addition, most State health departments have access to data bases in sister State agencies. Funds will be provided to reconfigure the existing system and to defray expenses connected with merging existing data bases available from sister State agencies so that occupationally-related morbidity and mortality can be identified. The occupationally-related morbidity and/or mortality events to be tracked can be one or numerous but the selected events must address either a perceived or actual occupational health or safety problem(s) within their jurisdiction. Examples of this activity could include tracking one or more of the Sentinel Health Events (occupational) as described in the American Journal of Public Health (1983.73(a):1054–1062) matching morbidity/mortality data bases with bases from sister agencies; or tracking one or more of the diseases/injuries listed in the NIOSH "Ten Leading Work-Related Diseases and Injuries."

a. *Recipient Public Health Agency Activities*

i. Design and conduct surveillance activities directed to improve reporting of occupationally-related morbidity and mortality and injuries within the health agency's jurisdiction. In addition, establish a mechanism for information sharing among all interested parties.

ii. All pertinent established information/reporting systems with physicians, hospitals or clinics, cancer registries, laboratories, and other State agencies for identifying and reporting occupationally-related morbidity and mortality should be included.

iii. Prepare a detailed report describing the modifications made to the surveillance system; the disease, condition, and injury entities tracked; a description of the predominate occupationally-related morbidity and mortality found, including a descripition of the population at risk; and the remedial action plan initiated or planned for each of the problems identified and disseminate to other interested public health agencies after collaboration with CDC.

b. *Centers for Disease Control Activities*

i. Collaborate in the design, development, and implementation of the surveillance system, including the selection of diseases and conditions to be tracked, the data bases to be used, and the display format.

ii. Collaborate in the design, development, and implementation of reporting systems.

iii. Collaborate in the dissemination of the recipient's final report to other States with similar characteristics in an attempt to interest other States in similar activities.

4. *Occupational Epidemiology (Hypothesis Generating).* States possess varying levels of epidemiologic expertise. This expertise was developed in response to the States' mandate to protect the public health of their constituents. Currently in most States, that expertise is primarily in the area of infectious disease and nonoccupational chronic disease. Those same epidemiologic principles can be applied to occupationally-related morbidity and mortality. Funds will be provided to assist States in applying epidemiologic methods to those problem(s) defined through the surveillance system or based upon other supportable information/data. Favorable

consideration will be given to those applications that address problems with practical solutions as opposed to those emphasizing long-term research activities with no known solution. Examples of this activity would include matching excessive occupationally-related morbidity/mortality to an occupation, population and/or geographic area; and duplicating previous studies in targeted populations, industries, or occupations for which solution to the problem(s) can be applied (such as health care providers exposure to waste anesthetic gasses). Most favorable consideration will be given to proposals relating to the Top 10 previously listed and issues of occupational-envrionmental concern. Emphasis should be placed on both service delivery and building State capacity in these areas.

a. *Recipient Public Health Agency Activities*

i. Design, develop, and implement an epidemiolgic hypothesis(es) around known or suspected occupationally-related morbidity and mortality within their jurisdiction. Knowledge of the excessive morbidity/mortality will be derived from the existing surveillance system or other supportable information/data.

ii. The problem(s) addressed must have a reasonable and achievable solution(s).

iii. The applicant must prepare a detailed report describing the problem(s) addressed, a suggested remedial action plan, and the proposed outcome, and disseminate to other interested public health agencies after collaboration with CDC.

b. *Centers for Disease Control/NIOSH Activities*

i. Collaborate in the selection of problem(s) and design of the epidemiologic plan.

ii. Collaborate in the selection of the remedial action plan.

iii. Collaborate in the dissemination of the recipient's final report to other States with similar characteristics and problems in an attempt to interest other States in similar activities.

5. *Special Projects (Hypotheses Testing).* Funds will also be provided to enable States to undertake special projects targeted to specific industries, occupational hazards, or populations within their jurisidiction. The special projects should be based on supportive data indicating a potential problem. These special projects should be of a short-term nature and should provide a resolution to the problems identified. This activity will involve extensive field work—"hands-on activity." Examples of this activity might include measuring exposure levels in a targeted industry, occupation, or population; performing medical evaluations of targeted population; implementation of remedial actions; or conducting epidemiologic surveys based on available data or questionnaires.

a. *Recipient Public Health Agency Activities*

i. Design, develop, and implement epidemiologic study(ies) targeted at a specific industry, hazard, or population. The project must have a beginning and end point with an achievable resolution to the targeted problem.

ii. The project must be sufficiently defined to withstand intense scientific scrutiny.

iii. The applicant must prepare a detailed report describing the problem(s) addressed, the remedial action applied, and the outcome, and disseminate to other interested public health agencies after collaboration with CDC.

b. Centers for Disease Control/NIOSH Activities

i. Collaborate in the selection of problem(s), design of the study(ies), and remedial action.

ii. Assure scientific integrity of the study.

iii. Collaborate in the dissemination of the recipient's final report to other States with similar characteristics and and problems in an attempt to interest other States in similar activities.

B. Occupational Injury and Fatality Surveillance

1. A second category for which applications will be accepted is in the area of fatality and injury surveillance. The Division of Safety Research (DSR) of NIOSH has adopted a long-term commitment to improve the surveillance and epidemiology of fatal occupational (work-related) injuries. DSR is particularly interested in expanding the data bases from which estimates of occupational traumatic injury fatalities are made. To accomplish this goal, DSR has identified a series of studies and data analyses which may improve their ability to accurately assess the extent of work-related fatal and other serious disabling injuries. Examples of mortality data studies include:

—Standard mortality ratio and proportionate mortality ratio analyses in specific State or other regional jurisdictions which assess occupational and industrial injury risk. Such analyses entail the coding of death certificates by work-relatedness of injury as a cause of death and populations of workers employed by occupational and industrial classifications.

—Death rates for occupational injury fatalities, where feasible, by occupation, industry, age, and sex.

—Linkage of death certificate, medical examiner report, hospital discharge report, and emergency room report systems to OSHA generated or other State agency generated accident investigation reports.

—State, city, or other jurisdictional assistance with DSR's Fatal Accident Circumstances and Epidemiology program. Currently, DSR works with collaborating medical examiners to identify cases for study relatively sson after a fatal occupational injury occurs. A case-comparison study based on the findings is planned, and State and city health personnel may benefit from the participation.

—Examples of morbidity data studies include:

—Special studies of interest which link high injury-risk industries and occupations specific to the State or city to population variables, health effects, and exposures. Case-comparison studies of specific natures of injury, such as amputations and fractures, or of specific injury types, such as falls, caught-in types, and overexertion types of injury are encouraged.

a. *Recipient Public Health Agency Activities*

i. Design and conduct surveillance activities in line with the above examples.

ii. Pursue, develop, and maintain relationships with sister State agencies to assure that all data available are included in the surveillance activity.

iii. The applicant must prepare a detailed report describing any modifications made to the surveillance system; the injuries, fatalities, occupations, and risk factors tracked; a description of the predominant occupationally-related injury(ies) found, including a description of the population at risk; and the remedial action plan initiated or planned for each of the problems identified, and disseminate to other interested public health agencies after collaboration with CDC.

b. *Centers for Disease Control activities*

i. Collaborate in the design, development, and implementation of the injury surveillance system including the selection of injuries and their causes to be tracked, the data bases to be used, and the display format.

ii. Assist, to the limit of resources available, in the training of State and local agency personnel in coding procedures and all other highly technical aspects of the proposed activities.

iii. Collaborate in the dissemination of the recipient's final report to other States with similar characteristics in an attempt to interest other States in similar activities.

C. Occupational/Environmental Capacity Building

CDC (NIOSH and CEH) has developed numerious programs during past years to improve surveillance, evaluate hazards and exposure, and implement prevention techniques. Continued progress can best be achieved through development of appropriate technology in the States. Certain Federal legislation related to hazardous substance control programs such as the Comprehensive Enavironmental Response Compensation and Liability Act (Superfund), define certain Federal and State relatinships and responsibilities but do not cover all environmental and occupational problems within a State's jurisdiction.

Funds will be provided to applicants to assist them in performing some or all of the following activities:

1. *Laboratory*

Each State health department has some laboratory capacity for performing measurements on environmental or biological samples for assessing potential human exposure to environmental toxicants. Funds will be provided to assist State laboratories to increase their analytical capacity for investigating problems related to environmental/occupational public health. Favorable consideration will be given to those studies that address problems with practical solutions as opposed to proposals emphasizing long-term research activities. Most favorable consideration will be given to proposals relating to the development of technology for measuring body burdens of environmental toxicant sin human tissues and fluids; the development of technology for the organ-specific diagnosis of health effects associated with potential exposure to environmental toxicants; the acquisition of basic information required for the selection of appropriate laboratory tests; and the devlopment of quality control/quantity assurance programs for laboratory generated data associated with environmental health studies. Proposals are invited on studies in population subgroups relating to measuring tissue polychlorinated biphenylenes, dioxins, and furans, and assessing biochemical markers of disease associated with toxic liver and kidney States. Emphasis should be placed on both service delivery and building State capacity in the areas.

a. *Recipient Public Health Agency Activity*

i. Design, develop, and implement a laboratory study around known environmentally and occupationally related population health problems within their jurisdiction.

ii. The applicant must prepare a detailed report on the study, suggest improvements that can be made in the study, and propose how a similar study can best be implemented in other States. The applicant must disseminate this report to other interested public health agencies after collaboration with CDC.

iii. The collaborating groups will prepare appropriate publications.

b. *Centers for Disease Control Activities*

i. Collaborate in the selection of problem(s) and design of the study.

ii. Collaborate in the design, development, and implementation of data handling and reporting systems.

iii. Collaborate in the preparation of appropriate publications.

2. *Surveillance*

There are a number of existing data and data bases available in States which, when combined in some way, could be used to identify occupational/environmental hazards. There are a number of priority chemicals that need to be identified for data base development. Their exposure pathways and human toxicity must be defined as well as other relevant information as a basis for public health action. Funds will be provided to assist States for merging existing data bases for expanding the surveillance to include additional priority chemicals that pose a public health threat to the worker, the population at large, and the environment.

a. *Recipient Public Health Agency Activities*

i. Design surveillance systems and conduct surveillance activities directed to improved reporting of environmentally and occupationally related morbidity and mortality, within the agency's jurisdiction. Expand existing systems by adding priority chemicals. In addition, establish a mechanism for information sharing among all interested parties.

ii. Include all established systems with physicians, hospitals or clinics, cancer registries, laboratories, and other State and local agencies for identifying and reporting environmentally and occupationally related morbidity and mortality.

iii. The applicant must prepare a detailed report describing the modifications made to the surveillance system; the disease, condition, and injury entities tracked; a description of the principal environmentally and occupationally related morbidity and mortality types identified, including a description of the population at risk; and a remedial action plan initiated or planned for each of the problems identified and disseminate to other interested public health agencies after collaboration with CDC.

b. *Centers for Disease Control Activities*

i. Collaborate in the design, development, and implementation of the surveillance system including the selection of diseases, conditions, and chemical exposures to be tracked, the data bases to be used, and the display format.

ii. Collaborate in the design, development, and implementation of reporting systems.

iii. Collaborate in the dissemination of the recipient's final report to other State and local public health agencies with similar characteristics to create interest of others in similar activities.

3. *Special Projects*

The application of pesticides is probably the best example of the kinds of projects addressed in this section. In this single event, when pesticides are improperly used, those applying the pesticide—the ground crew, the environment, and in the case of food stuffs, the consumer—could suffer harmful effects. In this third category, CDC will provide funds for duly constituted public health agencies to identify, address, and resolve these and similar problems that are clearly environment/occupational as opposed to those that are clearly either environment or occupational.

a. *Recipient Public Health Agency Activities*

i. Design, develop, and implement epidemiologic study(ies) targeted at a specific industry, hazard, or population that involves both occupational and environmental threats to the public's health. The project must have a beginning and an end point with an achievable resolution to the targeted problem.

ii. The project must be sufficiently defined to withstand scientific scrutiny.

iii. The applicant must prepare a detailed report describing the problem(s) addressed, the remedial action applied, and the outcome, and disseminate to other interested public health agencies after collaboration with CDC.

b. *Centers for Disease Control/NIOSH Activities*

i. Collaborate in the selection of problem(s), design of the study(ies), and remedial action.

ii. Assure scientific integrity of the study.

iii. Collaborate in the dissemination of the recipient's final report to other States with similar characteristics and problems in an attempt to interest other States in similar activities.

III. Specific Long-Term Objectives of the Program

A. Surveillance of Occupational Disease and Conditions

Once the recipient's existing surveillance system is reconfigured for identification of occupationally-related disease and injury, and a system developed to disseminate the information to the appropriate people, the system will continue.

B. Occupational Epidemiology

The scope of the States' epidemiologic expertise will be expanded to include occupationally-related disease and injury.

C. Laboratory

Laboratory capacity will be expanded to include performing measurements on biologic samples for assessing potential human exposure to environmental toxicants.

D. Special Studies and Demonstration Program Development

Methodologies used to resolve specific environmentally and occupationally related disease and injury problems will have applicability to other targeted problems and can serve as models for other States and communities.

Eligibility Requirements

Eligible applicants for all categories are limited to all duly constituted public health agencies that are officially recognized as such, including local health departments, county health departments, city-county health departments, district health departments, and State and territorial health departments.

Availability of Funds

It is anticipated that approximately $1 million will be available in Fiscal Year 1984 to fund all three categories. Individual project awards are expected to range from $20,000 to $40,000 in the State Initiated category (5 to 10 awards), $25,000 to $50,000 in the injury and accident category (2 to 4 awards), and $50,000 to $150,000 in the Occupational/Environmental category (2 to 6 awards). Second through fifth year funding will depend upon the amount of available funds.

Methods and Criteria for Review

The review of applications will be conducted in accordance with PHS Grants Administration Manual Chapter PHS: 1–507, Objective Review of Grant Applications. An ad hoc committee will be convened to determine the technical and scientific merit of the applications. Applications meeting the requirements for funding as outlined in the Purpose and Long-Term Objective Section will be evaluated and ranked for funding based upon the following factors:

—That the application addresses a problem directly related to one or more of the Ten Leading Work-Related Diseases and Injuries as defined by NIOSH for application submitted in the State Initiated Activity;

—That the application contains project objectives that are clearly established, obtainable, and for which progress toward attainment can and will be measured;

—That the applicant sufficiently details the development and implementation of the submitted project including an accurate listing of available data banks;

—That the applicant describe the size, qualifications, and time allocations of the proposed staff;

—That the applicant provides a proposed schedule for accomplishing the activities of the cooperative agreement including timeframes;

—That the applicant describes the degree to which the project can be expected to yield or demonstrate results that will be useful and desirable on a State or local basis;

—That the applicant provide a detailed description of how the project will be administered and evaluated;

—That health departments' occupational safety, health, and environment components created as a result of this activity will be judged according to the extent they they remain after funding ceases; and

—That the applicant sufficiently describes the severity of the problem, the estimated number of people affected, originality in approach, and methods to problem resolution.

Submission of Applications

The original and two copies of the application must be submitted on or before August 15, 1984, to Mr. Leo A. Sanders at the address given under **"FOR FURTHER INFORMATION CONTACT."** Applications shall be considered as meeting the deadline if they are either:

1. Received on or before the deadline date, or

2. Sent on or before the deadline date and received in time for submission to the independent review group. (Applicants should request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

FOR FURTHER INFORMATION CONTACT:

For application procedures and forms:

Leo A. Sanders, Chief, Grants Management Branch, Procurement and Grants Office, 255 East Paces Ferry Road, N.E., Room 107A, Centers for Disease Control, Atlanta, Georgia 30333, Telephone: (404) 262–6575 or FTS 236–6575

For technical information and assistance:

State Initiated Activities/Occupational Fatality and Injury ;jSurveillance: Phillip W. Strine, Public Health Advisor, Building 1, Room 3120, NIOSH, CDC, Centers for Disease Control, Atlanta, Georgia 30333, Telephone: (404) 329–3190 or FTS 236–3190

Occupational/Environmental: Arthur Jackson, Deputy Director, CEH, CDC, Centers for Disease Control, Atlanta, Georgia 30333, Phone: (404) 452–4111 or FTS 236–4111

(The applicable Catalog of Federal Domestic Assistance Program Number is 13.262, Occupational Safety and Health Research Grants)

Dated: June 18, 1984.

Jeffrey P. Koplan,

Acting Director, Centers for Disease Control.

[FR Doc. 84-17118 Filed 6-26-84; 8:45 am]

BILLING CODE 4160-19-M

Food and Drug Administration

[Docket No. 76N-0462]

American Cyanamid Co.; Refusal To Approve Supplemental New Animal Drug Application; Availability of the Commissioner's Decision

AGENCY: Food and Drug Administration.

ACTION: Notice of availability of Commissioner's decision.

SUMMARY: The Food and Drug Administration (FDA) is announcing that the Commissioner of Food and Drugs has issued his final decision concerning a supplemental new animal drug application (NDA) for Proban Cythioate Oral Liquid, 1.6% ("Proban") submitted by the American Cyanamid Co. The Commissioner has determined that the supplemental NADA for Proban should not be approved. The decision therefore affirms the initial decision of the Administrative Law Judge, which held that the submission seeking Proban's approval failed to satisfy the Federal Food, Drug, and Cosmetic Act's safety and effectiveness requirements for new animal drugs. Differences between the Commissioner's and the Administrative Law Judge's opinions are specifically identified in the Commissioner's decision.

DATE: Effective June 20, 1984.

ADDRESS: The Commissioner's decision, including the final order, and all other documents related to the decision, 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.

FOR FURTHER INFORMATION CONTACT: Theodore E. Herman, Regulations Policy Staff (HFC-10), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-34880.

SUPPLEMENTARY INFORMATION: This notice is issued in accordance with 21 CFR 12.130(e).

Dated: June 21, 1984.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 84-17040 Filed 6-22-84; 11:05 am]

BILLING CODE 4160-01-M

[Docket No. 84C-0192]

DOW Corning Ophthalmics, Inc.; Filing of Color Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Dow Corning Ophthalmics, Inc., has filed a color additive petition proposing that the color additive regulations be amended to provide for the safe use of 4-[(2,4-dimethylphenyl)azo]-2,4-dihydro-5-methyl-2-phenyl-3H-pyrazol-3-one for coloring silicone resin contact lenses.

FOR FURTHER INFORMATION CONTACT: Andrew D. Laumbach, Center for Food Safety and Applied Nutrition (formerly Bureau of Foods) (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 706(b)(1), 74 Stat. 399-402 as amended (21 U.S.C. 376(b)(1))), notice is given that a color additive petition (CAP 4C0180) has been filed by Dow Corning Ophthalmics, Inc., P.O. Box 1767, Midland, MI 48640, proposing that the color additive regulations be amended to provide for the safe use of 4-[(2,4-dimethylphenyl)azo]-2,4-dihydro-5-methyl-2-phenyl-3H-pyrazol-3-one for coloring silicone resin contact lenses.

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding may be seen in the Dockets Managment 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.

Dated: June 20, 1984.

Richard J. Ronk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 84-17044 Filed 6-26-84; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 84F-0216]

Halssen & Lyon; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Halssen & Lyon has filed a petition proposing that the food additive regulations be amended to provide for the safe use of ethyl acetate as a solvent in the decaffeination of tea.

FOR FURTHER INFORMATION CONTACT: Partricia J. McLaughlin, Center for Food Safety and Applied Nutrition (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 4A3804) has been filed by Halssen & Lyon, c/o Pine Consultants, Inc., 1905 Pine St., Philadelphia, PA 19103, proposing that § 173.228 *Ethyl acetate* (21 CFR 173.228) be amended to provide for the safe use of ethly acetate as a solvent in the decaffeination of tea.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c) (proposed December 11, 1979; 44 FR 71742).

Dated: June 20, 1984

Richard J. Ronk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 84-17045 Filed 6-25-84; 8:45 am]

BILLING CODE 4160-01-M

Public Health Service

National Toxicology Program Board of Scientific Counselors' Meeting

Pursuant to Pub. Law 92-463, notice is hereby given of the meeting of the National Toxicology Program Board of Scientific Counselors, U.S. Public Health Service, in the Conference Center, Building 101, South Campus, National Institute of Environmental Health Sciences, Research Triangle Park, North Carolina, on July 26, 1984.

The meeting will be open to the public from 10:30 a.m. until adjournment for the purpose of providing peer review of the data from the chronic carcinogenesis bioassay of D & C Red No. 33 in Charles River CD-1 mice and Charles River Sprague Dawley rats. The bioassay was sponsored by the Pharmaceutical Manufacturers Association, conducted by International Research and Development Corporation, and submitted to the Food and Drug Administration (FDA) in support of permanent listing of D & C Red No. 33. The review will be conducted by the Technical Reports Review Subcommittee of the Board in conjunction with an *ad hoc* panel of experts.

The meeting will commence with a brief overview of the studies. This will be followed with presentations by scientific staff from the Center for Food

Safety and Applied Nutrition, FDA, concerning the pathology findings. Sufficient time will be allowed for public comment.

The Executive Secretary, Dr. Larry G. Hart, Office of the Director, National Toxicology Program, P.O. Box 12233, Research Triangle Park, North Carolina 27709, telephone (919) 541–3971, FTS 629–3971, will furnish program information prior to the meeting and summary minutes subsequent to the meeting.

Dated: June 20, 1984.

David P. Rall,

Director, National Toxicology Program.

[FR Doc. 84–17046 Filed 6–26–84; 8:45 am]

BILLING CODE 4140–01–M

National Toxicology Program Board of Scientific Counselors; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of a meeting of the National Toxicology Program (NTP) Board of Scientific Counselors, U.S. Public Health Service, in the Conference Center, Building 101, South Campus, National Institute of Environmental Health Sciences, Research Triangle Park, North Carolina, on July 27, 1984.

The meeting will be open to the public from 9:00 a.m. until adjournment. The primary agenda item is the completion of peer review on draft technical reports of long-term toxicology and carcinogenesis studies from the National Toxicology Program. Reviews will be conducted by the Technical Reports Review Subcommittee of the Board in conjunction with an *ad hoc* panel of experts.

Draft technical reports on the following chemicals (listed alphabetically with Chemical Abstracts Service registry numbers, routes of administration, and NTP chemical managers for each study) are scheduled to be peer reviewed on July 27. Since NTP policy requires that a data audit be performed with a summary of the audit report included in the appendix of the technical report prior to peer review, there is the possibility that not all of the technical reports listed below will be reviewed at this meeting.

Chemical (CAS Registry No.)	Route	Chemical manager (telephone No.)
Asbestos, Chrysotile (12001–29–5).	Feed	Dr. E. E. McConnell (919–541–3267).
Benzene (72–43–2)	Gavage	Dr. J. E. Huff (919–541–3780).
2-Chloroethanol (107–07–3).	Dermal	Dr. D. Goldman (202–382–7835).
1,3-Dichloropropene (Telone II) (542–75–6).	Gavage	Dr. R. Yang (919–541–2947).
Dimethyl Hydrogen Phosphite (868–85–9).	Gavage	Dr. J. Dunnick (919–541–4811).
HC Blue No. 2 (33229–34–4).	Feed	Dr. J. Mennear (919–541–4178).

In addition, the technical report on the toxicology and carcinogenesis studies of 1,1,1-trichloroethane (methylchloroform) (CAS No. 71–55–6) is being revised. If completed in time for the meeting a re-review will be done. This report was reviewed and approved by the Panel in February 1983. However, the subsequent data audit resulted in sufficient changes such that the NTP considers another peer review necessary

The Executive Secretary, Dr. Larry G. Hart, Office of the Director, National Toxicology Program, P.O. Box 12233, Research Triangle Park, North Carolina 27709, telephone (919–541–3971), FTS (629–3971), will furnish final agenda, rosters of subcommittee and panel members, and other program information prior to the meeting, and summary minutes subsequent to the meeting.

Dated: June 20, 1984.

David P. Rall, M.D., PhD.,

Director, National Toxicology Program.

[FR Doc. 84–17047 Filed 6–26–84; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Canon City, Colorado, District Advisory Council; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Canon City District Advisory Council Meeting.

SUMMARY: Notice is hereby given in accordance with Pub. L. 94–579 that a meeting of the Canon City District Advisory Council will be held on Thursday and Friday, July 19 and 20, 1984.

The Council will meet from 1 p.m. to 5 p.m. on July 19 at the Chaffee County Bank Building, 146 G Street, Salida, Colorado. On July 20th from 8 a.m. to 1 p.m. a field trip to view recreation and other uses of public lands along the Arkansas River is planned.

The meeting agenda will include:

1. The Northeast Resource Area Draft Resource Management Plan and Environmental Impact Statement.

2. Briefing on Cooperative Management Agreements.

3. Public presentations to the Council (open invitation).

The meeting is open to the public, transportation for the field trip is the responsibility of the individual. Persons interested may make oral presentations to the Council between 1:30 p.m. Thursday July 19, or they may file written statements for the Council's consideration. The District Manager may limit the length of oral presentations depending on the number of people wishing to speak.

ADDRESS: Anyone wishing to make a presentation to the Council orally or in writing should notify the District Manager, Bureau of Land Management, 3080 East Main (P.O. Box 311), Canon City, Colorado 81212 by July 18, 1984.

SUPPLEMENTARY INFORMATION: Summary minutes of the meeting will be available for public inspection and reproduction during regular working hours at the District Office approximately 30 days following the meeting.

FOR FURTHER INFORMATION CONTACT: Glen Wallace, (303) 275–0631.

Donnie R. Sparks,

District Manager.

[FR Doc. 84–17024 Filed 6–26–84; 8:45 am]

BILLING CODE 4310–JB–M

[C–35468 and C–36846]

Realty Action; Noncompetitive Sale of Public Lands in Chaffee County, Colorado

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action C–35468 and C–36846. Noncompetitive Sale of Public Lands in Chaffee County, Colorado.

SUMMARY: The following described land has been examined and identified as suitable for disposal by sale under Section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750, 43 U.S.C. 1713) at no less than the appraised fair market value:

Serial No.	Parcel	Legal description	Acreage	Appraised value
C–35468	368B	Sixth Principal Meridian, Colorado. T. 11 S., R. 79 W., sec. 31, lots 59 (0.79), 60 (0.34), 61 (0.64), 70 (2.65)	4.42	$6,200
C–36846	368A	T. 12 S., R. 79 W., sec. 34, SW¼SW¼	20.00	$34,850

Parcel 368B is being offered to Walter Maass and Parcel 368A to Franklin

Springer, both by direct sale at the appraised fair market value. No other bids not bidders will be considered or accepted.

The sale to Walter Maass will resolve a long standing, but inadvertent occupancy trespass. Mr. Maass owns three cabins, one his family residence, located on public land. Purchase of this parcel will give him title to the land under occupancy. Disposal by direct sale, rather than by public auction, will protect his equity in the improvements, secure his tenure on the land, and eliminate a hardship that would occur if he were compelled to remove or otherwise dispose of the improvements.

The sale to Franklin Springer will allow better utilization of the isolated public land, which has no public access. Three adjoining landowners expressed no interest in obtaining the parcel, therefore, a direct sale is offered Mr. Springer.

The lands described above have not been used for and are not required for any Federal purpose. The locations and physical characteristics of these parcels make them difficult and uneconomical to manage as public land. Disposal will best serve the public interest. The disposal will be consistent with the existing land use plans of the Bureau. Disposal will not conflict with local planning and zoning regulations.

Each patent issued as a result of the proposed sale will be subject to all valid existing rights and reservations of record; and will contain a reservation to the United States for rights-of-way for ditches and canals constructed by the United States under the Act of August 30, 1890 (26 Stat. 391; 43 U.S.C. 945); and all minerals will be reserved to the United States as required by section 209(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1719). Any patent issued for Parcel 368B will also be subject to those rights granted in the following rights-of-way.

1. Denver and Rio Grande Railroad C-094000, 200 feet wide.
2. Cheffee County Road No. 397, 25 feet wide.
3. Sangre De Cristo Electric Association, Inc., C-38662 powerline, 20 feet wide.

Sale Procedures

The designated bidders, Walter Maass and Franklin Springer, will be required to submit payment of a least 20 percent of the appraised fair market value by cash, certified or cashier's check, or money order to the BLM Canon City District Office, 3080 East Main, P.O. Box 311, Canon City, Colorado 81212, on September 6, 1984. The balance will be due within 30 days payable in the same form at the same location. Failure to submit the remainder of the payment within 30 days will result in cancellation of the sale offering and forfeiture of the deposit.

In addition to the appraised fair market value of the lands, the prospective purchaser of any of the lands offered by direct sale shall be required to pay the cost of publishing this notice in the **Federal Register** and for the three consecutive weeks in the local newspaper. These costs must be paid before a patent will be issued.

Further Information and Public Comment

Additional information concerning this sale, including the planning documents and environmental assessment, is available for review in the Royal Gorge Resource Area Office at 9th and Royal Gorge Boulevard, Canon City, Colorado. For a period of 45 days from the date of this notice, interested parties may submit comments to the District Manager, Canon City District Office, Bureau of Land Management, 3080 East Main, P.O. Box 311, Canon City, Colorado 81212. Any adverse comments will be evaluated by the District Manager, who may vacate or modify this realty action and issue his final determination. In the absence of any action by the District Manager, this realty action will become a final determination of the Department of the Interior.

Donnie R. Sparks,

District Manager.

[FR Doc. 84-17120 Filed 6-26-84; 8:45 am]

BILLING CODE 4310-JB-M

[N-13238]

Airport Lease Amendment; Nevada

June 15, 1984.

Notice is hereby given that pursuant to the Act of May 24, 1928 (49 U.S.C. 211-214), the Sandy Valley Associates have applied to amend its existing airport lease, serial number N-13238 to include the following described lands:

Mount Diablo Meridian, Nevada

T. 25 S., R. 57 E.,
Sec. 8, Lots 6 and 7.

The purpose of this notice is to inform the public that the filing of this application segregated the described public lands from all other forms of appropriation under the public land laws.

For a period of 45 days from the date of this notice, interested persons may submit comments to the Las Vegas District Manager, Bureau of Land Management, P.O. Box 26569, Las Vegas, Nevada 89126.

Kemp Conn,

District Manager.

[FR Doc. 84-17155 Filed 6-26-84; 8:45 am]

BILLING CODE 4310-HC-M

Fish and Wildlife Service

Preparation of Environmental Impact Statement on Proposal To Translocate Southern Sea Otters

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of Intent.

SUMMARY: The U.S. Fish and Wildlife Service has under consideration a proposal to translocate a number of southern sea otters to a site within the species' historic range off the Pacific coast of the United States. In connection with this proposal, the Service intends to prepare an environmental impact statement [EIS]. This notice describes the proposed action and possible alternatives, outlines the scoping process that will be employed in preparing the EIS, and identifies the Service officials to whom questions and comments concerning the proposed action and EIS may be directed.

DATES: Scoping meetings will be held at the following locations on the dates and times indicated:

Date	Time	Location
July 23, 1984	5-9 p.m.	City Council Chambers, De La Guerra Plaza 735 Anacapa St., Santa Barbara, Calif.
July 25, 1984	7-10 p.m.	City Council Chambers, City Hall Complex, Room 6, Corner of Pacific and Madison Sts., Monterey, Calif.

Meetings of the interagency project review team (see **SUPPLEMENTARY INFORMATION** section of this notice) will be held at the following locations on the dates and times indicated:

Date	Time	Location
Aug. 6-7, 1984	10 a.m.-4 p.m. (each day).	Federal Building, Conference Room 13029, 450 Golden Gate Ave., San Francisco, Calif.
Aug. 23-24, 1984	10 a.m.-4 p.m. (each day).	Federal Building, Conference Room 2007, 450 Golden Gate Ave., San Francisco, Calif.

ADDRESSES: Questions and comments should be addressed to Skip Ladd or Carl T. Benz, U.S. Fish and Wildlife Service, Division of Endangered Species, 1230 N Street, 14th floor, Sacramento,

California 95814; Telephone: (916) 440–2791.

Effective July 1, 1984, Mr. Ladd's and Mr. Benz' address will be: U.S. Fish and Wildlife Service, Division of Endangered Species, 2800 Cottage Way, Room E–1815, Sacramento, California 95825.

FOR FURTHER INFORMATION CONTACT: Skip Ladd or Carl T. Benz at the address and telephone number stated above.

Persons desiring to participate in any of the scoping meetings should contact Mr. Ladd or Mr. Benz in writing as soon as possible, indicating the meeting(s) to be attended and the issue(s) of concern regarding the EIS. Interested persons may also participate in the scoping process by submitting written comments to Mr. Ladd or Mr. Benz at the address above. Interested persons are reminded that the primary purpose of the scoping process is to identify, rather than debate or argue, the significant issues related to a proposed action. Additional public hearings or meetings will be held on later dates in order to provide opportunities to comment on the draft EIS.

SUPPLEMENTARY INFORMATION: As recommended in the Southern Sea Otter Recovery Plan, the U.S. Fish and Wildlife Service [Service] is considering a proposal to translocate a number of southern sea otters (*Enhydra lutris nereis*) to a site within the species' historic range off the Pacific coast of Washington, Oregon, or California. The proposed site currently under consideration as the preferred alternative is San Nicolas Island off the coast of southern California. The southern sea otter is listed as a threatened species under the Endangered Species Act, 16 U.S.C. 1531 *et seq.*, and is also protected by the Marine Mammal Protection Act, 16 U.S.C. 1361 *et seq.* The proposed translocation is being considered as means of promoting the conservation and recovery of the species by expanding its population and range, reducing the threats posed by oil spills, pollution and other factors, and yielding valuable data and information concerning the species and its ecosystem.

Description of proposed action. The proposed action would involve issuance of experimental population regulations under section 10(j) of the Endangered Species Act, 16 U.S.C. 1539(j), a permit under the Endangered Species and Marine Mammal Protection Acts, and compliance with the consultation, non-jeopardy, and other provisions of section 7 of the Endangered Species Act, 16 U.S.C. 1536, as well as certain provisions of state law. As currently planned, the proposed translocation would occur in three phases. During the first phase: the existing population would be evaluated with regard to its population structure, range, abundance, and trends; a determination would be made as to the optimum size, age, and sex composition of a translocated population; a translocaton site would be selected; and baseline data would be collected concerning the ecological and socioeconomic aspects of the translocaton site.

The second phase would involve capturing, temporary holding, transportation to the translocation site, and release. Based on the results of past translocation efforts with Alaskan otters in Alaska, Canada, Washington and Oregon, and on the size and status of the existing southern sea otter population, translocation would probably involve 30–50 animals per year for a period of three to five years, depending upon the results of the first year's effort. The principal location of the capturing effort would be based on evaluation of three factors: feasibility of capturing, minimization of impacts on the existing population, and maximizing the probability of success of the translocation. Capture methods would probably include the following techniques or modifications thereof: surface tangle nets, dip nets used from a skiff, and diver-held devices. After capture and before transportation to the translocation site, the otters would be temporarily held in floating pens or shore-based tanks for data collection and marking. Marking would be by flipper tagging. Radio implants could also be employed, depending on safety and utility considerations. Otters would be transported to the translocation site by air. After arriving at the translocation site, the otters would be held and cared for in floating pens for a period of time to allow them to acclimate to the area and recover from the stress of transportation to the site. A small vessel would stand by continuously at the site to provide food and veterinary care for the otters. Translocation would be timed to allow release during late summer or early fall, the best time from the standpoint of weather conditions.

During the third phase, the principal emphasis would be on monitoring and data collection and analysis, containment, law enforcement, and public education. Monitoring, censusing, and/or studies would be done regarding number and distribution of the translocated otters, possible short-term postrelease decline in population, overall population trends, feeding, movement, reproduction and mortality patterns, and effects of the otters on the ecosystem. A substantial effort would be made to insure that the translocated otters remain and become established at the translocation site. Using existing and subsequently developed techniques, dispersing otters would be captured and returned to the translocation site or to the original capture location. A joint federal-state law enforcement program would be implemented to regulate access to the translocation site and protect the otters from harassment and taking. In addition, a joint federal-state education program would be implemented to increase public understanding of sea ottters and related issues. It is anticipated that the third phase would last a minimum of 5 to 10 years.

Possible alternatives. One alternative to the proposed action would be translocation to a different site. In this regard, a study was recently conducted in order to identify possible translocation sites. In addition to the preferred alternative site of San Nicolas Island, the study identified as potential translocation sites: the northern coast of Washington, the southern coast of Oregon, and the northern California coast. Whether any of these sites would be more suitable than the preferred alternative site of San Nicolas Island would depend on a wide variety of factors such as habitat suitability, oil spill risks, fisheries conflicts, natural capacity of the site to limit dispersal, ability to protect, monitor and care for the translocated population, law enforcement capabilities, and other considerations. Regardless of the site selected, the phases and component activities of a translocation would be essentially the same as those discussed above for the proposed action.

A second alternative would be translocation to the preferred alternative site in conjunction with containment of the existing population. This alternative appears to have substantial support from some commercial and sport fishing groups which apparently have concerns regarding the potential impact of expansion of the sea otter's range. However, this alternative would be very controversial because of strong opposition to it by other interested members of the public. In view of the current legal status of the southern sea otter under the Marine Mammal Protection Act and Endangered Species Act, pursuit of this alternative would require significant amendments to those Acts.

A third alternative would be no action. This alternative would avoid the monetary costs and signficant controversy associated with the

proposed action. However, it is questionable whether this alternative would be consistent with the conservation and recovery of the southern sea otter. This alternative would mean a greater probability that the species could be adversely affected by a large-scale oil spill, pollution, and other harmful impacts. In addition, this alternative would place the Service in a position of not responding to accumulating information that the species is no longer growing in population and may be undergoing a modest decline.

A fourth alternative to the proposed action would be to employ mitigation measures and/or regulatory actions other than translocation to promote the conservation and recovery of the southern sea otter. Under this alternative, emphasis would be placed on enhancing the growth of the existing sea otter population by identifying the factors responsible for the present low rate of growth, and then taking management actions appropriate to eliminate or reduce the detrimental influences of those factors. However, it is questionable whether this approach would produce the desired results in a sufficiently short period of time, even assuming that the factors responsible for limiting the growth of the existing population could in fact be identified and acted upon.

Other mitigation or regulatory measures that could be pursued would include: better means of regulating tanker traffic; more and improved oil spill containment equipment; additional rehabilitation centers to care for otters harmed by an oil spill; and increased restrictions on fishing methods and other human activities that result in incidental or other taking of otters. These measures could be pursued either as an alternative to translocation or in conjunction with translocation.

Scoping process. As stated above, the Service is requesting information and comments and holding a number of open meetings in order to determine the scope of issues to be addressed in the EIS and to identify which issues are significant and require in depth analysis and which issues are either not significant or have been adequately covered by prior environmental review. The scoping process will also serve to allocate assignments concerning preparation of the EIS, avoid duplication of effort, and integrate preparation of the EIS into the Service's decision making process.

In addition, the Service is hopeful that the information and discussion generated by the scoping process will help to reduce current controversy and promote consensus concerning proper management of the southern sea otter.

To facilitate identification of issues during the scoping process, interested persons may find review and consideration of the following questions to be useful:

(1) What factors should be addressed in a translocation plan—site, affected environment, number of animals, age/sex ratios, etc.?

(2) To what extent would the Marine Mammal Protection Act, 16 U.S.C. 1361 *et seq.*, apply to a translocated population, and would amendments to that Act or the Endangered Species Act, 16 U.S.C. 1531 *et seq.*, be necessary?

(3) To what extent would sections 7 and 9 of the Endangered Species Act apply to a translocated population?

(4) Would a translocated population be subject to containment?

(5) What would be the legal/regulatory significance of a successful, or unsuccessful, translocation?

(6) What is the current status and trend of the southern sea otter population?

(7) Does conservation of the southern sea otter warrant establishment of a translocated population?

(8) What are the risks to the southern sea otter from oil tanker and development activities, pollution, commercial fishing, other human activities, and natural factors?

(9) To what extent would a translocation reduce such risks?

(10) What level of annual recruitment to the population would be required to carry out a translocation?

(11) What are the alternatives to translocation?

(12) Would translocation itself pose a risk to the sea otter population?

(13) What studies, if any, would be necessary in connection with a translocation?

(14) Can the existing southern sea otter population be contained or zonally managed?

(15) How would translocation of sea otters likely affect the possible translocation sites?

(16) What would be the likely economic impacts of translocation?

As suggested by the Council on Environmental Quality, *see* 48 *FR* 34263–34264 (July 28, 1983), the Service intends to establish an interagency project review team made up of representatives from agencies such as the Service, California Department of Fish and Game, Marine Mammal Commission, and Minerals Management Service to participate in the scoping process and otherwise consult with the Service in the preparation of the EIS. All meetings of the interagency project review team would be open to and provide for participation and involvement by interested members of the public. (See **DATES** section of this notice for a list of the locations, dates and times for the meetings of the interagency project review team.)

The Service anticipates beginning the preparation of a draft EIS in September of 1984. As stated by the Council on Environmental Quality, "[s]ince the key purpose of scoping is to identify the issues and alternatives for consideration, the scoping process should 'end' once the issues and alternatives to be addressed in the EIS have been clearly identified. Normally this would occur during the final stages of preparing the draft EIS and before it is officially circulated for public and agency review." 48 *FR* 34264 (July 28, 1983).

The Service looks forward to working with all interested parties in the preparation of the EIS.

Dated: June 22, 1984.

F. Eugene Hester,

Acting Director, Fish and Wildlife Service.

[FR Doc. 84-17157 Filed 6-26-84; 8:45 am]

BILLING CODE 4310-55-M

Minerals Management Service

Alaska Outer Continental Shelf; Availability of the Environmental Assessment on the Effects of Proposed Outer Continental Shelf Oil and Gas Lease Sale 87, Diapir Field Planning Area

The regulations, 40 CFR 1502.9(c)(1), for implementing the National Environmental Policy Act, as amended, require that a Federal Agency "shall prepare supplements to either the draft or final environmental impact statements (EIS's) if: (i) The Agency makes substantial changes in the proposed action that are relevant to environmental concerns; or (ii) There are significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts."

The Minerals Management Service has reviewed the information in the subject Environmental Assessment (EA) and the information in the final EIS for this proposed sale and determined that a supplemental EIS is not required. Copies of the EA may be obtained by written request to Minerals Management Service (MS–644), 12203 Sunrise Valley Drive, Reston, Virginia 22091, or by

phone request to the Minerals Management Service, Environmental Evaluation Branch, (202) 343–6264.

Dated: June 15, 1984.

William D. Bettenberg,

Director, Minerals Management Service.

[FR Doc. 84–17018 Filed 6–26–84; 8:45 am]

BILLING CODE 4310–MR–M

Training and Qualifications of Personnel in Well-Control Training

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of approved well-control training schools.

SUMMARY: As published in the **Federal Register** (43 FR 59551) December 21, 1978, the Minerals Management Service (MMS) is providing, for public information, a current list of MMS approved well-control schools.

FOR FURTHER INFORMATION CONTACT: Mr. B. J. Shoger, Minerals Management Service, Mail Stop 647, Reston, Virginia 22091, telephone (703) 860–7506.

SUPPLEMENTARY INFORMATION: On January 19, 1982, the MMS was established under Secretarial Order No. 3071. The **Federal Register** Notice (47 FR 7508) on February 19, 1982, published the MMSS–OCS–T 1 Training Standard, "Training and Qualifications of Personnel in Well-Control Equipment and Techniques for Drilling on Offshore Locations," Second Edition. The following is a list of MMS approved well-control schools:

MMS Approved Well-Control Schools

Legend

Job Classification

RH—Rotary Helper
TP—Toolpusher
DK—Derrickmen
OR—Operator's Representative
DR—Driller

Blowout-Preventer Stack Type

SUR—Surface BOP Stack
SS—Subsea BOP Stack

Rotary Helper and Derrickmen

1. Alaska United Drilling Company; RH, DK
2. Alaska Vocational Technical Center; RH, DK
3. Anglo Alaska/Nabors Alaska Drilling Company; RH, DK
4. Atlantic Pacific Marine Corp.; RH, DK
5. Atwood Group, Inc.; RH, DK
6. Atwood Oceanics, Inc.; RH, DK
7. Bailey-Shannon Drilling, Inc.; RH, DK
8. Basic Research and Training, Inc.; RH, DK
9. Bokenkamp Drilling Co., Inc.; RH, DK
10. Booker Drilling Co., Inc.; RH, DK
11. Broughton Drilling Company; RH, DK
12. Cactus International, Inc.; RH, DK
13. Challenger Drilling, Inc.; RH, DK
14. Chiles Drilling Company; RH, DK
15. Circle Bar Drilling Company; RH, DK
16. Cyclops Drilling Company; RH, DK
17. Dan-Tex International, Inc.; RH, DK
18. Diamond M Company; RH, DK
19. Dixilyn-Field Drilling Company; RH, DK
20. Dolphin-Titan International, Inc.; RH, DK
21. Dual Offshore Company; RH, DK
22. Fluor Drilling Service, Inc.; RH, DK
23. Global Marine Drilling Company; RH, DK
24. Goldrus Marine Drilling Company; RH, DK
25. Griffin-Alexander Drilling Company; RH, DK
26. Houston Offshore International, Inc.; RH, DK
27. Houtech Energy, Inc.; RH, DK
28. Huthnance Drilling Company; RH, DK
29. J.F.P. Drilling Co., Inc.; RH, DK
30. Keydril Company; RH, DK
31. Keyes Offshore, Inc.; RH, DK
32. Loffland Brothers Company; RH, DK
33. Marine Drilling Company; RH, DK
34. Marlin Drilling Company; RH, DK
35. Maurer Engineering, Inc.; RH, DK
36. Mayronne Company; RH, DK
37. Moran Drilling Corp.; RH, DK
38. MUDTECH; RH, DK
39. Nicklos Drilling Company; RH, DK
40. Noble Drilling Company; RH, DK
41. Ocean Drilling and Exploration Company (ODECO; RH, DK
42. O & U Drilling, Inc.; RH, DK
43. Penrod Drilling Company; RH, DK
44. Peter Bawden Drilling, Inc.; RH, DK
45. Phoenix Seadrill; RH, DK
46. Pool Offshore Company; RH, DK
47. Prentice and Records Enterprises, Inc.; RH, DK
48. Reading and Bates Drilling Company; RH, DK
49. Rowan Companies, Inc.; RH, DK
50. Salen Protexa Drilling Company; RH, DK
51. Santa Fe Drilling Company; RH, DK
52. Savage Drilling Company; RH, DK
53. Scan Drilling Company (U.S.A.), Inc.; RH, DK
54. Sea Drilling Corp.; RH, DK
55. Services, Equipment, and Engineering; RH, DK
56. Shell California Production, Inc.; RH, DK
57. Shell Offshore, Inc.; RH, DK
58. Shell Oil Company; RH, DK
59. South Texas Offshore Drilling Company; RH, DK
60. Teledyne Movible Offshore, Inc.; RH, DK
61. Temple Drilling Company; RH, DK
62. The Offshore Company; RH, DK
63. Transworld Drilling Company; RH, DK
64. Ventura College; RH, DK
65. Western Oceanics, Inc.; RH, DK
66. Zapata Offshore Company; RH, DK

Basic Course

1. Alaska Skill Center; DR, TP, OR; SUR, SS
2. Arco Oil and Gas Company; TP, OR; SUR, SS
3. Cape Code Community College; DR, TP, OR; SUR, SS
4. Chevron U.S.A. Inc.; OR; SUR, SS
5. Cities Service Company; OR; SUR, SS
*Colorado NW Community College; DR, TP, OR; SUR, SS
7. Conoco, Inc.; OR; SUR, SS
8. Cudd Pressure Control, Inc.; DR, TP, OR; SUR
9. Delta Drilling; DR, TP, OR; SUR, SS
10. Diamond M Company; DR, TP, OR; SUR, SS
11. Dixilyn-Field Drilling Company; DR, TP, OR; SUR, SS
12. Dresser Industries; DR, TP, OR; SUR, SS
13. Exxon U.S.A.; DR, TP, OR; SUR, SS
14. Global Marine Drilling Company; DR, TP, OR; SUR, SS
15. Gulf Oil Expl. and Prod. Company; DR, TP, OR; SUR, SS
*16. Houston Community College; DR, TP, OR; SUR, SS
17. IMCO Services; DR, TP, OR; SUR, SS
18. International Drilling Schools; DR, TP, OR; SUR, SS
19. Keydril Company; DR, TP, OR; SUR, SS
20. Loffland Brothers Company; DR, TP, OR; SUR
21. Louisiana State University; DR, TP, OR; SUR, SS
22. Marlin Drilling Company, Inc.; DR, TP, OR; SUR, SS
*23. Maurer Engineering, Inc.; DR, TP, OR; SUR, SS
24. Milchem, Inc.; DR, TP, OR; SUR, SS
25. Murchison Drilling Schools; DR, TP, OR; SUR, SS
26. NL Petroleum Services; DR, TP, OR; SUR, SS
27. ODECO; DR, TP, OR; SUR, SS
*28. Odessa College; DR, TP, OR; SUR, SS
29. Oilfield Training Seminars, Inc.; DR, TP, OR; SUR, SS
30. Oklahoma Petro. Training Corp.; DR, TP, OR; SUR, SS
31. Parker Drilling Company; DR, TP, OR; SUR, *
32. Penn State University; DR, TP, OR; SUR, *
33. Pool Offshore Company; DR, TP, OR; SUR, *
34. Prentice & Records Enterprises, Inc.; DR, TP, OR; SUR, SS
35. Preston L. Moore, Inc.; TP, OR; SUR
36. Reading & Bates Drilling Company; DR, TP, OR; SUR, SS
37. Rike Service, Inc.; DR, TP, OR; SUR, SS
38. Sedco, Inc.; DR, TP, OR; SUR, SS
*39. Shell Offshore Inc.; DR, TP, OR; SUR, SS
40. Shell Oil Company; DR, TP, OR; SUR, SS
41. Sturgis/Sheffield, Inc.; DR, TP, OR; SUR, *
42. TDA Training; DR, TP, OR; SUR, SS
43. Texaco; DR, TP, OR; SUR, SS
44. The Training Company; DR, TP, OR; SUR, SS
45. Triton Engineering Services; OR; SUR, SS
46. Union Oil Co. of California; DR, TP, OR; SUR, SS
47. University of Houston/Victoria; DR, TP, OR; SUR, SS
48. University of Oklahoma; DR, TP, OR; SUR, SS
49. University of S.W. Louisiana; DR, TP, OR; SUR, SS
50. University of Texas at Austin (PETEX); DR, TP, OR; SUR, SS
51. Ventura College; DR, TP, OR; SUR, SS

*Approved documented program—pending onsite evaluation.

52. Well-Control School, Inc.; DR, TP, OR; SUR, SS
53. WESTEC; DR, TP, OR; SUR, SS
54. Western Oceanic, Inc.; DR, TP, OR; SUR, SS

Refresher Course

1. Alaska Skill Center; DR, TP, OR; SUR, SS
2. Amoco Production Company; OR; SUR, SS
3. Arco Oil & Gas Company; TP, OR; SUR, SS
4. Cape Cod Community College; DR, TP, OR; SUR, SS
5. Chevron U.S.A., Inc.; OR; SUR, SS
6. Cities Service Company; OR; SUR, SS
*7. Colorado NW Community College; DR, TP, OR; SUR, SS
8. Conoco, Inc.; OR; SUR, SS
9. Cudd Pressure Control, Inc.; DR, TP, OR; SUR,
10. Delta Drilling Company; DR, TP, OR; SUR, SS
11. Diamond M. Company; DR, TP, OR; SUR, SS
12. Dixilyn-Field Drilling Company; DR, TP, OR; SUR, SS
13. Dresser Industries; DR, TP, OR; SUR, SS
14. Gulf Oil Expl. and Prod. Company; DR, TP, OR; SUR, SS
15. Houston Community College; DR, TP, OR; SUR, SS
16. IMCO Services; DR, TP, OR; SUR, SS
17. International Drilling School; DR, TP, OR; SUR, SS
18. Keydril Company; DR, TP, OR; SUR, SS
19. Loffland Brothers Company; DR, TP, OR; SUR
20. Louisiana State University; DR, TP, OR; SUR, SS
21. Marlin Driling Co., Inc.; DR, TP, OR; SUR, SS
*22. Maurer Engineering, Inc.; DR, TP, OR; SUR, SS
23. Milchem, Inc.; DR, TP, OR; SUR, SS
24. Murchison Drilling Company; DR, TP, OR; SUR, SS
25. NL Petroleum Services; DR, TP, OR; SUR, SS
26. ODECO; DR, TP, OR; SUR, SS
*27. Odessa College; DR, TP, OR; SUR, SS
28. Oilfield Training Seminars, Inc.; DR, TP, OR; SUR, SS
29. Oklahoma Petro. Training Corp.; DR, TP, OR; SUR, SS
30. Parker Drilling Company; DR, TP, OR; SUR, SS
31. Pool Offshore Company; DR, TP, OR; SUR, *
32. Prentice & Records Enterprises, Inc.; DR, TP, OR; SUR, SS
33. Preston L. Moore, Inc.; TP, OR; SUR
34. Reading & Bates Drilling Company; DR, TP, OR; SUR, SS
35. Rike Services, Inc.; DR, TP, OR; SUR, SS
36. Sedco, Inc.; DR, TP, OR; SUR, SS
37. Shell Oil Company; DR, TP, OR; SUR, SS
38. Shell Offshore, Inc.; DR, TP, OR; SUR, SS
39. Sturgis/Sheffield, Inc.; DR, TP, OR; SUR, *
40. Texaco; DR, TP, OR; SUR, SS
41. TDA Training, Inc.; DR, TP, OR; SUR, SS
*42. Tridon Engineering Services; OR; SUR, SS
43. Union Oil Co. of California; DR, TP, OR; SUR, SS
44. University of Houston/Victoria; DR, TP, OR; SUR, SS
45. University of Oklahoma; DR, TP, OR; SUR, SS
46. University of S.W. Louisiana; DR, TP, OR; SUR, SS
47. University of Texas at Austin (PETEX); DR, TP, OR; SUR, SS
48. Ventura College; DR, TP, OR; SUR, SS
49. Well-Control School, Inc.; DR, TP, OR; SUR, SS
50. WESTEC; DR, TP, OR; SUR, SS
51. Western Oceanic, Inc.; DR, TP, OR; SUR, SS

It is anticipated that periodic Notices of this type will be published in the future on an as needed basis.

Dated: June 20, 1984.

Price McDonald,

Acting Associate Director for Offshore Director for Offshore Minerals Management.

[FR Doc. 84-16956 Filed 6-26-84; 8:45 am]

BILLING CODE 4310-MR-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-162]

Cardiac Pacemakers and Components Thereof; Determination Not To Review Initial Determination Amending Notice of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: The Commission has determined not to review an initial determination (ID) to amend the notice of investigation in the above-captioned investigation.

Authority: 19 U.S.C. 1337; 19 CFR 210.53 (c) and (h).

SUPPLEMENTARY INFORMATION: On May 4, 1984, the Telectronics respondents filed a motion (Motion No. 162-67) to amend the complaint and notice of investigation by deleting certain claims of the suit patents. Each of the claims involved had been added by Order No. 35, March 16, 1984, which the Commission determined not to review. The motion was opposed by complainant Medtronic Inc. on the grounds that the motion did not meet the good cause standard (19 CFR 210.2(d)) and that amendment of the notice is not the proper way to simplify the issues for the hearing. The motion was supported by the investigative attorney (Ms. Partner) on the grounds that complainant lacked the requisite good cause to add the claims at the time that complainant first moved to add those claims.

On May 25, 1984, the presiding officer (ALJ) issued an ID (Order No. 53) granting the motion in part. With regard to some of the claims, the ALJ found that complainant did not have good cause to move their joinder since, on the same day as the motion, complainant stated that it could not read those claims on the allegedly infringing devices. With regard to the other claims, the ALJ found that Motion No. 162-67 was in reality a motion for summary judgment, but that factual matters remained, so he denied the motion with regard to those claims.

The Commission has received neither a petition for review of the ID nor comments from other government agencies.

The amendments to the scope of investigation are: (A) delete claims 12 and 13 of U.S. Letters Patent 4,059,116; and (B) delete claim 5 of U.S. Letters Patent 4,312,355.

FOR FURTHER INFORMATION CONTACT: Jack Simmons, Esq., Office of the General Counsel, telephone 202-523-0493.

By order of the Commission.

Issued: June 22, 1984.

Kenneth R. Mason,

Secretary.

[FR Doc. 84-17154 Filed 6-26-84; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-168]

Combination Punch Press and Laser Assemblies and Components Thereof; Decision Not To Review Initial Determination Terminatiing Investigation on Basis of Settlement Agreement

AGENCY: U.S. Internation Trade Commission.

ACTION: Notice is hereby given that the Commission has determined not to review an initial determination (I.D., Order No. 21) to terminate this investigation on the basis of a settlement agreement.

Authority: 19 U.S.C. 1337; 19 CFR 210.53

SUPPLEMENTARY INFORMATION: Notice of the I.D. was published in the **Federal Register** of May 23, 1984, 49 FR 21807. No petitions for review or agency or public comments were received.

Copies of all 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, D.C. 20436, telephone 202-523-0161.

FOR FURTHER INFORMATION CONTACT: Tim Yaworski, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202-523-0311.

By order of the Commission.

Issued: June 20, 1984.

Kenneth R. Mason,

Secretary.

[FR Doc. 84-17152 Filed 6-26-84; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-82A]

Headboxes and Papermaking Machine Forming Sections for the Continuous Production of Paper, and Components Thereof; Motion for Termination of Investigation Based on Consent Order Settlement

AGENCY: International Trade Commission.

ACTION: Notice is hereby given that the Commission has received a motion for termination of the above-captioned investigation on the basis of a consent order settlement.

Authority: The investigation is being conducted pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). Termination on the basis of a consent order settlement is governed by §§ 210.51(d) and 211.20–211.22 of the Commission's Rules of Practice and Procedure (19 CFR 210.51(d) and 211.21–211.22.)

SUPPLEMENTARY INFORMATION: The investigation initially was conducted in 1981 to determine whether there was a violation of section 337 of the Tariff Act of 1930 in the importation and sale of papermaking machine apparatus alleged to infringe claims of U.S. Letters Patents RE 28,269 and 3,923,593. The Commission determined that a violation existed with respect to certain multi-ply headboxes and forming sections found to infringe the claims of both patents. 46 FR 57774 (Nov. 25, 1981). The investigation was reopened on July 7, 1983, pursuant to a judgment of the U.S. Court of Appeals for the Federal Circuit remanding the case to the Commission for reconsideration. 48 FR 32094 (July 13, 1983). Having entered a settlement agreement, the parties filed a motion on May 23, 1984, requesting termination of the investigation and the entry of a consent order. (Motion No. 82A–1C).

Copies of the settlement agreement (nonconfidential version), the motion to terminate, the proposed consent 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, D.C. 20436, telephone 202–523–0161.

Written Comments

Interested persons may file written comments with the Commission concerning the proposed termination of the investigation and the entry of a consent order. The original and 14 copies of all such comments must be filed with the Secretary to the Commission, 701 E Street, NW., Washington, D.C. 20436, no later than 10 days after the publication of this notice in the **Federal Register.** Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment. Such requests should be directed to the Secretary to the Commission and must include a detailed statement of the reasons why confidential treatment should be granted. If confidential treatment is not granted, the Commission will return the submission (or portion thereof) to the submitter.

FOR FURTHER INFORMATION CONTACT: P. N. Smithey, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–523–0350.

Issued: June 20, 1984.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 84-17153 Filed 6-26-84; 8:45 am]

BILLING CODE 7020-02-M

[Investiation No. 337-TA-54B]

Multicellular Plastic Film; Decision Not To Review Initial Determination

AGENCY: U.S. International Trade Commission.

ACTION: Notice is hereby given that the Commission has determined not to review an initial determination of the presiding officer in the above-captioned investigation granting petitioner Unipak (H.K.) Ltd.'s motion for summary determination of noninfringement.

Authority: 19 U.S.C. 1337, 1337a; 19 CFR 210.53; paragraph 3 of the Commission Order issued on June 29, 1979, in connection with Inv. No. 337–TA–54, Certain Multicellular Plastic Film (USITC Pub. 987, June 1979).

SUPPLEMENTARY INFORMATION: At the conclusion of Inv. No. 337–TA–54, the Commission, on June 29, 1979, ordered exclusion of multicellular plastic film manufactured abroad in accordance with the process disclosed by claims 1 and 2 of U.S. Letters Patent 3,416,984 ('984 patent) owned by Sealed Air Corporation of Saddle Brook, New Jersey. Paragraph 3 of the Commission's order provided that persons desiring to import multicellular plastic film into the United States could petition the Commission to institute such further proceeding as would be appropriate in order to determine whether the multicellular plastic film sought to be imported should be allowed entry into the United States.

On May 5, 1983, a petition was filed with the Commission on behalf of Unipak (H.K.) Ltd. of Hong Kong, requesting the Commission to institute further proceedings for the purpose of determining whether the process used by that firm to manufacture multicellular plastic film abroad would, if practiced in the United States, infringe claims 1 or 2 of Sealed Air Corporation's '984 patent.

Having considered Unipak's petition, the Commission on June 7, 1983, instituted an investigation to determine whether the process used to manufacture multicellular plastic firm abroad by Unipak would, if practiced in the United States, infringe claims 1 or 2 of the '984 patent.

On April 16, 1984, Unipak filed a motion for a summary determination that the process it uses to manufacture multicellular plastic film in Hong Kong would not, if practiced in the United States, infringe claims 1 or 2 of the '984 patent. The presiding officer granted Unipak's motion in an initial determination (Order No. 15) issued on May 22, 1984. A petition for review of the initial determination was filed on behalf of interested party Sealed Air Corporation. No other petitions for review or agency comments were received.

As a result of the Commission's decision in this matter, multicellular plastic film manufactured by Unipak in Hong Kong will no longer be barred from entry into the United States.

Copies of the presiding officer's initial determination 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, D.C. 20436, telephone 202–523–0161.

FOR FURTHER INFORMATION CONTACT: Tim Yaworski, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–523–0311.

By order of the Commission.

Issued: June 19, 1984.

Kenneth R. Mason,

Secretary.

[FR Doc. 84-17151 Filed 6-26-84; 8:45 am]

BILLING CODE 7020-02-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 30439]

Gulf & Mississippi Railroad Corp.; Purchase (Portion) Exemption;—Illinois Central Gulf Railroad Co.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed exemption.

SUMMARY: Gulf & Mississippi Railroad Corporation (G&M) has filed a petition under 49 U.S.C. 10505 seeking exemption from the requirements of 49 U.S.C. 10901 and any other pertinent provisions of 49 U.S.C. Subtitle IV for the acquisition of 713 miles of track known as the East Mississippi lines from Illinois Central Gulf Railroad Company. The Commission has determined that further information is required because the impact of the proposed acquisition cannot be ascertained from the present record.

DATES: Interested parties desiring to file comments must first file and serve on G&M's representative by July 12, 1984, a notice of intent to participate. G&M shall file evidence to supplement its petition by July 17, 1984. Responsive evidence shall be filed by August 16, 1984, and replies by September 5, 1984.

ADDRESSES: Send comments referring to Finance Docket No. 30439 to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423

(2) Petitioner's representative: Betty Jo Christian, Steptoe & Johnson Chartered, 1250 Connecticut Avenue, NW., Washington, D.C. 20036

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275-7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, D.C. 20423, or call 289-4357 (DC Metropolitan area) or toll free (800) 424-5403.

Decided: June 20, 1984.

By the Commission, Chairman Taylor, Vice Chairman Andre, Commissioners Sterrett and Gradison.

James H. Bayne,

Secretary.

[FR Doc. 84-17057 Filed 6-26-84; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30437]

Texas City Terminal Railway Co.; Exemption—Issuance of Note

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts the Texas City Terminal Railway Company from the requirements of 49 U.S.C. 11301 for the issuance of a note in the principal amount of $2.5 million.

DATE: The exemption is effective on June 27, 1984. Petitions to reopen must be filed by July 17, 1984.

ADDRESSES: Send pleadings referring to Finance Docket No. 30437 to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423

(2) Petitioners' representative: Mr. Griffith D. Lambdin, P.O. Drawer 591, Texas City, Texas 77590.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275-7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289-4357 (DC Metropolitan area) or toll free (800) 424-5403.

Decided: June 20, 1984.

By the Commission, Chairman Taylor, Vice Chairman Andre, Commissioners Sterrett and Gradison.

James H. Bayne,

Acting Secretary.

[FR Doc. 84-17059 Filed 6-26-84; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Antitrust Division

Proposed Termination of Final Judgment; E. L. Industries

Notice is hereby given that E. L. Industries (formerly the Elgin Corporation), Elgin Sweeper Company and Leach Company have filed with the United States District Court for the Northern District of Illinois, Eastern Division, a joint motion to terminate the Final Judgment in *United States* v. *The Elgin Corporation, Elgin Sweeper Company and Leach Company*, Civil Action No. 62 C 1544 (N.D. Ill. 1965); and the Department of Justice ("Department"), in a stipulation also filed with the Court, has consented to termination of the Judgment, but has reserved the right to withdraw its consent for at least seventy (70) days after the publication of this notice. The Complaint in this case (filed on August 9, 1962) alleged that the defendants and unnamed co-conspirators had been engaged in a combination and conspiracy, and had been parties to unlawful contracts, agreements, and understandings in unreasonable restraint of interstate commerce in violation of Section 1 of the Sherman Act. According to the Complaint distributors of Elgin and Leach products were assigned exclusive territories and agreed to sell Elgin and Leach products only in the assigned territories, and only to specific customers or classes of customers assigned to the distributor. The Final Judgment (entered on February 5, 1965) enjoins defendants from restricting the territories within which or the persons to whom distributors may sell street cleaning equipment or trash truck bodies.

The Department has filed with the Court a memorandum setting forth the reasons why the Department believes that termination of the Final Judgment would serve the public interest. Copies of the Complaint and Final Judgment, defendants' motion papers, the stipulation containing the Government's consent, the Department's memorandum and all further papers filed with the Court in connection with this motion will be available for inspection in the Legal Procedure Unit of the Antitrust Division, Room 7416, Department of Justice, 10th Street and Pennsylvania Avenue, NW., Washington, D.C. 20530 (telephone 202-633-2481), and at the Office of the Clerk of the United States District Court for the Northern District of Illinois, Eastern Division, Everett McKinley Dirksen Building, 20th Floor, 219 Dearbon Street, Chicago, Illinois 60604.

Copies of any of these materials may be obtained from the Legal Procedure Unit upon request and payment of the copying fee set by Department of Justice regulations.

Interested persons may submit comments regarding the proposed termination of the Judgment to the Department. Such comments must be received within sixty days, and will be filed with the court. Comments should

be addressed to John W. Clark, Chief, Special Trial Section, Antitrust Division, Department of Justice, Washington, D.C. 20530 (telephone 202–724–6335).

Joseph H. Widmar,

Antitrust Division, Director of Operations.

[FR Doc. 84–17143 Filed 6–26–84; 8:45 am]

BILLING CODE 4410–01–M

Proposed Termination of Final Judgment; NL Industries

Notice is hereby given that NL Industries, formerly National Lead Company, and E. I. du Pont de Nemours and Company have filed with the United States District Court for the Southern District of New York a motion to terminate the Final Judgment in *United States v. National Lead Company, Titan Company, Inc., E. I. du Pont de Nemours and Company*, Civ. No. 26–258; and the Department of Justice ("Department"), in a stipulation also filed with the court, has consented to termination of the Judgment, but has reserved the right to withdraw its consent for at least seventy (70) days after the publication of this notice. The Complaint in this case (filed in June 1944) alleged defendants had created a world-wide cartel in titanium compounds in conspiracy with German, British, Italian, Japanese and other foreign chemical companies in violation of Sections 1 and 2 of the Sherman Act. The Government contended, and the Court held, that agreements creating a world-wide patent pool of all present and future patents of the parties and embracing a division of the world into exclusive territories within which each of the parties was to confine its business activities with respect to patent protected and unpatented titanium compounds were unlawful under the Sherman Act.

The Final Judgment cancelled the agreements that were found to have restrained trade and ordered the defendants not to renew them and directed compulsory licensing, at reasonable royalties, or patents held at the time of its entry and those acquired by the defendants over the next five years. Disclosure, at reasonable prices, of monopolized know-how was also ordered. All patents which defendants were required to license to others have expired.

The Final Judgment, as presently in effect, enjoins each of the defendants from:

(1) Restricting any purchaser of titanium pigments in the use thereof; and

(2) Entering into an agreement with a producer or dealer of titanium pigments to grant an exclusive territory.

In addition to the stipulation containing the Government's consent, the Department also filed with the court a memorandum outlining the history of the lawsuit and the reasons why the Department believes that termination of the decree would serve the public interest. Copies of the Complaint and Final Judgment, defendants' motion papers, the stipulation containing the Government's consent, the Department's memorandum and all further papers filed with the court in connection with this motion will be available for inspection in the Legal Procedure Unit of the Antitrust Division, Room 7416, Department of Justice, 10th Street and Pennsylvania Avenue, NW., Washington, D.C. 20530 (telephone: 202–633–2481), and at the Office of the Clerk of the United States District Court for the Southern District of New York, U.S. Courthouse, Foley Square, New York, New York 10007. Copies of any of these materials may be obtained from the Legal Procedure Unit upon request and payment of the copying fee set by Department of Justice regulations.

Interested persons may submit comments regarding the proposed termination of the decree to the Department. Such comments must be received within sixty days, and will be filed with the court. Comments should be addressed to Anthony V. Nanni, Chief, Trial Section, Antitrust Division, Department of Justice, Washington, D.C. 20530 (telephone: 202–633–2541).

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 84–17142 Filed 6–26–84; 8:45 am]

BILLING CODE 4410–01–M

Proposed Termination of Final Judgment; Owens-Corning Fiberglas Corp.

Owens-Corning Fiberglas Corporation, Owens-Illinois, Inc. (formerly Owens-Illinois Glass Company) and Corning Glass Works have filed with the United States District Court for the Northern District of Ohio, Western Division, a motion to terminate the Final Judgment in *United States v. Owens-Corning Fiberglas Corp.*, Civil Action No. 5778; and the Department of Justice ("Department"), in a stipulation also filed with the court, has consented to termination of the judgment, but has reserved the right to withdraw its consent for at least seventy (70) days after the publication of this notice. The Complaint in this case, filed in 1947 and amended in 1948, alleged that Owens-Illinois and Corning had combined to monopolize the glass fiber business by transferring to Owens-Corning Fiberglas Corporation their glass fiber technology and businesses and by entering into, through Owens-Corning, agreements with foreign manufacturers that restricted imports into and exports of glass fiber from the United States. The Final Judgment, as presently in effect, prohibits the defendants from entering into exclusive license agreements, and from using distributors that distribute glass fiber products of another manufacturer. It also enjoins Owens-Corning from selling glass fiber or fiber products upon the condition that such products are purchased only from Owens-Corning, and requires Owens-Corning to license certain patents to others. In addition, there are a number of prohibitions which simply prohibit activities, like price fixing, that are *per se* illegal under the antitrust laws. The Department has filed with the court a memorandum setting forth the reasons why the Department believes that termination of the judgment would serve the public interest. Copies of the Complaint and Final Judgment, defendants' motion papers, the stipulation containing the Government's consent, the Department's memorandum and all further papers filed with the court in connection with this motion will be available for inspection in the Legal Procedure Unit of the Antitrust Division, Room 7416, Department of Justice, 10th Street and Pennsylvania Avenue, NW., Washington, D.C. 20530 (telephone 202–633–2481), and at the Office of the Clerk of the United States District Court for the Northern District of Ohio, Western Division, 213 U.S. Court House, Toledo, Ohio 43624. Copies of any of these materials may be obtained from the Legal Procedure Unit upon request and payment of the copying fee set by Department of Justice regulation. Interested persons may submit comments regarding the proposed termination of the decree to the Department. Such comments must be received within sixty days, and will be filed with the court. Comments should be addressed to John W. Clark, Chief, Special Trial Section, Antitrust Division, Department of Justice, Washington, D.C. 20530 (telephone 202–724–6335).

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 84–17144 Filed 6–26–84; 8:45 am]

BILLING CODE 4410–01–M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-438 and 50-439]

Tennessee Valley Authority; Receipt of Antitrust Information

The Tennessee Valley Authority has submitted antitrust information relating to their application for operating licenses for two pressurized water nuclear reactors known as Bellefonte Nuclear Plant, Units 1 and 2, located in Jackson County, Alabama. The data submitted contain antitrust information for review pursuant to NRC Regulatory Guide 9.3 necessary to determine whether there have been any significant changes since the completion of the antitrust review at the construction permit stage.

On completion of the staff's antitrust review, the Director of Nuclear Reactor Regulation will issue an initial finding as to whether there have been "significant changes" under Section 105c(2) of the Atomic Energy Act. A copy of this finding will be published in the **Federal Register** and will be sent to the Washington, DC, and local Public document rooms and to those persons providing comments or information in response to this notice. If the initial finding concludes that there have not been any significant changes, requests for reevaluation may be submitted for a period of 30 days after the date of the **Fedral Register** notice. The results of any reevaluation that is requsted will also be published in the **Federal Register** and copies sent to the Washington, DC, and local public document rooms.

A copy of the general information portion of the application for an operating license and the antitrust information submitted is available for public examination and coying for a fee at the Commission's Public Document Room, 1717 H Street NW., Washington, DC 20555, and at the local public document room at the Scottsboro Public Library, 1002 South Broad Street, Scottsboro, Alabama 35768.

Any person who desires additional information regarding the mater covered by this notice or who wishes to have his views considered with respect to significant changes related to antitrust matters which have occurred in the applicant's activities since the construction permit antitrust review should submit such requests for information or views to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Section Leader, Antitrust and Economic Analysis Section, Site Analysis Branch, Office of Nuclear Reactor Regulation, on or before July 27, 1984.

Dated at Bethesda, Maryland, this 18th day of June 1984.

For the Nuclear Regulatory Commission.

Elinor G. Adensam,

Chief, Licensing Branch No. 4, Division of Licensing.

[FR Doc. 84-17075 Filed 6-26-84; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 30-20952; License No. 29-02477-09 EA 84-20]

U.S. Testing Company, Inc.; Order Imposing Monetary Civil Penalties

I.

United States Testing Company, Inc., 1415 Park Avenue, Hoboken, New Jersey, 07030 (the "licensee") is the holder of License No. 29-02477-09 (the "license") issued by the Nuclear Regulatory Commission (the "Commission" or "NRC") which authorizes the licensee to possess and use radioactive materials in accordance with conditions specified therein.

II

An NRC special safety inspection of the licensee's activities under the license was conducted on March 2-3, 1984. As a result of the inspection, the NRC staff determined that the license had not conducted its activities in full compliance with NRC requirements. A written Notice of Violation and Proposed Imposition of Civil Penalties was served upon the licensee by letter dated April 12, 1984. The Notice states the nature of the violations, the provisions of the Commission requirements that the licensee had violated, and the amount of civil penalties for the violations. Responses dated May 4, 1984 and May 7, 1984 to the Notice of Violation and Proposed Imposition of Civil Penalties were received from the licensee.

III

Upon consideration of the answers received, the statements of fact, explanations, and arguments for remission or mitigation of the proposed civil penalties contained therein, and as set forth in the Appendix to this Order, the Director of the Office of Inspection and Enforcement has determined that the penalties proposed for the violations designated in the Notice of Violation and Proposed Imposition of Civil Penalties should be imposed.

IV

In view of the foregoing and pursuant to section 234 of the Atomic Energy Act of 1954, as amended (42 U.S. 2282, Pub. L. 96-295), and 10 CFR 2.205, it is hereby ordered that:

The licensee pay civil penalties in the amount of Ten Thousand Dollars ($10,000) within thirty days of the date of this Order, by check, draft, or money order, payable to the Treasurer of the United States and mailed to the Director of the Office of Inspection and Enforcement, USNRC, Washington, D.C. 20555.

V

The licensee may, within thirty days of the date of this Order, request a hearing. A request for a hearing shall be addressed to the Director, Office of Inspection and Enforcement. A copy of the hearing request shall also be sent to the Executive Legal Director, USNRC, Washington, D.C. 20555. If a hearing is requested, the Commission will issue an Order designating the time and place of hearing. Upon failure of the licensee to request a hearing within thirty days of the date of this Order, the provisions of this Order shall be effective without further proceedings and, if payment has not been made by that time, the matter may be referred to the Attorney General for collection.

In the event the licensee requests a hearing as provided above, the issues to be considered at such hearing shall be:

(a) whether the licensee violated NRC requirements as set forth in the Notice of Violation and Proposed Imposition of Civil Penalties; and

(b) whether, on the basis of such violations, this Order should be sustained.

Dated at Bethesda, Maryland, this 18th day of June 1984.

For the Nuclear Regulatory Commission.

Richard C. DeYoung,

Director, Office of Inspection and Enforcement.

Appendix—Evaluation and Conclusion

The violations and associated civil penalties identified in Section I of the NRC's Notice of Violation and Proposed Imposition of Civil Penalties dated April 12, 1984 are restated. Further, the licensee's response to the Notice is summarized and the NRC's evaluation and conclusion regarding the licensee's response is provided. The licensee's response was provided in two letters dated May 4, 1984 and May 7, 1984 respectively, from Mr. Carl B. Yoder, Radiation Safety Officer, United States Testing Company, Inc., to the Director, Office of Inspection and Enforcement.

Restatement of Violation

A. 10 CFR 20.101(a) prohibits the use of licensed material in such a manner as to cause any individual in a restricted area to receive in any calendar quarter from

radioactive materials or other sources of radiation a total occupational radiation dose in excess of 18.75 rem to the hands.

Contrary to the above, during the first calendar quarter of 1984, specifically on March 1, 1984, an employee of U.S. Testing Company, Inc., while uncoupling and recoupling the guide tube containing a 24 curie iridium-192 source that had disconnected from a U.S. Testing Company, Inc. radiography device, received a radiation exposure to one of his hands calculated to be about 33 rem.

B. 10 CFR Part 20.201(b) requires that each licensee make such surveys as (1) are necessary to comply with regulations in 10 CFR 20 and (2) are reasonable under the circumstances to evaluate the extent of radiation hazards that may be present. As defined in 10 CFR 20.201(a), "survey" means an evaluation of the radiation hazards incident to the production, use, release, disposal, or presence of radioactive materials or other sources of radiation under a specific set of conditions.

Contrary to the above, on March 1, 1984, an adequate survey was not performed prior to uncoupling a source guide tube containing a disconnected 24-curie iridium-192 source from its radiography device, in that the radiation levels in the area of the source guide tube and couping were not determined and the exposure that could be received by the individual was not estimated and shown to be less than the 18.75 rem limit to the extremities.

C. Condition 17 of License No. 29-02477-09 requires that licensed material be possessed and used in accordance with statements, representations, and procedures contained in applications dated November 21, 1979 and January 29, 1982, and letters dated December 18, 1979, November 6, 1980, November 17, 1980, January 25, 1983, July 1, 1983, July 27, 1983, September 9, 1983, September 12, 1983 and a letter dated December 1, 1983 with attachments.

The December 1, 1983 letter includes the U.S. Testing Company, Inc., Emergency Procedures. Section IV, Part B, Item 6 of these Emergency Procedures requires that the Radiation Protection Officer be notified if a radiography source cannot be cranked back into the fully shielded position for any reason, and that the Radiation Protection Officer determine the course of action to be followed.

Contrary to the above, on March 1, 1984, the Radiation Protection Officer was not immediately notified when it was determined that a source could not be cranked back into a fully shielded position. The radiographer uncoupled the source guide tube and reconnected it prior to notifying the Radiation Protection Officer.

Collectively, the violations have been evaluated as a Severity Level III problem (Supplement IV).

(Cumulative Civil Penalties of $10,000 assessed equally among the violations.)

Summary of Licensee Response

The licensee admits Violations B and C, but questions the validity of Violation A. With regard to Violation A, the licensee does not deny that some radiation exposure occurred, but contends that the radiation exposure stated in the NRC's Notice of Violation, which is a value calculated by the NRC, is based on conjecture and is without specific knowledge of the distance between the radioactive source and the individual's hand. The licensee maintains that the distance used by the NRC in the calculation is overly conservative, and use of a distance one-half inch greater would result in a calculated value less than the regulatory limit. The licensee further indicates that the medical examination of the individual reveals no radiation overexposure.

The licensee further states that the violations did not occur because of any deficiencies in the Operating and Emergency Procedures, but rather because an individual radiographer, when confronted with an emergency situation for the first time, failed to overcome his natural tendency to get out of a troublesome situation by following his instincts. The licensee indicates that it has embarked on an extensive corrective action program directed toward behavioral modification to suppress instinctive, normal reaction to an emergency situation, and to instill an automatic total compliance with written procedures. These actions have included face-to-face meetings between either the Radiation Safety Officer or the Emergency Safety Officer and each company radiographer, and the licensee has committed to issuance of eye-catching bulletins and flyers to each radiographer emphasizing the need to adhere to procedures.

The licensee maintains that its corrective actions will reinforce a total commitment to the procedures, and in consideration of this commitment, the licensee requests that the proposed civil penalty of $10,000 for the violations related to this incident be reduced to the normal civil penalty for Severity Level III violations, namely $4,000.

NRC Evaluation of Licensee Response

The NRC staff acknowledges that there is no specific knowledge of the actual distance that existed between the radioactive source and the individual's hand. The licensee is correct in stating that the calculated exposure would be less than regulatory limits if a distance of one-half inch more were assumed. However, the calculated exposure would be significantly higher if a distance of one-half inch less were assumed. The NRC staff continues to believe that based on interviews, observations and measurements taken during the reenactment of the incident, NRC's method of calculating the overexposure is the most appropriate method and that an overexposure did occur. In any case, the amount of exposure is not the central issue in this case. Even if the calculated value was within regulatory limits, the violations would still be categorized in the aggregate as a Severity Level III problem because a substantial potential existed for a radiation exposure in excess of limits, regardless of whether an excessive exposure actually occurred. *See* 10 CFR Part 2, Appendix C, Supplement IV, Section C.4. The licensee's medical consultant, while indicating the exposure was not medically significant, acknowledged that it may be of regulatory significance.

The NRC staff agrees with the licensee that the violations did not occur because of deficiencies in the procedures, but rather because of an individual radiographer's failure to adhere to emergency procedures. This failure is of significant concern because of a previous failure to adhere to emergency procedures during a source disconnect which occurred in June 1983. During that event, an individual also received an exposure in excess of regulatory limits. The previous violations were identified in the NRC's Notice of Violation and Proposed Imposition of Civil Penalties dated October 7, 1983. The actions taken by the licensee in response to the previous violations were not sufficient to ensure adherence to procedures. Therefore, although the current corrective actions appear extensive, the civil penalties have not been mitigated to emphasize that such corrective actions must be thorough and long lasting.

NRC Conclusion

The violations did occur as originally stated. The information provided in the licensee's response does not provide an adequate basis for mitigation of the civil penalty.

[FR Doc. 84-17076 Filed 6-26-84; 8:45 am]
BILLING CODE 7590-01-M

[License No. 13-00694-03 EA 84-10]

Veterans Administration; Richard L. Roudebush Veterans Administration Medical Center; Order Imposing Civil Monetary Penalties

I

Richard L. Roudebush Veterans Administration Medical Center (the "licensee"), 1481 West 10th Street, Indianapolis, IN 46202, is the holder of Byproduct Material License No. 13-00694-03 (the "license") issued by the Nuclear Regulatory Commission (the "Commission") which authorizes medical research, diagnosis, therapy, and research and development. License No. 13-00694-03 was amended in its entirety on March 15, 1983, and expires on March 31, 1988.

II

As a result of a routine inspection conducted on January 9, 10, and 27, 1984 by the Commission's Region III Office, the NRC staff determined that the licensee had not conducted its activities in full compliance with NRC requirements. A written Notice of Violation and Proposed Imposition of Civil Penalties was served on the licensee by letter dated March 12, 1984. The Notice stated the nature of the violations, the provisions of the Commission's requirements that the licensee had violated, and the cumulative amount of the proposed civil

penalties. The licensee responded to the Notice of Violation and Proposed Imposition of Civil Penalties with two letters dated April 24, 1984.

III

Upon consideration of the licensee's response and the statements of fact, explanation, and arguments for remission or mitigation of the proposed civil penalties contained therein, as set forth in the Appendix to this Order, the Director of the Office of Inspection and Enforcement has determined that, with one exception for which the penalty is remitted, the violations occurred as stated, and the penalties proposed for the violations set out in the Notice of violation and Proposed Imposition of Civil Penalties should be imposed.

IV

In view of the foregoing, and pursuant to section 234 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2282, Pub. L 96–295), and 10 CFR 2.205, it is hereby ordered that:

The licensee pay civil penalties in the cumulative amount of One Thousand Eight Hunderd and Thirty-three Dollars within 30 days of the date of this Order, by check, draft or money order payable to the Treasurer of the United States and mailed to the Director, Office of Inspection and Enforcement, USNRC, Washington, D.C. 20555.

V

The licensee may, within 30 days of the date of this Order, request a hearing. A request for a hearing shall be addressed to the Director, Office of Inspection and Enforcement. A copy of the hearing request shall also be sent to the Executive Legal Director, USNRC, Washington, D.C. 20555. If a hearing is requested, the Commission will issue an Order designating the time and place of hearing. Should the licensee fail to request a hearing with 30 days of the date of this Order, the provisions of this Order shall be effective without further proceedings.

VI

In the event the licensee requests a hearing as provided above, the issues to be considered at such a hearing shall be:

(a) Whether the licensee was in violation of the Commission's requirements as set forth in the Notice of Violation and Proposed Imposition of Civil Penalties as modified by the Appendix to this Order, and

(b) Whether on the basis of such violations, this Order should be sustained.

Dated at Bethesda, Maryland, this 19th day of June 1984.

For the Nuclear Regulatory Commission

Richard C. DeYoung,

Director, Office of Inspection and Enforcement.

Appendix—Evaluation and Conclusions

The violations and associated civil penalties are identified in the Notice of Violation and Proposed Imposition of Civil Penalties dated March 12, 1984. The Office of Inspection and Enforcement's evaluation and conclusions regarding the licensee's response dated April 24, 1984 are presented herein.

In its response, the licensee admits that, with the exception of Item H, each violation occurred as described in the Notice of Violation. Additionally, the licensee offered several reasons why the civil penalty should not be imposed. NRC's evaluation of these reasons is presented below, followed by conclusions regarding the proposed civil penalties.

Item H

Statement of Violation

License Condition No. 21 requires that all licensed material be possessed and used in accordance with statements, representations, and procedures contained in the application dated October 21, 1981, and letter dated February 10, 1983. The referenced application states that users of radioactive materials must obtain a permit approved by the appropriate Veteran's Administration Medical Center (VAMC) committee.

Contrary to the above, an individual in the pharmacology laboratory had been using carbon-14 and tritium on a routine basis since approximately 1980, without obtaining the required permits.

Licensee's Response

The licensee denied this violation stating that the individual in question was approved as an individual user under the guidelines of the previous license. The licensee contends that unless stated in the license application, the procedures for permit approval are not made retroactive, and that only new applications are required to follow the guidelines of the new license. The licensee stated that the Radiation Safety Officer was properly notified that the investigator in question would be an individual user on this permit and the individual would be assuming some of the day-to-day supervision of the laboratory.

NRC Evaluation

Based on the additional information contained in the licensee's April 24, 1984 response, the NRC has withdrawn violation H. NRC agrees that individual users were not required under the previous license to obtain a separate permit but could work under the permit of a Principal Investigator until that permit expired. The licensee's April 24 response stated that now all users have completed the required user applications.

Licensee's Request for Mitigating the Civil Penalties

The licensee's April 24, 1984 response to the Notice of Violation and Proposed Imposition of Civil Penalties presented reasons why the civil penalties should not be imposed. The reasons are stated below together with the NRC's evaluation.

Licensee's Reasons

Every alleged item of noncompliance was addressed for positive corrective actions before the enforcement conference. Procedures have been established to prevent recurrence of the admitted violations. These procedures incorporate proper management controls to assure continued compliance. As a result, potential items of noncompliance will now be self-identified and corrected in a timely manner. The licensee has formalized the function of a Radiation Safety Office and has issued a Medical Center Memorandum to define this office. In addition, the staffing of the Radiation Safety Office has been increased to provide assistance to the Radiation Safety Officer.

NRC's Evaluation

The licensee's response to the violations does not provide a sufficient basis for mitigation of the proposed penalties. In fact, the licensee has admitted that all the violations occurred, except for one violation.

In seeking mitigation or remission of the proposed penalty, it is the licensee's view that the violations do not indicate a breakdown in management's oversight and control of licensed activities and, hence, do not warrant the classification in the aggregate as a Severity Level III problem. As further bases for mitigation, the licensee points to the fact that it initiated corrective actions for the violations.

If they were viewed in isolation, the violations might well be classified individually as Severityl Level IV under the enforcement policy. However, the number of violations indicate that programmatic deficiencies existed in the licensee's implementation of its radiation protection program. The nature and number of violations in NRC's view warrant categorization in the aggregate as a Severity Level III problem in accordance with the Enforcement Policy.

The NRC acknowledges that the licensee has taken corrective action for the violations. However, corrective action is always required to correct violations. In this instance, the licensee's corrective actions were not unusually prompt or extensive. The actions taken were only those that the NRC would expect the licensee to take. Therefore, mitigation on this basis is not appropriate.

Conclusion

After reviewing the licensee's reasons why the civil penalties should not be imposed, the NRC staff has concluded that, except for the civil penalty for one violation (Item H) which is being withdrawn, the licensee has not provided an adequate basis for mitigation of the civil penalties for the other violations. Accordingly, civil penalites of One Thousand Eight Hundred and Thirty-three Dollars are imposed.

[FR Doc. 84–17077 Filed 6–26–84; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards; Proposed Meetings

In order to provide advance information regarding proposed public meetings of the ACRS Subcommittees and meetings of the full Committee, the following preliminary schedule is published to reflect the current situations, taking into account additional meetings which have been scheduled and meetings which have been postponed or cancelled since the last list of proposed meetings published May 21, 1984 (49 FR 21445). Those meetings which are definitely scheduled have had, or will have, an individual notice published in the **Federal Register** approximately 15 days (or more) prior to the meeting. It is expected that the sessions of the full Committee meeting designated by an asterisk (*) will be open in whole or in part to the public. ACRS full Committee meetings begin at 8:30 a.m. and Subcommittee meetings usually begin at 8:30 a.m. The time when items listed on the agenda will be discussed during full Committee meetings and when Subcommittee meetings will start will be published prior to each meeting. Information as to whether a meeting has been firmly scheduled, cancelled, or rescheduled, or whether changes have been made in the agenda for the July 1984 ACRS full Committee meeting can be obtained by a prepaid telephone call to the Office of the Executive Director of the Committee (telephone 202/634-3267, ATTN: Barbara Jo White) between 8:15 a.m. and 5:00 p.m., Eastern Time.

ACRS Subcommittee Meetings.

Combined Waste Management and Reactor Radiological Effects, July 10 and 11, 1984, Washington, DC. The Subcommittees will review: (1) Department of Energy's Mission Plan for the civilian radwaste management program; (2) NRC Waste Management Oversight Committee report; (3) NRC/AIF dose assessments for backfitting; and (4) H. B. Robinson steam generator repair; and be briefed by Federal Emergency Management Agency (FEMA) on its integrated emergency planning computer system.

Safety Philosophy, Technology, and Criteria, July 11, 1984, Washington, DC. The Subcommittee will discuss the EPRI categorization of the NRC Staff's Generic Safety and Licensing Issues regarding their application to standardized nuclear plants.

Class 9 Accidents, July 23, 1984, Washington, DC. The Subcommittee will discuss New York Power Authority's developments in the source term area.

Emergency Core Cooling Systems, July 24, 1984, Washington, DC. The Subcommittee will discuss: (1) The status of Yankee Atomic Electric's decay heat exemption request; (2) the status of SBLOCA model revisions; (3) the stautus of the RCP trip issue; (4) the status of UHI EM Model revision; (5) the impact on BWR ECCS given a loss of control rod guide tube stub leakage; (6) the status of RES Appendix K revision effort; (7) the status of the thermal hydraulic program in support of the PTS issue; and (8) NRC Staff plans to designate generic issue B-23—"Reactor Coolant Pump Seal Failures" as an Unresolved Safety Issue.

Westinghouse Water Reactors, Date to be determined (July tentative), Washington, DC. The Subcommittee will continue its review of the Westinghouse Advanced Pressurized Water Reactor for Preliminary Design Approval.

Combined Reliability and Probabilistic Assessment/Millstone Unit 3, Date to be determined (late July, tentative), Washington, DC. The Subcommittee will review the probabilistic risk assessment (PRA) for Millstone Unit 3.

Maintenance Practices and Procedures, August 7, 1984, Washington, DC. The Subcommittee will continue review of the NRC Maintenance Program Plan.

Qualification Program for Safety-Related Equipment, August 8, 1984, Washington, DC. The Subcommittee will discuss the process for evaluating equipment qualification programs. This will include a discussion of qualification of equipment outside of containment.

Human Factors, Date to be determined (mid August), Washington, DC. The Subcommittee will review: (1) Training and qualifications of civilian nuclear power plant personnel; (2) proposed rule making on requirements for Senior Managers; and (3) Shift Operating Experience: Industry Solution, ACRS response to Chairman Palladino's memo.

Millstone Unit 3, Date to be determined (last August), Waterford, CT. The Subcommittee will review the applications for an operating license by the Northeast Nuclear Energy Company.

Quality & Quality Assurance in Design and Construction, Date to be determined (August-September, tentative), Washington, DC. The Subcommittee will discuss the quantity and quality of quality assurance control personnel at nuclear power plant during construction and the use of a designated representative in QC practices.

Regulatory Policies and Practices, Date to be detemined (August-September, tentative), Washington, DC. The Subcommittee will review experience with the interim backfit procedures now in effect and any revisions resulting from public comments.

Combined Reliability and Probabilistic Assessment/Limerick, Date to be determined, Washington, DC. The Subcommittees will review the probabilistic risk assessment (PRA) for the Limerick Plant.

Electrical Systems, Date to be determined, Washington, DC. The Subcommittee will discuss Westinghouse Advanced Pressurized Water Reactor (WAPWR) Integrated Control and Protection System.

GESSAR II, Date to be determined, Washington, DC. The Subcommittee will continue the review of the General Electric Standard Safety Analysis Report and to extend the Final Design Approval so that it will be applicable to future plants. The review will focus on the GESSAR II treatment of Severe Accidents.

ACRS Full Committee Meeting

July 12-14, 1984: Items are *tentatively* scheduled.

*A. *Consideration of Severe Accidents*—Proposed NRC policy statement regarding consideration of severe accidents in the regulation of nuclear power plants.

*B. *On-Shift Engineering Expertise*—Proposed NRC rule regarding qualification requirements for on-shift personnel at nuclear plants.

*C. *Decay Heat Removal Systems*—Status of NRC activities regarding USI-A-45.

*D. *Characterization of Generic Safety and Licensing Issues*—Application of generic safety and licensing issues to proposed standardized LWR nuclear plants.

*E. *Standardized Westinghouse Electric Corporation Nuclear Plant*—Proposed nodular design review of this license application.

*F. *Meeting with NRC Commissioners*—Discuss recommendations of ACRS with respect to safety related matters.

*G. *Future ACRS Activities—Discuss anticipated ACRS Committee and subcommittee activities.*

August 9-11, 1984—Agenda to be announced.

September 6-8, 1984—Agenda to be announced.

Date: June 21, 1984.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 84-17070 Filed 6-26-84; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards; Subcommittee on Safety Philosophy, Technology and Criteria; Meeting

The ACRS Subcommittee on Safety Philosophy, Technology and Criteria will hold a meeting on July 11, 1984, Room 1167, 1717 H Street, NW., Washington, D.C.

The entire meeting will be open to public attendance.

The agenda for subject meeting shall be as follows:

Wednesday July 11, 1984—1:00 p.m. Until the Conclusion of Business

The Subcommittee will discuss the EPRI categorization of the NRC Staff's Generic Safety and Licensing Issues regarding their application to standardized nuclear plants.

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 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, 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 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 4:15 p.m., EDT.

Dated: June 20, 1984.

Morton W. Libarkin,

Assistant Executive Director for Project Review.

[FR Doc. 84-17069 Filed 6-26-84; 8:45 am]

BILLING CODE 7590-01-M

[License No. 34-13774-01; EA 84-48]

John C. Haynes Co.; Order to Show Cause

I

John C. Haynes Company ("the licensee"), 800 Hebron Road, Newark, Ohio 43055, is the holder of Byproduct Material License No. 34-13774-01 which currently authorizes the licensee to possess americium-241 for storage only. On August 19, 1983, the licensee submitted to the Nuclear Regulatory Commission (NRC) a request for termination of its license.

II

During the 1970's the licensee's facility was used to irradiate diamonds and other gemstones using unsealed americium-241 for the purpose of inducing color changes. At one time the licensee possessed up to 21 curies of americium-241 and 2 curies of cerium-144. There may be up to 150 millicuries of americium-241 still present at the facility.

The licensee's enforcement history has been marked by a series of violations of NRC requirements which raise questions regarding its capability to safely control licensed radioactive material. During a December 16, 1975 inspection of the licensee's facility, several items of noncompliance were identified relating to personnel overexposure, inadequate radiological surveys, inadequate personnel monitoring, inadequate storage of radioactive materials, and inadequate record keeping. Further, as a result of inspections on February 6-7, 1980, March 14, 1980, and November 17-19, 1981, items of noncompliance were identified relating to contamination in excess of a license condition, adequate radiological surveys, and unauthorized storage and incineration of licensed material. In 1980, the NRC was informed that the licensee was in default of the mortgage on its licensed facility and that the mortgagee was threatening foreclosure. The NRC's concern that the licensee might lose control over its licensed facility led to the issuance in 1981 of an Order to Modify License, which required limitation of the licensed activity to storage only, and which required to licensee to submit a decontamination plan. In 1982, upon presentation to tne NRC of documentation that the licensee had paid-off its mortgage and gained clear title to the property, and upon payment of inspection fees owed the NRC, the Order to Modify License was rescinded. This was only done, however, after the license has been amended to limit licensed activity to storage only. On August 19, 1983, the licensee requested termination of its license.

As the result of inspections conducted on July 21-22, August 4, 18 and 19, 1983 at the licensee's facility located at Rural Route 6, Newark, Ohio, Region III inspectors and an NRC consultant, Oak Ridge Associated Universities (ORAU), have determined that extensive contamination exists, both in restricted and unrestricted areas of the facility. The majority of the contamination is located within the restricted laboratory area within the structure. Contamination is extensive on the restricted area walls and floors. Other restricted area surfaces which are contaminated are sinks, shower drains, and exterior surfaces of the glove boxes. Surface paint scraping also yielded extensive contamination.

Contamination in excess of NRC's "Guidelines for Decontamination of Facilities and Equipment Prior to Release for Unrestricted Use or Termination of Licenses for Byproduct, Source, or Special Nuclear Material" and License Condition No. 14 has been found on and under carpeting, on the walls, and under the paint in the unrestricted area of the structure, which is presently inhabited. Some minor contamination is also located on the floor of the adjacent garage. Liquid and gaseous effluent systems also contain a residual Am-241. A small area of contaminated soil was identified at a trash incinceration site.

Although no contamination has to date been detected off the licensee's property, since the americium-241 still present in the facility is in powder form and could be dispersed as a result of vandalism, fire, or other phenomena, the public health and safety requires that the facility be decontaminated expeditiously prior to termination of the license.

III

The request presently pending before the NRC is the licensee's August 19, 1983, request for termination of its license. In that request, the licensee states that it has lost money on the activities conducted under this license, that it "recently went through Chapter Eleven in Federal Court" and that it is financially unable to pay for the

decommissioning. The licensee did not provide specific information about its financial condition or the status of its court proceeding.

Prior to license termination, the licensee must decontaminate its facility, and provide a report to NRC confirming the absence of radioactive contamination as required by 10 CFR 30.36(d)(1)(v). This decontamination must be accomplished in a manner which will provide protection of workers and the public against radiation hazards during decontamination operations and assure that the facility has been fully decontaminated and contaminated material has been safely disposed of.

The licensee has not provided a description of the contamination in its facility or an adequate plan for decontamination. Therefore, this Order requires the licensee to show cause why its facility should not be decontaminated in accordance with an approved decontamination plan.

IV

Accordingly, pursuant to sections 81, 161b, 161i, 161o, and 182 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Part 2 and 30, it is hereby ordered that the licensee shall show cause why:

It should not be required to adopt the ORAU Decontamination Plan contained in the ORAU Final Report (May 1984), or an equivalent plan, and to decontaminate its facility located at Rural Route 6, Newark, Ohio, in accordance with such plan. Any alternative proposed decontamination plan would be required to be submitted by the licensee to the Regional Administrator, NR Region III, for approval. In addition, whether the licensee adopts the ORAU plan or an approved alternative, the licensee would be required to address in its decontamination plan the following factors:

1. The qualifications of the persons performing the decontamination and responsible persons maintaining radiation safety during the decontamination operations;

2. The manner in which the licensee will reduce contamination levels in its facility during the decontamination to levels specified in NRC's "Guidelines for Decontamination of Facilities and Equipment Prior to Release for Unrestricted Use or Termination of Licenses for Byproduct, Source, or Special Nuclear Material";

3. A description of the methods to be used to assure protection of workers and the environment against radiation hazards during the decontamination operations;

4. A description of the methods to be used for disposal of contaminated materials;

5. The milestone dates for achieving the various steps in the proposed decontamination plan;

6. The source(s) of expected funds to complete the decontamination of the facility and disposal of the radioactive waste.

V

Pursuant to 10 CFR 2.202(b), the licensee may show cause, within 25 days after issuance of this Order, as required by Section IV above, by filing a written answer under oath or affirmation setting forth the matters of fact and law on which it relies. Any written answer should contain a statement of the licensees objection to the Order. The licensee may answer, as provided in 10 CFR 2.202(b), by consenting to the entry of an Order in substantially the form proposed in this Order to Show Cause. Upon failure of the licensee to file an answer within the specified time, the Regional Administrator may issue without further notice an Order requiring the licensee to decontaminate its facility.

Pursuant to 10 CFR 2.202(b), the licensee may, in its answer filed under Section V above, request a hearing. Any answer to this Order or any request for a hearing shall be submitted to the Regional Administrator, U.S. Nuclear Regulatory Commission, Region III, 799 Roosevelt Road, Glen Ellyn, IL, 60137. Copies shall also be sent to the Director, Office of Nuclear Materials Safety and Safeguards, the Director, Office of Inspection and Enforcement, and the Executive Legal Director at the following address: U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

If a hearing is requested by the licensee, the Commission will issue an order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be: Whether the licensee shall submit a decontamination plan and decontaminate its facility in accordance with Section IV of this Order.

Dated at Bethesda, Maryland, this 19th day of June 1984.

For the Nuclear Regulatory Commission.

Richard C. DeYoung,

Director, Office of Inspection and Enforcement.

[FR Doc. 84-17072 Filed 6-26-84; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-277; 50-278; License Nos. DPR-44; DPR-56; EA 84-39]

Philadelphia Electric Co.; Order Modifying License Effective Immediately

I

Philadelphia Electric Company (the "licensee"); Peach Bottom Atomic Power Station, Units 2 and 3 is the holder of Facility Operating License Nos. DPR-44 and DPR-56, issued October 25, 1973 and July 2, 1974 respectively, which authorize the licensee to operate the Peach Bottom Atomic Power Station, Units 2 and 3 (the "facility") located in Delta, Pennsylvania.

II

In November 1983, the NRC became aware of the licensee's practice of individually scramming control rods to effect a normal reactor shutdown. The practice was further reviewed during an NRC inspection conducted January 5-20, 1984, and a violation of NRC requirements was identified. The violation involved changes to the facility and facility procedures allowing individual scramming of control rods without an adequate safety review, as required by 10 CFR 50.59, to determine if the changes involved a modification to technical specifications or an unreviewed safety question. Specifically, in 1977, plant operating procedure GP-3 used for normal plant shutdowns was changed, and in 1978, plant operating procedure GP-9 was written such that the safety functions of two systems required to be operable by facility technical specifications during plant shutdowns, namely the Rod Worth Minimizer (RWM) and the Rod Sequence Control System (RSCS), were effectively bypassed during plant shutdowns. This operating mode was different than described in the Final Safety Analysis Report (FSAR) and inconsistent with technical specification operability requirements, and was implemented without prior NRC approval, without a change to the technical specification, and without a documented safety evaluation to indicate that the change did not involve an documented safety evaluation to indicate that the change did not involve an unreviewed safety question. This change was reviewed by the licensee's Plant Operations Review Committee (PORC), but the implications of the change apparently were not recognized by the PORC. Further, in 1979, a separate shutdown sequence was programmed into the RWM, that differed substantially from the startup

sequence, without evaluating the change to determine if it involved an unreviewed safety question with respect to the FSAR. Consequently, from 1977 through 1983, the licensee failed to recognize that the method used in shutting down the reactors was contrary to the plant technical specifications and the FSAR.

The RWM and RSCS function to avoid control rod patterns that could result in unacceptable consequences in the event of a control rod drop accident. The licensee's practice of individually scramming control rods effectively bypassed the RWM and RSCS controls and reduced the margin of safety in the event of a rod drop accident.

III

This violation demonstrates the need for an assessment at the Peach Bottom Atomic Power Station to determine (1) whether adequate safety reviews have been and are currently being performed when plant and procedure changes are made; and (2) whether inconsistencies exist in other procedures with regard to the FSAR and technical specification requirements, as a result of procedure changes not receiving adequate safety review. Since such inconsistencies, if any exist, could reduce the level of safety at the facility, I have determined that the actions set forth below are required for the public health, safety, and interest, and therefore, should be imposed by an immediately effective Order.

IV

In view of the foregoing, pursuant to sections 103, 161(i), 161(o), and 182 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Part 2 and 10 CFR Part 50, it is hereby ordered effective immediately that:

Within 60 days of the effective date of this Order, the licensee shall submit to the Regional Administrator, Region I, for review and approval, a plan for an appraisal of: (1) The licensee's process for performing safety evaluations and reviews of procedures pursuant to 10 CFR 50.59 to determine if the process is currently effective, or if improvements are needed; (2) plant and system operating procedures to verify that existing procedures are consistent with technical specifications, technical specification bases, and those sections of the FSAR concerning systems necessary to mitigate Design Basis Accidents, and do not involve unreviewed safety questions; and (3) the licensee's program for ensuring that employees involved in the review and approval of operating procedures remain cognizant of the licensing bases.

The NRC expects that this appraisal will involve a process of screening numerous facility procedures to identify those warranting a detailed review. The appraisal shall be conducted, coordinated, and reviewed, by individuals who are familiar with the application of the Boiling Water Reactor technical specification. In addition, the appraisal shall be performed in manner that shall not detract from safe plant operation.

The appraisal plan shall describe:

(1) The qualifications of the appraisal team members, and a discussion of their degree of independence, regarding areas reviewed;

(2) The methods of performing the appraisal and documenting the results;

(3) The schedule for completion of appropriate milestones; and

(4) The methods for resolving appraisal findings in a timely manner.

Upon approval of the appraisal plan by the Regional Administrator, Region I, the appraisal plan shall be implemented. Scheduled milestone completion dates may be extended without good cause and the concurrence of the Regional Administrator, Region I.

The licensee shall direct the appraisal team to submit to the Regional Administrator, Region I, at the time it is submitted to the licensee management, a copy of any report of the appraisal and recommendations resulting from the appraisal. The licensee shall direct the appraisal team to report immediately, upon identification, to the licensee management and the NRC any inconsistencies which could affect the safe operation of the facilities. In addition, the licensee shall consider the recommendations resulting from the appraisal and provide to the Regional Administrator, Region I, an analysis of each such recommendation and the action to be taken in response to the recommendation. The licensee shall also provide a schedule for accomplishing these actions.

The Regional Administrator, Region I, may relax or terminate in writing any of the proceding requirements for good cause.

V

The licensee may request a hearing on this Order. A request for hearing shall be submitted to the Director, Office of Inspection and Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 within 30 days of the date of this Order. A copy of the request shall also be sent to the Executive Legal Director at the same address and to the Regional Administrator, Region I, 631 Park Avenue, King of Prussia, PA 19406. Any request for a hearing shall not stay the immediate effectiveness of this order.

If a hearing is to be held concerning this Order, the Commission will issue an Order designating the time and place of hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Order shall be sustained.

Dated at Bethesda, Maryland, this 18th day of June 1984.

For the Nuclear Regulatory Commission.

Richard C. DeYoung,

Director, Office of Inspection and Enforcement.

[FR Doc. 84-17073 Filed 6-26-84; 8:45 am]

BILLING CODE 7590-01-M

[License: 42-19582-01; EA 84-51]

Superior Production Logging, Inc.; Rescission of Suspension and Order Modifying License

I

Superior Production Logging, Inc., P.O. Box 399, Snyder, Texas 79549 (the "licensee"); P.O. Box 399, Snyder, Texas 79549 is the holder of a specific byproduct material license issued by the Nuclear Regulatory Commission (the "Commission") pursuant to 10 CFR Part 30. The license, issued on January 5, 1981, amended in its entirety on October 8, 1982, and due to expire on December 31, 1985, authorizes the use, storage, and transfer of byproduct material as described in the licensee's application dated October 24, 1980, and letters of February 6, June 15, and August 31, 1982.

II

A routine NRC safety inspection was conducted at the licensee's field office in Oklahoma City, Oklahoma, on April 9, 1984, and at the licensee's corporate office in Snyder, Texas, on April 30, 1984. The inspection revealed that the licensee had conducted licensed activities in violation of certain NRC requirements. As a result of this inspection and a discussion of inspection findings at an Enforcement Conference on May 31, 1984, an Order to Show Cause and Order Temporarily Suspending License, effective immediately, was issued to Superior Production Logging, Inc., on June 7, 1984. The licensee responded to the Order on June 14, 1984.

On the basis of an evaluation of the licensee's response, and the results of a follow-up inspection on June 18, 1984, I have now determined the licensee has shown cause why License 42-19582-01 should not be revoked and has shown

that, subject to the implementation of the proposed improvements in its licensed program and the conditions set forth in Section III, licensed activities can be performed in accordance with Commission requirements. Accordingly, I have determined that subject to these conditions and improvements, the license suspension may be rescinded.

III

In view of the foregoing and pursuant to sections 81, 161b, and 161o of the Atomic Energy Act of 1954, as amended, and the Commission' regulations in 10 CFR Parts 2 and 30,, it is hereby ordered that:

1. The licensee shall comply with the commitments specified in paragraphs numbered 4 through 7 on page 4 of their June 14, 1984 response to the Order to Show Cause and Order Temporarily Suspending License, dated June 7, 1984.

2. Mr. D. R. Melton is approved as the temporary corporate Radiation Safety Officer. After Mr. Melton has recieved the additional training specified in item 2 and 3 of this Section, the licensee's amendment request of June 14, 1984 will be evaluated and acted upon.

3. The licensee shall conduct compliance audits at each approved field site on a quarterly frequency. These audits shall be conducted for 1 year and shall be performed by an independent consultant approved by the Regional Administrator, NRC Region IV, and accompanied by the Radiation Safety Officer. After each audit, a written report of the audit findings shall be documented and retained at the licensee's facility for future inspection by the NRC. Actions taken in response to the audit findings shall also be documented, reviewed by the licensee, and retained with the records of the audit.

4. The licensee shall send the Radiation Safety Officer, by October 1, 1984, to a training course for well-loggers approved by the Regional Administrator, Region IV. This training course must cover the rules and regulations of the Commission and radiation safety requirements related to well-logging operations. In addition to the training course, each quarterly visit by an independent consultant shall provide for additional ongoing training for the Radiation Safety Officer and for refresher training for other licensee personnel involved in the use of licensed material. This training shall include safe handling and storage of sealed sources and tracer material within each facility and field site. This training shall also consist of a review of the documentation and recordkeeping requirements associated with the licensed program. A written report of the training given shall be documented and retained at the licensee's facility for future inspection by the NRC.

IV

The licensee may request a hearing on this Order within 25 days of the date of its issuance. Any request for a hearing shall be addressed to the Director, Office of Inspection and Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy shall also be sent to the Executive Legal Director at the same address.

If a hearing is to be held, the Commission will issue an Order designating the time and place of any such hearing. If a hearing is held concerning this Order, the issue to be considered at the hearing shall be whether the licensee should comply with the requirements set forth in Section III of this Order.

The Order modifying license set forth in Section III shall become effective upon the licensee's consent or upon expiration of the time within which the licensee may request a hearing or, if a hearing is requested by the licensee, on the date specified in an Order issued following further procedings on this Order.

The suspension of licensed activities imposed by the Order of June 7, 1984, is rescinded upon the effectiveness of the Order set forth in Section III.

Dated at Bethesda, Maryland, this 19th day of June 1984.

For the Nuclear Regulatory Commission.

Richard C. DeYoung,

Director Office of Inspection and Enforcement.

[FR Doc. 84-17074 Filed 6-26-84; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-280 and 50-281]

Virginia Electric and Power Co. (Surry Power Station, Unit Nos. 1 and 2); Order Confirming Licensee Commitments on Emergency Response Capability

I

Virginia Electric and Power Company (the licensee) is the holder of Facility Operating License Nos. DPR-32 and DPR-37 which authorize the operation of the Surry Power Station, Unit Nos. 1 and 2 (the facilities) at steady-state power levels not in excess of 2441 megawatts thermal. The facilities are pressurized water reactors (PWRs) located in Surry County, Virginia.

II

Following the accident at Three Mile Island Unit No. 2 (TMI-2) on March 28, 1979, the Nuclear Regulatory Commission (NRC) staff developed a number of proposed requirements to be implemented on operating reactors and on plants under construction. These requirements include Operational Safety, Siting and Design, and Emergency Preparedness and are intended to provide substantial additional protection in the operation of nuclear facilities and significant upgrading of emergency response capability based on the experience from the accident at TMI-2 and the official studies and investigations of the accident. The requirements are set forth in NUREG-0737, "Clarification of TMI Action Plan Requirements," and in Supplement 1 to NUREG-0737, "Requirements for Emergency Response Capability." Among these requirements are a number of items consisting of emergency response facility operability, emergency procedure implementation, addition of instrumentation, possible control room design modifications, and specific information to be submitted.

On December 17, 1982, a letter (Generic Letter 82-33) was sent to all licensees of operating reactors, applicants for operating licenses, and holders of construction permits enclosing Supplement 1 to NUREG-0737 In this letter operating reactor licensees and holders of construction permits were requested to furnish the following information, pursuant to 10 CFR 50.54(f), no later than April 15, 1983:

(1) A proposed schedule for completing each of the basic requirements for the items identified in Supplement 1 to NUREG-0737, and

(2) A description of plans for phased implementation and integration of emergency response activities including training.

III

The licensee responded to Generic Letter 82-33 by letter dated April 15, 1983, January 31, 1984, February 21, 1984, March 1, 1984 and March 13, 1984. In this submittal, the licensee made commitments to complete the basic requirements. The following Table, summarizing the licensee's schedular commitments or status, was developed by the NRC staff from the Generic Letter and the information provided by the licensee.

The licensee's commitments include (1) dates for providing required submittals to the NRC, (2) dates for implementing certain requirements, and

(3) a schedule for providing implementation dates for other requirements. These latter implementation dates will be reviewed, negotiated and confirmed by a subsequent order.

The NRC staff reviewed the licensee's April 15, 1983 letter and entered into negotiations regarding suhedules for meeting the requirements of Supplement 1 to NUREG–0737. The NRC staff finds that the dates are reasonable for meeting the Commission requirements. The NRC staff concludes that the schedule proposed by licensee will provide timely upgrading of the licensee's emergency response capability.

In view of the foregoing, I have determined that the implementation of the licensee's commitments is required in the interest of the public health and safety and should, therefore, be confirmed by an immediately effective Order.

IV

Accordingly, pursuant to sections 103, 161i, 161o and 182 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 50, it is hereby ordered, effective immediately, that the licensee shall: Implement the specific items described in this order in the manner described in the licensee's submittals noted in Section III herein no later than the dates in the Table.

Extensions of time for completing these items may be granted by the Director, Division of Licensing, for good cause shown.

V

The licensee may request a hearing on this Order within 20 days of the date of publication of this Order in the **Federal Register.** Any request for a hearing should be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy should also be sent to the Executive Legal Director at the same address. A request for hearing shall not stay the immediate effectiveness of this Order.

If a hearing is to be held, the Commission will issue an Order designating the time and place of any such hearing.

If a hearing is held concerning this Order, the issue to be considered at the hearing shall be whether the licensee should comply with the requirements set forth in Section IV of this Order.

This Order is effective upon issuance.

Dated at Bethesda, Maryland, this 12th day of June 1984.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

LICENSEE'S COMMITMENTS ON SUPPLEMENT 1 TO NUREG–0737

Title	Requirement	Licensee's completion schedule (or status)
1. Safety Parameter Display System (SPDS)	1a. Submit a safety analysis and an implementation plan to the NRC.	Complete.
	1b. SPDS fully operational and operators trained	Surry 1—First refueling after July 1985 (about February 1986). Surry 2—First refueling after July 1985 (about October 1986).
2. Detailed Control Room Design Review (DCRDR)	2a. Submit a program plan to the NRC	Complete.
	2b. Submit a summary report to the NRC including a proposed schedule for implementation.	Provide schedule August 30, 1985.
3. Regulatory Guide 1.97—Application to Emergency Response Facilities.	3a. Submit a report to the NRC describing how the requirements of Supplement 1 to NUREG–0737 have been or will be met.	Complete.
	3b. Implement (installation or upgrade) requirements	Refueling in 1986.[1]
4. Upgrade Emergency Operating Procedures (EOPs)	4a. Submit a Procedures Generation Package to the NRC	Complete.
	4b. Implement the upgraded EOPs	Do.
5. Emergency Response Facilities	5a. Technical Support Center fully functional	First refueling after July 1, 1985.
	5b. Operational Support Center fully functional	Complete except for communications tie-in with EOF.
	5c. Emergency Operations Facility fully functional	July 31, 1985 except for data communication which will follow schedule for SPDS.

[1] Incore thermocouples are tracked on separate schedule.

[FR Doc. 84–17078 Filed 6–26–84; 8:45 am]
BILLING CODE 7590–01–M

[Docket No. STN 50–601; RESAR–SP/90]

Westinghouse Electric Corp.; Receipt of Application for Preliminary Design Approval

Westinghouse Electric Corporation has filed with the Nuclear Regulatory Commission an application for a Preliminary Design Approval of its Advanced Pressurized Water Reactor design, RESAR–SP/90, under the provisions of 10 CFR Part 50, Appendix 0. The application was tendered on October 24, 1983 and was found acceptable for docketing on January 25, 1984. By letter dated May 7, 1984, Westinghouse requested that the NRC docket RESAR–SP/90. Docket No. STN 50–601 has been assigned to RESAR–SP/90 and should be referenced in any correspondence relating thereto.

RESAR–SP/90 constitutes a "reference system" design as described in the Commission's August 31, 1978 policy statement on nuclear power plant standardization (43 FR 38954) wherein a facility design or a major portion of a facility design can be approved outside the context of an application for a construction permit or an operating license. RESAR–SP/90 describes and analyzes a standard four-loop, pressurized water reactor nuclear power block design. The reactor is designed for a core thermal power of 3800 megawatts.

When the review of RESAR–SP/90 is complete, the staff will prepare and publish a Safety Evaluation Report documenting the results of its review. In addition, RESAR–SP/90 will be referred to the Advisory Committee on Reactor Safeguards (ACRS) for its review and a report thereon. A notice of the availability of the Safety Evaluation Report and the ACRS report will be published in the **Federal Register.**

A copy of RESAR–SP/90 is available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555. When available, the Safety Evaluation Report and the ACRS report will also be made available for inspection by the public at the Public Document Room. Copies of the Safety Evaluation Report may be purchased at current rates from the National Technical Information Service, Springfield, Virginia 22161, when it becomes available.

Dated at Bethesda, Maryland, this 18th day of June 1984.

For the Nuclear Regulatory Commission.

Cecil O. Thomas,

Chief, Standardization & Special Projects Branch, Division of Licensing.

[FR Doc. 84-17079 Filed 6-26-84; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

Announcement of the 1984 SEC Government-Business Forum on Small Business Capital Formation

In order to continue a meaningful and ongoing dialogue on the capital formation problems besetting the small business community, the Securities and Exchange Commission has announced that the Third Annual SEC Government-Business Forum on Small Business Capital Formation will be held September 12–14, 1984, at the Sheraton National Hotel in Washington, D.C. The conference will provide a forum for small business, government regulatory agencies, and private sector organizations concerned with small business issues to discuss solutions to the existing impediments to small business capital formation, particularly in the areas of taxation, securities, financial services and state capital formation. The organizations on the Executive Committee, which are assisting in planning the 1984 Forum, are set forth below.

The format of the Forum calls for participants to meet in working discussion groups of 15–20 persons to consider each major issue before the Forum with the intent of developing specific recommendations. Recommendations approved by all participants meeting in general session will be included in a final report to be submitted to Congress and appropriate regulatory agencies. Further, each participant will be requested to act as a co-discussion leader on one major issue and should be generally familiar with all discussion materials.

Members of the public interested in being considered for active participation at the Forum should promptly complete and return an information card available from the Office of Small Business Policy, Division of Corporation Finance, U.S. Securities and Exchange Commission, 450 5th Street, N.W., Stop 3–12, Washington, D.C. 20549. The information card will facilitate the selection of small business persons, lawyers, accountants and others who are knowledgeable in small business issues and who could make the most meaningful contribution to the Forum.

For further information, contact Mary M. Jackley at (202) 272–2644.

Dated: June 21, 1984.

George A. Fitzsimmons,

Secretary.

Forum Executive Committee

Aetna Life Insurance Company
American Association of Minority Enterprise Small Business Investment Companies
American Bankers Association
American Bar Association
American Institute of Architects
American Institute of Certified Public Accountants
American Stock Exchange
Arthur Anderson & Co.
Commerce Department
Comptroller of the Currency
Coopers & Lybrand
Federal Bar Association
Federal Reserve Board
Financial Accounting Standards Board
Financial Analysts Federation
National Association of Securities Dealers
National Association of Small Business Investment Companies
National Association of Wholesaler Distributors
National Federation of Independent Business
National Small Business Association
North American Securities Administrators Association
Peat, Marwick, Mitchell & Co.
Robert Morris Associates
Securities and Exchange Commission
Small Business Administration
Small Business United
Treasury Department

[FR Doc. 84-17133 Filed 6-26-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 21074; SR-NASD-84-8]

National Association of Securities Dealers, Inc.; Order Approving Proposed Rule Change

June 20, 1984.

The National Association of Securities Dealers, Inc. ("NASD"), 1735 K Street, N.W., Washington, D.C. 20006, submitted on April 27, 1984, a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") and Rule 19b-4 thereunder to amend Article III, Section 10 of its Rules of Fair Practice which limits the dollar amount that a member, or person associated with a member, may give to any person when the payment or gratuity is given in relation to the business of the recipient's employer. The amount is being raised from $25 to $50.

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. 20961, May 15, 1984) and by publication in the **Federal Register** (49 FR 21452, May 21, 1984). 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 the NASD and, in particular, the requirements of Section 15A 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 it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30-3(a)(12).

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-17130 Filed 6-26-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 21073; File No. SR-PCC-84-8]

Pacific Clearing Corp.; Filing and Immediate Effectiveness of Proposed Rule Change

June 20, 1984.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on June 11, 1984, the Pacific Clearing Corporation ("PCC") filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposed rule change amends PCC's fee schedule to include charges for pick-up and delivery services [1] performed by PCC's New York City branch office.[2] PCC further states that

[1] The "New York Pick-Up and Delivery Service" enables PCC members and participants of the Pacific Securities Depository Trust Company ("PSDTC"–PCC's sister clearing agency and affiliated depository) to instruct PCC to make deliveries to or from PCC's New York City branch office.

[2] *See* File No. SR-PCC-84-5, Securities Exchange Act Release No. 20977 (May 18, 1984), 49 FR 22430 (May 29, 1984) (authorizing PCC to open a new branch office at 40 Broad Street, 19th Floor, New York, New York 10004, to provide services, including pick-up and delivery services, to PCC members and PSDTC participants).

the new fees are intended to permit PCC to recover its costs for performing the New York Pick-Up and Delivery Service.[3] PCC states that the proposal is consistent with Section 17A of the Act in that the proposal will provide for the equitable allocation of reasonable fees among PCC's members.[4]

The foregoing change has become effective, pursuant to Section 19(b)(3)(A) of the Act and subparagraph (e) of Securities Exchange Act Rule 19b–4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Interested persons are invited to submit written data, views and arguments concerning the submission within 21 days after the date of publication in the **Federal Register.** Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Reference should be made to File No. SR–PCC–84–8.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 Fifth Street, N.W., Washington, D.C. Copies of the filing and of any subsequent amendmentrs also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

[3] The new fees are as follows:

New York Pick-up and Delivery Service:

$6.00 per pick-up or delivery in downtown Manhattan.

$10.00 per pick-up or delivery elsewhere in New York City if performed by PCC.

Pass-through of costs of outside courier or messenger service.

$8.00 per rejected item for delivery to third-party.

[4] *See* Section 17A(b)(3)(D) of the Act.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84–17131 Filed 6–26–84; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 21076; SR–PSE–81–10]

Pacific Stock Exchange, Inc., Filing and Order Granting Accelerated Approval of Proposed Rule Change

June 21, 1984.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on May 30, 1984, the Pacific Stock Exchange, Inc. ("PSE"), 618 South Spring Street, Los Angeles, CA 90014, filed with the Securities and Exchange Commission the proposed rule change as described herein. The commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposed rule change extends the PSE's pilot program for the appointment and evaluation of specialists and the creation of new specialist posts ("pilot program") from June 30, 1984 to December 31, 1984. the PSE proposes to amend Section 1(1) and 11(t) of Rule II of the Rules of the Board of Governors of the PSE to reflect the pilot program's new scheduled expiration date of June 30, 1984.[1] The Exchange has noted in its filing that it is requesting the six month extension in order to allow the PSE an opportunity to review its experience under the pilot program in greater detail and to provide it with an adequate opportunity to review proposed changes to the pilot program suggested by its members as well as the Commission.[2] The PSE notes that Exchange committees will be reviewing the desirability of revising one or more of the existing measures of specialist performance or adding additional measures of performance under the pilot as well as evaluating its current procedures for the formation of new specialist posts. The PSE states that the proposed rule change in consistent with Section 6(b) of the Act in general, and in particular Sections 6(b) (5) and 6(b) (7).

Interested persons are invited to submit written data, views and agruments concerning the proposed rule change within 21 days after the date of publication in the **Federal Register.** Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 5th Street, N.W., Washington, D.C. 20549. Reference should be made to File No. SR–PSE–84–10.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change with are filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 5th Street, N.W., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

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, and the rules and regulations thereunder.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof, in that the pilot program is scheduled to terminate on June 30, 1984, unless extended. The Commission believes that extension of the pilot program until December 31, 1984 is appropriate in that it will permit the PSE to more thoroughly review its experience under the pilot program and to develop any necessary modifications to the program prior to requesting permanent Commission approval.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change referenced above be, and hereby is approved.

[1] The Commission approved the adoption of the pilot program (SR–PSE–81–5) on May 27, 1981 (Securities Exchange Act Release No. 17818, May 27, 1981; 46 FR 30016, June 4, 1981). The term of the program was subsequently extended several times by the Commission. The Commission most recently approved an extension of the pilot program until June 30, 1984 in SR–PSE–84–1 (Securities Exchange Act Release No. 20542, January 10, 1984; 49 FR 1956, January 16, 1984).

[2] The Commission staff has requested that the PSE provide the Commission with certain statistical information in order to assist the staff in assessing the PSE's experience with the pilot program. In addition, the Commission has raised questions and concerns regarding various aspects of the pilot program. The PSE has stated in its filing that it intends to address these concerns in connection with the PSE's overall evaluation of the pilot program.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-17132 Filed 6-26-84; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[License No. 09/09-0239]

Brentwood Capital Corp.; Application for Approval of Conflict of Interest Transaction

Notice is hereby given that Brentwood Capital Corporation, 11661 San Vicente Blvd., Los Angeles, California 90049, a Federal Licensee under the Small Business Investment Act of 1958, as amended (Act), (15 U.S.C. 661 *et seq.*), has filed an application with the Small Business Administration, pursuant to Section 312 of the Act and covered by § 107.903(b)(1) of the Regulations governing small business investment companies (SBICs/Licensees) (13 CFR 107.903 (1984)), for approval of a conflict of interest transaction falling within the scope of the above Sections of the Act and Regulations.

Brentwood Capital intends to invest up to $500,000 in shares of convertible preferred stock of DMA Systems Corporation, 601 Pine Avenue, Goleta, California 93117. Other Brentwood entities (Associates) have prior investments in this Small Business Concern.

SBA's prior written approval is required pursuant to § 107.903 of SBA Regulations because Associates own 10 or more percent of the small concern's equity securities and these are not initial joint financings with Associates.

Notice is hereby given that any person may, not later than fifteen (15) days from the date of publication of this Notice, submit written comments to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street, N.W., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in Los Angeles, California.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: June 13, 1984.

Robert G. Lineberry,

Deputy Associate Administrator for Investment

[FR Doc. 84-17124 Filed 6-26-84; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 2128; Amdt. 1]

California; Declaration of Disaster Loan Area

The above numbered declaration (See 49 FR *20098*) is amended by adding the adjacent county of Alameda as a result of damage caused by an earthquake which occurred on April 24, 1984. All other information remains the same, i.e., the termination dated for filing applications for physical damage is the close of business on July 2, 1984, and for economic injury until the close of business on February 4, 1985.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: June 21, 1984.

James C. Sanders,

Administrator.

[FR Doc. 84-17125 Filed 6-26-84; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 2152]

Kansas; Declaration of Disaster Loan Area

Johnson County in the State of Kansas constitutes a disaster area because of damage caused by tornadoes and flooding which occurred on June 7–9, 1984. Applications for loans for physical damage may be filed until the close of business on August 20, 1984, and for economic injury until the close of business on March 21, 1985, at the address listed below: Disaster Area 3 Office, Small Business Administration, 2306 Oak Lane, Grand Prairie, TX 75051, or other locally announced locations.

Interest rates are:

	Percent
Homeowners with credit available elsewhere	8.000
Homeowners without credit available elsewhere	4.000
Businesses with credit available elsewhere	8.000
Businesses without credit available elsewhere	4.000
Businesses (EIDL) without credit available elsewhere	4.000
Other (non-profit organizations including charitable and religious organizations)	10.500

The number assigned to this disaster is 215212 for physical damage and for economic injury the number is 618800.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: June 21, 1984.

James C. Sanders,

Administrator.

[FR Doc. 84-17127 Filed 6-26-84; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 2153]

Missouri, Declaration of Disaster Loan Area

As a result of the President's major disaster declaration on June 21, 1984, I find that the County of Buchanan and the adjacent County of Platte constitute a disaster loan area because of damage from severe storms, high winds, and flooding beginning on or about June 6, 1984. Eligible persons, firms, and organizations may file applications for loans for physical damage until the close of business on August 20, 1984, and for economic injury until March 21, 1985, at: Disaster Area 3 Office, Small Business Administration, 2306 Oak Lane, Grand Prairie, TX 75051, or other locally announced locations.

Interest rates are:

	Percent
Homeowners with credit available elsewhere	8.000
Homeowners without credit available elsewhere	4.000
Businesses with credit available elsewhere	8.000
Businesses without credit available elsewhere	4.000
Businesses (EIDL) without credit available elsewhere	4.000
Other (non-profit organizations including charitable and religious organizations)	10.500

The number assigned to this disaster is 215306 for physical damage and for economic injury the number is 618900.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: June 22, 1984.

Bernard Kulik,

Deputy Associate Administrator for Disaster Assistance.

[FR Doc. 84-17128 Filed 6-26-84; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 2148]

New Hampshire, Declaration of Disaster Loan Area

Cheshire County and the adjacent Counties of Hillsboro and Sullivan in the State of New Hampshire constitute a disaster area because of damage caused by a severe rains and flooding which occurred on May 30, 1984, through June 4, 1984. Applications for loans for physical damage may be filed until the close of business on August 20, 1984, and for economic injury until the close of business on March 20, 1985, at the address listed below. Disaster Area 1 Office, Small Business Administration, 15–01 Broadway, Fair Lawn, NJ 07410, or other locally announced locations.

Interest rates are:

	Percent
Homeowners with credit available elsewhere	8.000
Homeowners without credit available elsewhere	4.000
Businesses with credit available elsewhere	8.000
Businesses without credit available elsewhere	4.000
Businesses (EIDL) without credit available elsewhere	4.000
Other (non-profit) organizations including charitable and religious organizations)	10.500

The number assigned to this disaster is 214806 for physical damage and for economic injury the number is 618400.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: June 20, 1984.

James C. Sanders,

Administrator.

[FR Doc. 84-17126 Filed 6-26-84; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Reports, Forms, and Recordkeeping Requirements; Submittals to OMB, May 22–June 14, 1984

AGENCY: Office of the Secretary, DOT.

ACTION: Notice.

SUMMARY: This notice lists those forms, reports, and recordkeeping requirements, transmitted by the Department of Transportation, during the period May 22–June 14, 1984, to the Office of Management and Budget (OMB) for its approval. This notice is published in accordance with the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35).

FOR FURTHER INFORMATION CONTACT: John Windsor, John Chandler, or Annette Wilson, Information Requirements Division, M-34, Office of the Secretary of Transportation, 400 7th Street, SW., Washington, D.C. 20590, (202) 426-1887 or Gary Waxman or Sam Fairchild, Office of Management and Budget, New Executive Office Building, Room 3228, Washington, D.C. 20503, (202) 395-7340.

SUPPLEMENTARY INFORMATION:

Background

Section 3507 of Title 44 of the United States Code, as adopted by the Paperwork Reduction Act of 1980, requires that agencies prepare a notice for publication in the **Federal Register**, listing those information collection requests submitted to the Office of Management and Budget (OMB) for approval under that Act. OMB reviews and approves agency submittals in accordance with criteria set forth in that Act. In carrying out its responsibilities, OMB also considers public comments on the proposed forms, reporting and recordkeeping requirements. As needed, the Department of Transportation will publish in the **Federal Register** a list of those forms, reporting and recordkeeping requirements that it has submitted to OMB for review and approval under the Paperwork Reduction Act. The list will include new items imposing paperwork burdens on the public as well as revisions, renewals and reinstatements of already existing requirements. OMB approval of an information collection requirement must be renewed at least once every three years. The published list also will include the following information for each item submitted to OMB:

(1) A DOT control number.

(2) An OMB approval number if the submittal involves the renewal, reinstatement or revision of a previously approved item.

(3) The name of the DOT Operating Administration or Secretarial Office involved.

(4) The title of the information collection request.

(5) The form numbers used, if any.

(6) The frequency of required responses.

(7) The persons required to respond.

(8) A brief statement of the need for, and uses to be made of, the information collection.

Information Availability and Comments

Copies of the DOT information collection requests submitted to OMB may be obtained from the DOT officials listed in the "**FOR FURTHER INFORMATION CONTACT**" paragraph set forth above. Comments on the requests should be forwarded, as quickly as possible, directly to the OMB officials listed in the "**FOR FURTHER INFORMATION CONTACT**" paragraph set forth above. If you anticipate submitting substantive comments, but find that more than 10 days from the date of publication are needed to prepare them, please notify the OMB officials of your intent immediately.

Items Submitted for Review by OMB

The following information collection requests were submitted to OMB from May 22–June 14, 1984:

DOT No: 2246
OMB No: 2120–0042 (combined with 2120–0029)
By: Federal Aviation Administration
Title: Aircraft Registration (Includes application, bill of sale)
Forms: AC–8050–1.2.4.81, and 117
Frequency: On Occasion
Respondents: Owners of aircraft
Need/Use: This information is needed to record in one location all documents for registry of U.S. civil aircraft. This service includes assignment of the U.S. identification marks, registration of ownership and changes or cancellation of a registration.

DOT No: 2247
OMB No: 2120–0024
By: Federal Aviation Administration
Title: Application for Aircraft Dealer's Registration Certificate
Forms: AC 8050–5
Frequency: On Occasion
Respondents: Businesses
Need/Use: AC form 8050–5 is an application by a Dealer for an Aircraft Registration Certificate, which may be issued to persons engaged in manufacturing, distributing, or selling aircraft. Information received enables the Aircraft Registry to determine eligibility of applicants to receive a dealer's certificate and to issue it with the correct name and address.

DOT No: 2248
OMB No: 2125–0079
By: Federal Highway Administration
Title: Medical Examination—Drivers Transporting Migrant Workers
Forms: None
Frequency: Recordkeeping requirement 3 years
Respondents: Motor carriers
Need/Use: To assure the Federal Highway Administration that interstate drivers who transport migrant workers are physically qualified and certified every 3 years and that motor carriers retain a copy of the certification in the drivers' qualification file.

DOT No: 2449
OMB No: 2115–0036
By: U.S. Coast Guard
Title: Application for Enlistment
Forms: CG–2520
Frequency: On Occasion
Respondents: Applicants for enlistment in the U.S. Coast Guard
Need/Use: The reporting requirement is needed to obtain the information necessary to evaluate each applicant's qualifications. It also allows for the gathering of information necessary to conduct the required police checks, school checks, character references and employment checks. The information gathered is used to determine an applicant's eligibility to enlist.

DOT No: 2450
OMB No: 2115–0132
By: U.S. Coast Guard
Title: Servicing Records for Life Rafts
Forms: None
Frequency: Recordkeeping retention period 5 years

Respondents: Inflatable life raft servicing units
Need/Use: Title 46 CFR requires each inspected vessel, and mobile offshore drilling unit to carry 2 inflatable life rafts. These rafts are required to be serviced annually at an approved servicing facility. The servicing facility is required to maintain a complete record of each life raft it services. The recordkeeping requirement is needed to determine (1) that the life raft has been serviced and (2) that the life raft has met the applicable requirements and can be relied upon for safe escape of personnel from a vessel or drilling unit in case of an emergency. The information is used by the Coast Guard inspection personnel who issue a servicing certificate. This certificate is valid for 5 years.
DOT No: 2451
OMB No: 2120–0009
By: Federal Aviation Administration
Title: Pilots Schools—FAR 141
Forms: FAA Form 8420–8
Frequency: On Occasion
Respondents: Pilot School Applicants/ Certificate Holders
Need/Use: The Federal Aviation Administration Act of 1958, Section 607 (49 USC 1427) authorizes certification of civilian schools giving instruction in flying. 14 CFR 141 prescribes the syllabus requirements for pilot school certificates. Information collected is used to determine eligibility for certification.
DOT No: 2452
OMB No: 2120–0022
By: Federal Aviation Administration
Title: Certification: Mechanics, Repairmen, Parachute Riggers—FAR 65
Forms: FAA Forms 8610–1 and 8610–2
Frequency: On Occasion
Respondents: Individuals
Need/Use: The Federal Aviation Administration Act of 1958, Section 602 (49 USC 1422) authorizes the issuance of airman certificates. 14 CFR 65 prescribes the training and experience requirements for aircraft mechanics, repairmen and parachute riggers as well as for the position of inspector. Information collected on the forms shows applicant eligibility. Certification by the Federal Aviation Administration is required for employment in these specialized jobs.
DOT No: 2453
OMB No: New
By: Federal Railroad Administration
Title: Control of Alcohol and Drug Use in Railroad Operations
Forms: None
Frequency: Recordkeeping, Annual and On Occasion
Respondents: Railroads
Need/Use: Federal Railroad Administration needs the information to determine the role of alcohol or drugs in train accidents and to prevent their use during operations. The adoption of the system is expected to improve the safety of railroad operations.
DOT No: 2454
OMB No: New
By: Federal Aviation Administration
Title: Survey of Accident Prevention Program Effectiveness
Forms: GL 8740–1
Frequency: Annually
Respondents: General Aviation Pilots in the Great Lakes Region
Need/Use: Information is needed for planning of safety programs which is responsive to the needs of the aviation public. The information is used to measure current effectiveness and to aid the Federal Aviation Administration in selection of programs of importance to safety. Meetings can be scheduled at locations and times when general aviation pilots can attend.

Issued in Washington, D.C., on June 21, 1984.

Jon H. Seymour,

Deputy Assistant Secretary for Administration.

[FR Doc. 84–17146 Filed 6–26–84; 8:45 am]
BILLING CODE 4910–62–Mnn

Federal Aviation Administration

John Wayne Airport; Orange County, California; Environmental Impact Statement

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent.

SUMMARY: The FAA is issuing this notice to advise the public that an Environmental Impact Statement (EIS) will be prepared and considered for proposed facility improvements at John Wayne Airport.

FOR FURTHER INFORMATION CONTACT: Herbert W. Hyatt, Airport Planner, AWP–611.2 Federal Aviation Administration, Western-Pacific Region, P.O. Box 92007, World Way Postal Center, Los Angeles, California 90009. Telephone: (213) 536–6534.

SUPPLEMENTARY INFORMATION: The FAA, in cooperation with the County of Orange, California, will prepare an Environmental Impact Statement (EIS) for airfield improvements at John Wayne Airport. The proposed project involves development of airport facilities from the current 2.8 Million annual passengers (MAP), to serve about 10.24 MAP in the year 2005. The following projects will be evaluated in the EIS.

—Construction of a new passenger terminal of 390,000 sq. ft. to replace the existing 28,000 sq. ft. terminal
—Construction of a new general aviation terminal
—Construction of aircraft parking aprons
—Construction to strengthen Runways 1R–19L and 1L–19R
—Construction to extend Runway 19–19L from 2,888 ft. to 3,953 ft.
—Terminal area roadway improvements
—Airport ground access improvements
—Parking facilities
—Increase the current authorized average daily departures (ADD) by regularly scheduled aircraft meeting the county's (Class A) Noise Restriction from 41 Class A ADD to 55 Class A ADD, then from 55 Class A ADD to 73 Class A ADD.

The objective of the proposed airport improvements and expansion is to accommodate passengers with a more reasonable level of comfort and convenience than can currently be provided. The airport improvements such as runway strengthening are intended to preserve the useful life of some structures, plus making aircraft ground operations more efficient.

The objective of the airport improvement program is to provdie some level of air travel service without suffering extraordinary environmental effects (e.g. greatly expanded noise contours, deteriorated air quality, and traffic congestion). The Orange County Board of Supervisors considered a full range of commercial service levels from airport closure to totally meeting locally generated demand. The service selected for the proposed project was 73 Class A ADD.

The physical improvements to the airport facilities would be contructed between 1985 and 1989, and would be operational in 1990. However, the number of authorized Class A ADD by air carriers would be established in two stages:

1. The current 41 Class A ADD limit would be raised to 55 Class A ADD upon certification of the Environmental Impact Report prepared under the State of California Environmental Quality Act by the Orange County Board of Supervisors. For purposes of impact analysis, this was projected to occur in 1984.

2. The 55 Class A ADD flight limit would be raised to 73 Class A ADD upon completion of facilities

construction. The first full year at operation of 73 Class A ADD is projected to occur in 1990.

To ensure that the full range of issues related to these proposed projected are addressed and all significant issues idenfitied, comments and suggestions are invited from all interested parties.

Issued in Hawthorne, California, on June 15, 1984.

Russel S. Hathaway,

Manager, Safety and Standards Branch, Airports Division, FAA, Western-Pacific Region.

[FR Doc. 84-17039 Filed 6-26-84; 8:45 am]

BILLING CODE 4910-13-M

[Summary Notice No. PE-84-11]

Petitions for Exemption; Summary of Petitions Received, Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATE: Comments on petitions received must identify the petition docket number involved and must be received on or before August 31, 1984.

ADDRESS: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Petition Docket No.——, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: The petition, any comments received and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-204), Room 916, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-3644.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on June 21, 1984.

John H. Cassady,

Assistant Chief Counsel, Regulations and Enforcement Division.

PETITIONS FOR EXEMPTION

Docket No.	Petitioner	Regulations affected	Description of relief sought
24122	Miami Int'l Airport	14 CFR § 91.303	To permit the continued operation, until December 31, 1987, of Stage 1 aircraft at Miami International Airport on international flights. Additionally, the adoption of a rule allowing any airport to elect to permit Stage 1 aircraft to conduct international operations at its facility is requested. The FAA has extended the comment period for this petition to allow detailed and thorough comments. The FAA may hold a public hearing in August 1984 on this petition.

[FR Doc. 84-17038 Filed 6-26-84; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Supplement to Department Circular, Public Debt Series No. 17-84]

Notes of Series V-1986; Interest Rates

Washington, June 21, 1984.

The Secretary announced on June 20, 1984, that the interest rate on the notes designated Series V-1986, described in Department Circular—Public Debt Series—No. 17-84 dated June 14, 1984, will be 13 percent. Interest on the notes will be payable at the rate of 13 percent per annum.

Carole Jones Dineen,

Fiscal Assistant Secretary.

[FR Doc. 84-17019 Filed 6-26-84; 8:45 am]

BILLING CODE 4810-40-M

Fiscal Service Renegotiation Board; Prompt Payment Interest Rate

The Renegotiation Board previously published the rate of interest determined by the Secretary of the Treasury pursuant to section 105(b)(2) of the Renegotiation Act of 1951, as amended. Since the Renegotiation Board is no longer in existence, the Department of the Treasury is publishing the current rate of interest. Also, pursuant to section 2(b)(1) of Pub. L. 97-177, dated May 21, 1982, the Secretary of the Treasury is responsible for computing and publishing the interest rate to be used in cases under the Prompt Payment Act.

Therefore, notice is hereby given that, pursuant to the above mentioned sections, the Secretary of the Treasury has determined that the rate of interest applicable for the purpose of said sections, for the period beginning July 1, 1984 and ending on December 31, 1984, is 14⅜ per centum per annum.

Dated: June 21, 1984.

Carole Jones Dineen,

Fiscal Assistant Secretary.

[FR Doc. 84-17029 Filed 6-26-84; 8:45 am]

BILLING CODE 4810-33-M

VETERANS ADMINISTRATION

Career Development Committee; Availability of Annual Report

Under section 10(d) of Pub. L. 92-463 (Federal Advisory Committee Act) notice is hereby given that the Annual Report for the calendar year 1983 has been issued for the Veterans Administration, Medical Research Service, Career Development Committee.

The report summarizes the activities of the committee on matters related to the review and evaluation of Career Development applications. It is available for public inspection at two locations:

Library of Congress, Serial and Government Publications Reading Room LM 133, Madision Building, Washington, D.C. 20540

and

Veterans Administration, Medical Research Service, Career Development Program, Room 757, 810 Vermont Avenue NW., Washington, D.C. 20420.

Dated: June 21, 1984.

By direction of the Administrator:

Rosa Maria Fontanez,

Committee Management Officer.

[FR Doc. 84-17060 Filed 6-26-84; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 49, No. 125
Wednesday, June 27, 1984

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Item
Federal Deposit Insurance Corporation	1-3
Federal Home Loan Bank Board	4
Securities and Exchange Commission	5

1

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 5:20 p.m. on Thursday, June 21, 1984, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to (1) receive bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in The Farmers National Bank of Aurelia, Aurelia, Iowa, which was closed by the Senior Deputy Comptroller for Bank Supervision, Office of the Comptroller of the Currency, on Thursday, June 21, 1984; (2) accept the bid for the transcation submitted by Heritage Bank, National Association, Aurelia, Iowa, newly-chartered national bank subsidiary of Geiger Corporation, Edina, Minnesota; and (3) provide such financial assistnce pursuant to section 13(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(2)), as was necessary to effect the purchase and assumption transaction.

In calling the meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Director C. T. Conover (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: June 22, 1984.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 84-17205 Filed 6-25-84; 11:23 am]

BILLING CODE 6714-01-M

2

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2:00 p.m. on Monday, July 2, 1984, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous meetings.

Application for consent to purchase assets and assume liabilities and establish one branch:

First Bank and Trust Company, Cozad, Nebraska, an insured State nonmember bank, for consent to purchase the assets of and assume the liability to pay deposits made in Farmers Cooperative Credit Association, Saronville, Nebraska, an operating noninsured institution, and for consent to establish the sole office of Farmers Cooperative Credit Association as a branch of First Bank and Trust Company.

Recommendation regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 45,955-L (Amended)—Franklin National Bank, New York, N.Y.

Memorandum and resolution re: Final amendments to Part 303 of the Corporation's rules and regulations, entitled "Applications, Requests, Submittals, Delegations of Authority, and Notices of Acquisition of Control," which (1) expand the authority delegated to the appropriate regional directors to act on merger applications; (2) delegate to the Board of Review the authority to deny as well as approve applications under section 19 of the Federal Deposit Insurance Act; (3) delegate to the Director of the Division of Bank Supervision and regional directors the authority to approve, but not deny, all section 19 applications; and (4) delegate to the Board of Review the authority to approve or deny requests seeking exemptions from the Corporation's regulation prohibiting certain management official interlocks.

Reports of committees and officers:

Minutes of actions approved by the standing committees of the Corporation pursuant to authority delegated by the Board of Directors.

Reports of the Division of Bank Supervision with respect to applications, requests, or actions involving administrative enforcement proceedings approved by the director or an Associate Director of the Division of Bank Supervision and the various Regional Directors pursuant to authority delegated by the Board of Directors.

Discussion Agenda:

Memorandum and Resolution re: Proposed amendments to the Corporation's rules and regulations in the form of new Part 325, to be entitled "Capital Maintenance", which would (1) define capital for insured banks; (2) establish minimum standards for adequate capital for all insured banks; and (3) establish standards to determine when an insured bank is operating in an unsafe or unsound condition by reason of the amount of its capital.

Memorandum and Resolution re: Final amendments to the Corporation's rules and regulations relating to brokered deposits in insured banks.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street, NW., Washington, D.C.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389-4425.

Dated: June 25, 1984.

Federal Deposit Insurance Corporation.

Alan J. Kaplan,

Deputy Executive Secretary.

[FR Doc. 84-17248 Filed 6-25-84; 3:16 pm]

BILLING CODE 6714-01-M

3

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:30 p.m. on Monday, July 2, 1984, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed

session, by vote of the Board of Directors, pursuant to sections 552b (c)(2), (c)(6), (c)(8), and (c)(9)(A)(ii) of Title 5, United States Code, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured banks or officers, directors, employees, agents or other persons participating in the conduct of the affiars thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6), (c)(8), and (c)(9)(A)(ii)).

Note.—Some matters falling within this category may be placed on the discussion agenda without further public notice if it becomes likely that substantive discussion of those matters will occur at the meeting.

Discussion Agenda:

Application for consent to merge and establish four branches:

Worcester North Savings Bank, Fitchburg, Massachusetts, an insured mutual savings bank, for consent to merge, under its charter and with the title "First Service Bank for Savings," with Leominster Savings Bank, Leominster, Massachusetts, and for consent to establish the four offices of Leominster Savings Bank as branches of the resultant bank.

Recommendation concerning the Corporation's Assistance Agreement with an insured bank under section 13 of the Federal Deposit Insurance Act.

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(2) and (c)(6)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street, NW., Washington, D.C.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389-4425.

Dated: June 25, 1984.

Federal Deposit Insurance Corporation.

Alan J. Kaplan,

Deputy Executive Secretary.

[FR Doc. 84-17249 Filed 6-25-84; 3:16 pm]

BILLING CODE 6714-01-M

4

FEDERAL HOME LOAN BANK BOARD

TIME AND DATE: 2:30 P.M., Friday, June 29, 1984.

PLACE: Board Room, 6th Floor, 1700 G St., N.W., Washington, D.C.

STATUS: Open Meeting.

CONTRACT PERSON FOR MORE INFORMATION: Ms. Gravlee (202-377-6970).

MATTERS TO BE CONSIDERED: Finance Subsidiary.

J. J. Finn,

Secretary.

[FR Doc. 84-17258 Filed 6-25-84; 3:55 pm]

BILLING CODE 6720-01-M

5

SECURITIES AND EXCHANGE COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENTS: [49 FR 24489 June 13, 1984].

STATUS: Closed meetings.

PLACE: 450 Fifth Street, NW., Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: Friday, June 8, 1984.

CHANGE IN THE MEETING: Additional items.

The following additional item was considered at a closed meeting scheduled for Tuesday, June 19, 1984.

Regulatory matter bearing enforcement implications.

The following additional items were considered at a closed meeting scheduled for Thursday, June 21, 1984, following the 2:30 p.m. open meeting:

Settlement of administrative proceedings of an enforcement nature.

Settlement of injunctive action.

Chapter 11 proceeding.

Regulatory matter bearing enforcement implications.

Chairman Shad and Commissioners Treadway, Cox and Marinaccio determined that Commission business required the above changes and that no earlier notice thereof was possible.

At times changes in commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Bruce Kohn at (202) 272-3195.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-17218 Filed 6-25-84; 11:25 am]

BILLING CODE 8010-01-M

federal register

Wednesday
June 27, 1984

Part II

Environmental Protection Agency

40 CFR Part 421

Nonferrous Metals Manufacturing Point Source Category; Effluent Limitations Guidelines, Pretreatment Standards and New Source Performance Standards; Proposed Regulation

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 421

Nonferrous Metals Manufacturing Point Source Category; Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed regulation.

SUMMARY: EPA is proposing effluent limitations guidelines and standards under the Clean Water Act to limit effluent discharges to waters of the United States and the introduction of pollutants into publicly owned treatment works (POTW) from particular nonferrous metals manufacturing facilities. The Clean Water Act and a consent decree require EPA to propose and promulgate this regulation. The purpose of this action is to propose effluent limitations based on best practicable technology and best available technology, new source performance standards based on best demonstrated technology, and pretreatment standards for existing and new indirect dischargers. After considering comments received in response to this proposal, EPA will promulgate a final rule.

DATES: Comments on this proposal must be submitted by August 27, 1984.

ADDRESSES: Send comments to: Mr. James R. Berlow, Effluent Guidelines Division (WH-552), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, Attention: Nonferrous Metals Manufacturing Comments. Technical information and copies of technical documents may be obtained from the National Technical Information Service, Springfield, Virginia 22161 (703/487-6000), or from Mr. James R. Berlow, Effluent Guidelines Division, U.S. Environmental Protection Agency 401 M Street, SW., Washington, DC 20460 or call 202/382-7151. The economic analysis may be obtained from Mr. Mark Kohorst, Economic Analysis Staff (WH-586), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, or call 202/382-5397.

FOR FURTHER INFORMATION CONTACT: Ernst P. Hall, 202/382-7126.

SUPPLEMENTARY INFORMATION:

Overview

This preamble describes the legal authority and background, the technical and economic bases, and other aspects of the proposed regulations. It solicits comments on specific areas of interest. The abbreviations, acronyms, and other terms used in the Supplementary Information section are defined in Appendix A to this notice.

These proposed regulations are supported by three major documents available on a limited basis from EPA and the National Technical Information Service. Analytical methods are discussed in *Sampling and Analysis Procedures for Screening of Industrial Effluents for Priority Pollutants.* EPA's technical conclusions are detailed in the *General Development Document for Effluent Limitations Guidelines and Standards for the Nonferrous Metals Manufacturing Phase II Points Source Category* and the subcategory supplements. However, substantial portions of the subcategory supplements have been claimed confidential for fourteen subcategories. As a result, EPA cannot make those portions of these fourteen supplements public without first following the procedures set out in 40 CFR Part 2. The Agency's economic analysis is found in *Economic Impact Analysis of Effluent Limitations Guidelines and Standards for the Nonferrous Metals Manufacturing Point Source Category.*

The supporting information and all comments on this proposal will be available for inspection and copying at the EPA Public Information Reference Unit, Room 2402 (Rear) (EPA Library). The EPA public information regulation (40 CFR Part 2) provides that a reasonable fee may be charged for copying.

Organization of This Notice

I. Legal Authority
II. Background
  A. The Clean Water Act and the Settlement Agreement
  B. Prior EPA Regulations
  C. Overview of the Category
III. Scope of this Rulemaking and Summary of Methodology
IV. Data Gathering Efforts
V. Sampling and Analytical Program
VI. Industry Subcategorization
VII. Available Wastewater Control and Treatment Technology
  A. Control and Treatment Technologies Considered
  B. Status of In-Place Technology
  C. Control and Treatment Options Considered
VIII. Substantive Changes from Prior Regulations
IX. Summary of Generic Issues
X. Best Practicable Technology (BPT) Effluent Limitations
XI. Best Available Technology (BAT) Effluent Limitations
XII. New Source Performance Standards (NSPS)
XIII. Pretreatment Standards for Existing Sources (PSES)
XIV. Pretreatment Standards for New Sources (PSNS)
XV. Regulated Pollutants
XVI. Pollutants and Subcategories Not Regulated
XVII. Cost and Economic Impacts
  A. Costs and Economic Impacts
  B. Executive Order 12291
  C. Regulatory Flexibility Analysis
XVIII. Non-Water Quality Aspects of Pollution Control
XIX. Best Management Practices (BMPs)
XX. Upset and Bypass Provisions
XXI. Variances and Modifications
XXII. Implementation of Limitations and Standards
  A. Relationship to NPDES Permits
  B. Indirect Dischargers
XXIII. Solicitation of Comments
XXIV. List of Subjects in 40 CFR Part 421
XXV. Appendices:
  A. Abbreviations, Acronyms, and Other Terms Used in this Notice
  B. Pollutants Selected for Regulation by Subcategory
  C. Toxic Pollutants Not Detected
  D. Pollutants Detected Below the Analytical Quantification Limit
  E. Toxic Pollutants Detected in Amounts Too Small to be Effectively Reduced by Technologies Considered in Preparing this Guideline
  F. Toxic Pollutants Detected in the Effluent from Only a Small Number of Sources
  G. Toxic Pollutants Effectively Controlled by Technologies Upon Which are Based Other Effluent Limitations and Guidelines
  H. Toxic Pollutants Detected But Only in Trace Amounts and are Neither Causing Nor Likely to Cause Toxic Effects

I. Legal Authority

EPA is proposing the regulation described in this notice 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) ("the Act"). These regulations also are proposed 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.C.C. 1979), modified by additional orders of October 26, 1982, August 2, 1983, and January 6, 1984.

II. Background

A. The Clean Water Act and the Settlement Agreement

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). By July 1, 1977, existing industrial dischargers were required to achieve "effluent limitations requiring the application of the best

practicable control technology currently available" ("BPT"), section 301(b)(1)(A). By July 1, 1983, these dischargers were required to achieve "effluent limitations requiring the application of the best available technology economically achievable—which will result in reasonable further progress toward the national goal of eliminating the discharge of all pollutants" ("BAT"), section 301(b)(2)(A). New industrial direct dischargers were required to comply with section 306 new source performance standards ("NSPS"), based on best available demonstrated technology; and new and existing dischargers to publicly owned treatment works ("POTW") were subject to pretreatment standards under section 307 (b) and (c) of the Act. The requirements for direct dischargers were to be incorporated into National Pollutant Discharge Elimination System (NPDES) permits issued under section 402 of the Act. Pretreatment standards were made enforceable directly against dischargers to POTW (indirect dischargers).

Although section 402(a)(1) of the 1972 Act authorized the setting of requirements for direct dischargers on a case-by-case basis, Congress intended that, for the most part, control requirements would be based on regulations promulgated by the Administrator of EPA. Section 304(b) of the Act required the Administrator to promulgate regulations providing guidelines for effluent limitations setting forth the degree of effluent reduction attainable through the application of BPT and BAT. Moreover, sections 304(c) and 306 of the Act required promulgation of regulations for NSPS, and sections 304(f), 307(b), and 307(c) required promulgation of regulations for pretreatment standards. In addition to these regulations for designated industry categories, section 307(a) of the Act required the Administrator to promulgate effluent standards applicable to all dischargers of toxic pollutants. Finally, section 501(a) of the Act authorized the Administrator to prescribe any additional regulations "necessary to carry out his functions" under the Act.

EPA was unable to promulgate many of these regulations by the dates contained in the Act. In 1976, EPA was sued by several environmental groups, and in settlement of this lawsuit, EPA and the plaintiffs executed a "Settlement Agreement" which was approved by the District Court. This Agreement required EPA to develop a program and adhere to a schedule for promulgating for 21 major industries BAT effluent limitations guidelines, pretreatment standards, and new source performance standards for 65 "priority" pollutants and classes of pollutants. 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 additional orders of October 26, 1982, August 2, 1983, and January 6, 1984.

On December 27, 1977, the President signed into law the Clean Water Act of 1977. Although this law makes several important changes in the Federal water pollution control program, its most significant feature is its incorporation into the Act of several of the basic elements of the Settlement Agreement program for toxic pollution control. Sections 301(b)(2)(A) and 301(b)(2)(C) of the Act now require the achievement by July 1, 1984 of effluent limitations requiring application of BAT for "toxic" pollutants, including the 65 "priority" pollutants and classes of pollutants which Congress declared "toxic" under section 307(a) of the Act. Likewise, EPA's programs for new source performance standards and pretreatment standards are now aimed principally at toxic pollutant controls. Moreover, to strengthen the toxics control program, section 304(e) of the Act authorizes the Administrator to prescribe "best management practices" ("BMP") 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.

The 1977 Amendments added section 301(b)(2)(E) to the Act establishing "best conventional pollutant control technology" (BCT) for discharges of conventional pollutants from existing industrial point sources. Conventional pollutants are those mentioned specifically in section 304(a)(4) (biochemical oxygen demanding pollutants (BOD5), total suspended solids (TSS), fecal coliform, and pH), and any additional pollutants defined by the Administrator as "conventional." (To date, the Agency has added one such pollutant, oil and grease, 44 FR 44501, July 30, 1979.)

BCT is not an additional limitation but replaces BAT for the control of conventional pollutants. In addition to other factors specified in section 304(b)(4)(B), the Act requires that BCT limitations be assessed in light of a two part "cost-reasonableness" test, *American Paper Institute* v. *EPA*, 660 F.2d 954 (4th Cir. 1981). The first test compares the cost for private industry to reduce its conventional pollutants with the costs to publicly owned treatment works for similar levels of reduction in their discharge of these pollutants. The second test examines the cost-effectiveness of additional industrial treatment beyond BPT. EPA must find that limitations are "reasonable" under both tests before establishing them as BCT. In no case may BCT be less stringent than BPT.

EPA published its methodology for carrying out the BCT analysis on August 29, 1979 (44 FR 50372). In the case mentioned above, the Court of Appeals ordered EPA to correct data errors underlying EPA's calculation of the first test, and to apply the second cost test. (EPA had argued that a second cost test was not required.)

A revised methodology for the general development of BCT limitations was proposed on October 29, 1982 (47 FR 49176), but has not been promulgated as a final rule. We accordingly are not proposing BCT limits for plants in the nonferrous metals manufacturing phase II category at this time. We will await establishing nationally applicable BCT limits for this industry until promulgation of the final methodology for BCT.

For non-toxic, nonconventional pollutants, sections 301 (b)(2)(A) and (b)(2)(F) require achievement of BAT effluent limitations within three years after their establishment or July 1, 1984, whichever is later, but not later than July 1, 1987.

The purpose of these proposed regulations is to provide effluent limitations guidelines for BPT and BAT, and to establish NSPS, pretreatment standards for existing sources (PSES), and pretreatment standards for new sources (PSNS), under section 301, 304, 306, 307, and 501 of the Clean Water Act.

B. Prior EPA Regulations

EPA already has promulgated effluent limitations and pretreatment standards for certain nonferrous metals manufacturing subcategories. These regulations, and the technological basis are summarized below.

Nonferrous Phase I. On March 8, 1984 EPA promulgated rules for nonferrous metals manufacturing phase I (49 FR 8742), which established BPT, BAT, NSPS, PSES, and PSNS for 12 subcategories. They are: primary aluminum, copper smelting, copper electrolytic refining, lead, zinc, columbium-tantalum, and tungsten; secondary aluminum, silver, copper, lead and metallurgical acid plants.

Bauxite Refining Subcategory. EPA has promulgated BPT, BAT, NSPS, and PSNS in this subcategory 39 FR 12822 (March 26, 1974). BPT, BAT, NSPS, and PSNS are based on zero discharge of process wastewater, but do allow for a monthly net precipitation discharge from red mud impoundments. We are providing notice today that we are considering whether to establish more stringent effluent limitations controlling selected phenolic compounds contained in the net precipitation discharge currently allowed from bauxite refining plants.

Metallurgical Acid Plants. This subcategory was initially established in 1980, and at that time included only acid plants (*i.e.*, plants recovering byproduct sulfuric acid from sulfur dioxide smelter air emissions) associated with primary copper smelting operations. See 45 FR 44926. Primary lead and zinc plants also have associated acid plants; and consequently the applicability of the metallurgical acid plant subcategory was expanded to include these sources in the phase I regulation finalized on March 8, 1984 (49 FR 8742). We are proposing today to amend the existing regulation for metallurgical acid plants by modifying the applicability of the metallurgical acid plant subcategory to include molybdenum acid plants as well.

C. Overview of the Category

The nonferrous metals manufacturing category is comprised of plants that process ore concentrates and scrap metals contained in spent electroplating solutions, spent catalysts, old jewelry, and various other sources. These plants recover nonferrous metals by increasing the metal purity contained in these materials. Depending on the metal and the desired purity, hydrometallurgical or pyrometallurgical exchange operations may be used to purify and upgrade metal values.

The production of nonferrous metals sometimes occurs at plants that also have processes that are regulated as part of other point source categories. Many of the production operations characterizing the nonferrous metals manufacturing category follow mining and milling operations. The ore mining and dressing category includes the extraction of the ore from the ground and the subsequent beneficiation of the ore including gravity concentration, magnetic separation, electrostatic separation, froth flotation, and leaching to produce ore concentrates. The ore concentrates and scrap materials form the raw materials in the nonferrous metals manufacturing subcategories.

Following smelting, refining, or extraction of metal values included in the nonferrous metals manufacturing category, the metal or metal salt products are used as raw materials for such operations as forming, alloying, and the manufacture of inorganic chemicals. Operations such as these, where the metal purity is not increased, are covered by other point source categories. In many of the nonferrous metals manufacturing subcategories, the production operations cease with the casting of the smelted or refined metal. Recasting of the metal without refining for use in subsequent forming or alloying operations is covered by the Aluminum Forming, Nonferrous Metals Forming, or Metal Molding and Casting Point Source Categories.

EPA has divided the nonferrous metals category into separate segments (nonferrous metals manufacturing phase I and nonferrous metals manufacturing phase II), in keeping with Agency priorities to regulate initially those plants which generate the largest quantities of toxic pollutants. As a result, EPA promulgated regulations for nonferrous metals manufacturing phase I (49 FR 8742) on March 8, 1984. Twelve subcategories were addressed: primary aluminum, copper smelting, copper electrolytic refining, lead, zinc, columbium-tantalum, and tungsten; secondary aluminum, silver, copper, lead, and metallurgical acid plants.

EPA also has separately studied the forming or casting of nonferrous metals. EPA promulgated regulations for aluminum forming (48 FR 49126) in October, 1983, and for copper forming (48 FR 36942) in August, 1983. Proposed regulations for metal molding and casting (47 FR 51512) were published in November, 1982. Proposed regulations for forming of nonferrous metals other than aluminum and copper (49 FR 8112) were published on March 5, 1984.

Today's rulemaking focuses on the remaining segment of nonferrous metals manufacturing. The proposed regulatory strategy for nonferrous metals manufacturing phase II addresses the following 24 subcategories:

Primary antimony,
Bauxite refining,
Primary beryllium,
Primary boron,
Primary cesium and rubidium,
Primary and secondary germanium and gallium,
Secondary indium,
Primary lithium,
Primary magnesium,
Secondary mercury,
Primary molybdenum and rhenium,
Secondary molybdenum and vanadium,
Primary nickel and cobalt,
Secondary nickel,
Primary precious metals and mercury,
Secondary precious metals,
Primary rare earth metals,
Secondary tantalum,
Primary and secondary tin,
Primary and secondary titanium,
Secondary tungsten and cobalt,
Secondary uranium,
Secondary zinc, and
Primary zirconium and hafnium.

EPA is proposing to completely exclude three of these subcategories from regulation. Primary lithium and secondary zinc are excluded because the production of these metals does not require process water, and the production of magnesium does not produce wastewater with treatable concentrations of pollutants. The remaining 21 subcategories in nonferrous metals manufacturing phase II contain 34 primary metals and metal groups, 20 secondary metals and metal groups, and bauxite refining. A group of metals—including six primary metals and five secondary metals—were excluded from regulation in a Paragraph 8 affidavit executed pursuant to the Settlement Agreement on May 10, 1979. These metals were excluded from regulation either because the manufacturing processes do not use water or because they are regulated by toxics limitations and standards in other categories (ferroalloys and inorganic chemicals). Four of these metals which were excluded from regulation on May 10, 1979—primary antimony, primary tin, secondary molybdenum, and secondary tantalum—have since been reconsidered and are now included in this rulemaking based on information received during the data collection portion of the study basic to this rulemaking. An explanation of this, along with an explanation of the revised list of metal production processes proposed for exclusion from regulation is provided in section XVI.

There are 141 plants in the 21 regulated phase II subcategories which EPA estimates employ 13,500 people and annually generate raw wastes containing approximately 905,000 kilograms of toxic pollutants. There are 32 direct dischargers which currently discharge 307,000 kg/yr of toxic pollutants and there are 38 indirect dischargers which currently discharge an additional 67,000 kg/yr of toxics. There are 71 plants in this category that do not discharge process wastewater. In the three subcategories that we are proposing not to regulate there is one direct discharger and 13 plants that do not discharge wastewater.

In developing this regulation, it was necessary to determine whether effluent limitations and standards were appropriate for different segments (subcategories) of the category. The

major factors considered in assessing the need for subcategorization and in identifying subcategories included: waste characteristics, raw materials, manufacturing processes, products manufactured, water use, water pollution control technology, treatment costs, solid waste generation, size of plant, age of plant, number of employees, total energy requirements, nonwater quality characteristics, and unique plant characteristics. Section IV of the Development Document and its supplements contain a detailed discussion of these factors and the rationale for subcategorization.

A brief description of each of the 21 subcategories for which regulations are proposed is provided below, with particular emphasis on the sources of wasterwater and the types of pollutants present. Section V of the subcategory supplemental Development Documents provides specific characterization data on each of the wastewater sources.

We are proposing discharge limitations for each of the wastewater sources identified below. The effluent limitations for an individual plant would then be calculated by considering the discharge allowances for those wastewater sources actually present at the plant. (See discussion of building blocks in section VIII below.)

Primary Antimony. Seven of the eight primary antimony plants in the United States are zero dischargers. One primary antimony plant is a direct discharger. The eight plants are geographically scattered, located in seven states across the country. The oldest plant was built in the 1880's, and three others are more than 30 years old. Two plants have been built within the last 10 years. EPA data show that average plant production is approximately 500 kkg per year of antimony and antimony compounds.

The processes used at a primary antimony production facility depend largely on the raw material used and the final produce desired. Pyrometallurgical processing, practiced at five of the eight primary antimony plants, generates no process wastewater. Hydrometallurgical processing, practiced at the remaining three plants, includes the four basic steps which are discussed below.

The first step involves leaching of the ore concentrate with sodium hydroxide to dissolve the antimony. Solids are removed from the resulting slurry by thickening and filtration. The residue is either disposed of or further processed to recover other metals.

The second step involves autoclaving the clarified solution from the leaching process with oxygen. Autoclaving produces sodium antimonate which is dried, packaged, and sold.

The third step involves electrowinning to produce antimony metal from the clarified leaching liquor. Antimony is removed from the solution as cathode metal, and the spent electrolyte is recycled to the leaching operation.

In the fourth step, antimony metal is coverted to antimony trioxide in a fuming furnace. The product of this pyrometallurgical process is captured in a baghouse and sold.

The principal sources of wastewater in the primary antimony subcategory are listed below, alone with the pollutants typically found in each:

(1) *Sodium antimonate autoclave* wastewater is generated when the clarified solution from leaching is autoclaved. Dissolved antimony is converted to sodium antimonate as a final product. This stream is similar to fouled anolyte and contains suspended solids and toxic metals.

(2) *Fouled anolyte* is generated when a portion of the barren electrowinning solution is discharged. This waste stream contains suspended solids and toxic metals.

Bauxite Refining. Of the eight bauxite refining plants in the United States, three are direct dischargers and five are zero dischargers. Seven of the plants are located in the states of Louisiana, Texas, Arkansas, and Alabama. The other plant is located in the U.S. Virgin Islands. Plant age ranges from 15 to 44 years with an average of about 30 years. EPA data show that plant production ranges from 37,000 to 570,000 kkg per year; one of the plants is closed but continues to discharge and four of the remaining eight plants produce between 200,000 and 300,000 kkg per year, measured as aluminum contained in refined bauxite.

The processes used at a bauxite refinery depend largely on the raw material used and the final product desired. In general, plants use the Bayer process or a variation known as the combination process. The four basic steps in the Bayer process which an individual plant may utilize are discussed below.

The first step involves bauxite grinding and digestion. Bauxite ore is crushed, wet-ground with a caustic solution, and digested with sodium hydroxide or lime and sodium carbonate to convert the alumina in the ore to soluble sodium aluminate. The resulting slurry is cooled in flash tanks from which steam is recovered and returned to the digestor.

The second step involves red mud removal and liquor purification. The digested bauxite suspension contains insoluble residue including iron oxides, silica, and undigested bauxite. This residue, known as red mud, is removed by settling, thickening, and filtration. After washing, the mud is disposed of in a mud impoundment. The combination process is a variation of the Bayer process in which the red mud from high-silica bauxites is sintered and leached to recover alumina. The resulting brown mud is disposed of in a mud impoundment.

In the third step, the purified sodium aluminate solution is cooled and aluminum hydroxide is precipitated in the presence of recycled seed crystals. The remaining spent caustic solution is separated from the hydrate crystals by filtration and recycled to the digestion step after concentration by evaporation and removal of excess salts.

The fourth step involves calcination to convert the hydroxide filter cake to anhydrous alumina. If hydrate is the desired final product, the filter cake is dried under less severe conditions than in calcining.

The principal source of wastewater in the bauxite refining subcategory is listed below, along with the pollutants typically found in it:

(1) *Mud impoundment effluent* is discharged from the mud disposal lake in areas of net precipitation. The effluent is characterized by high pH and the presence of phenolic compounds.

Primary Beryllium. The primary beryllium industry in the United States currently consists of two plants that are owned by the same company. One of the plants is located in Utah near the beryllium ore mining operations. This facility processes the raw materials to an intermediate product, beryllium hydroxide. The beryllium hydroxide is shipped to the second facility, located in Ohio, where it is further processed to final product forms. The plant which produces beryllium hydroxide in Utah began operations in 1979 and achieves zero discharge through the use of evaporation ponds. The facility in Ohio which produces beryllium metal and other products including beryllium oxide and beryllium copper alloy is a direct discharger which began operations in 1957.

The production of beryllium products can be divided into three distinct operations—production of beryllium hydroxide from beryllium ores, production of beryllium oxide from beryllium hydroxide, and production of beryllium metal from beryllium hydroxide.

Most domestic beryllium is extracted from bertrandite ore mined in Utah. Imported and domestically produced beryl ore is another potential raw

material for the primary beryllium industry.

Bertrandite ore is first wet ground and screened to form a slurry which is leached with a sulfuric acid solution. The mixture is washed in countercurrent thickeners. The sludge from the thickeners is dewatered in a filter and discarded. The thickener supernatant next enters a solvent extraction process where beryllium is extracted from solution with an organic solvent. The barren raffinate solution is discarded as a waste stream.

The beryllium is stripped from the organic phase into an aqueous solution. Iron is precipitated from solution and the iron sludge is discarded. Beryllium is next precipitated from solution as beryllium carbonate which is separated from the liquid phase by filtration. The beryllium carbonate may be sold as a product or further processed to beryllium hydroxide.

The beryllium carbonate filter cake is redissolved in deionized water and beryllium hydroxide is precipitated and separated from the liquid phase by filtration. Beryllium hydroxide may be further processed to make beryllium copper alloy, beryllium oxide, or pure beryllium metal.

When beryl ore is processed, the ore is crushed and melted. The molten material is quenched with cold water to produce a glassy material called frit. The frit is dried, ground and leached with strong sulfuric acid, forming a mixture of beryllium sulfate, aluminum sulfate, and silica. Water is added to the mixture and the silica is separated in a series of countercurrent decantation steps. The resultant silica sludge is discarded. The beryllium solution is further processed by solvent extraction, purification and precipitation in an identical manner as beryllium solution from bertrandite ore.

The oxide is produced by dissolving beryllium hydroxide in water, sulfuric acid, and ammonium sulfide. The resulting beryllium sulfate solution is then filtered to remove impurities. The solution flows to an evaporator followed by a crystallizer where beryllium sulfate crystals are formed. The crystals are separated from the mother liquor and the mother liquor is recycled. The beryllium sulfate is calcined in gas-fired furnaces to beryllium oxide.

Beryllium hydroxide, $BeOH_2$, is added to a batch makeup tank along with an ammonium bifluoride solution. The resultant ammonium beryllium fluoride solution is filtered to remove insoluble impurities. The washed filter cake is a bifluoride sludge which is discarded.

The filtered ammonium beryllium fluoride solution is next treated with ammonium sulfide to precipitate dissolved impurities, particularly iron. The precipitated solids are removed in a filter and the resultant sulfide sludge is discarded.

The ammonium beryllium fluoride solution next flows to a crystallizer where ammonium beryllium fluoride crystals are formed. The solids are separated from the liquid phase and the supernatant is recycled.

The dried ammonium beryllium fluoride, $(NH_4)_2BeF_4$, is heated in a furnace to drive off ammonium fluoride (NH_4F) and produce beryllium fluoride (BeF_2).

Beryllium fluoride is reduced to beryllium metal by magnesium in a furnace, resulting in a matrix of beryllium metal and magnesium fluoride (MgF_2).

The principal sources of wastewater in the primary beryllium subcategory are listed below, along with pollutants typically found in each:

(1) *Solvent extraction raffinate from bertrandite ore processing* is generated when bertrandite ore is leached with sulfuric acid and beryllium is extracted from the resultant solution with an organic solvent. This stream is characterized by a low pH and the presence of toxic metals.

(2) *Solvent extraction raffinate from beryl ore processing* is generated when beryl ore is leached with sulfuric acid and beryllium is extracted from the resultant solution with an organic solvent. This wastewater has an acid pH and contains toxic metals.

(3) *Beryllium carbonate filtrate* results from the precipitation of beryllium carbonate which is separated from the aqueous phase by filtration. This wastewater stream is characterized by the presence of toxic metals.

(4) *Beryllium hydroxide filtrate* is generated when beryllium carbonate is redissolved in water and beryllium is reprecipitated as beryllium hydroxide. The resultant filtrate stream contains toxic metals.

(5) *Calcining furnace wet air pollution control* wastewater results from the use of wet scrubbing to control sulfur dioxide emissions from beryllium oxide calcining furnaces. This wastewater is characterized by the presence of toxic metals.

(6) *Beryllium hydroxide supernatant* from beryllium recovery is generated when beryllium is recovered from waste materials by dissolution in sulfuric acid and precipitation as beryllium hydroxide. The resultant supernatant stream is characterized by the presence of toxic metals.

(7) *Process condensates* are generated by crystallizers and evaporators used in the production of beryllium metal. These condensate streams are characterized by the presence of fluoride.

(8) *Fluoride furnace scrubber* wastewater results from the use of wet scrubbers to recover ammonium fluoride from the exhaust gases from the beryllium fluoride furnace. This wastewater contains toxic metals and fluoride.

(9) *Chip leaching* wastewater is generated when pure beryllium metal in the form of chips is leached with nitric acid and rinsed prior to being vacuum cast. This wastewater stream is characterized by a low pH and the presence of toxic metals.

Primary Boron. The primary boron industry consists of two plants operating in different areas of the United States. One plant is located east of the Mississippi and the other plant is in the west. Boron is produced in the form of the metal powder. Both of the boron plants currently achieve zero discharge.

There are two production processes presently employed in the primary boron industry to manufacture boron metal powder. The first is thermal reduction of a solid boron compound, and the second involves thermal decomposition of a boron gas.

In the thermal reduction process, the raw material is boric oxide (B_2O_3), also called boric anhydride. Boric acid is obtained from naturally occurring borate mineral deposits and can be derived by the action of sulfuric acid on borax, a common boron-containing ore. In the thermal reduction process, boric oxide and magnesium metal are placed in a reaction vessel and heated. Magnesium reduces boric oxide to boron metal. The reaction products are cooled, broken out of the reaction vessel, and crushed to a powder. Separation of boron powder from magnesium oxide is accomplished by sulfuric acid leaching. Magnesium oxide dissolves in the acid and insoluble boron powder is filtered from the solution and washed with water prior to drying and packaging.

The second boron production process, thermal decomposition, uses diborane as a raw material. The decomposition process takes advantage of the instability of diborane at high temperatures. As the gas is heated, it decomposes into its elemental constituents. Thus boron metal powder is produced. After decomposition and cooling, the boron metal product is recovered and packaged as a powder.

The principal sources of wastewater in the primary boron subcategory are listed below, along with the pollutants typically found in each:

(1) *Reduction product acid leachate* results from acid leaching to facilitate boron metal separation from the magnesium reduction reaction products. Toxic metals and suspended solids are present in this waste stream.

(2) *Boron wash water* is generated when boron powder filtered from spent acid is rinsed prior to drying. This waste stream contains treatable levels of suspended solids and toxic metals.

Primary Cesium and Rubidium. One plant in the United States produces primary cesium and rubidium. That plant is classified as a zero discharger.

The production processes of primary cesium and rubidium are nearly identical and can be divided into three steps, as described below.

The first step involves digestion of cesium or rubidium ores. Pollucite (Cs) or lepidolite (Rb) ores are digested with strong sulfuric acid to dissolve the metal. The ore gangue is removed by filtration and the metal is crystallized out of the remaining solution by cooling. The spent acid is decanted, and the crystals are rinsed with water.

The metal is further purified by redissolution and selective precipitation of impurities. The third step involves reduction to cesium or rubidium metal.

The principal sources of wastewater in the primary cesium and rubidium subcategory are listed below, along with the pollutants typically found in each:

(1) *Spent acid and crystallizer rinse water from cesium production* is generated when water used to wash cesium crystals is combined with spent pollucite ore digestion acid. This stream is characterized by low pH as well as the presence of toxic metals and suspended solids.

(2) *Spent acid and crystallizer rinse water from rubidium production* is generated when water used to wash rubidium crystals is combined with spent lepidolite ore digestion acid. This stream is characterized by low pH as well as the presence of toxic metals and suspended solids.

Primary and Secondary Germanium and Gallium. Of the five primary and secondary germanium and gallium plants in the United States, one is an indirect discharger and four are zero dischargers. There are no direct dischargers. One plant is located in Pennsylvania, two are in the Oklahoma-Texas region, and two are in the far western part of the country. Germanium and gallium plants are located near sources of raw materials, either zinc ore deposits or major electronics firms. All five plants were built within the last 25 years, with two built within the last three years. The average plant age is 12 years.

The processes used at a germanium or gallium production facility depend largely on the raw material used and the final product desired. The four basic germanium and gallium processing steps which an individual plant may utilize are discussed below. Germanium and gallium are produced from both primary and secondary raw materials, however the processing steps are essentially the same.

The first step involves chlorination of the germanium or gallium raw material to produce the tetra- or trichloride, respectively. Chlorination is effected with hydrochloric acid or chlorine gas. Germanium tetrachloride product is a vapor, and is recovered in a condenser. Both germanium tetrachloride and gallium trichloride may be purified by a series of distillation and stripping operations.

The second step involves hydrolysis of germanium tetrachloride to produce germanium dioxide, or gallium trichloride to produce a hydrated gallium compound.

In the third step, germanium dioxide and gallium hydroxide are reduced to metal. Germanium dioxide is reduced to metal powder in a hydrogen furnace, and then is melted and cast as bars. Gallium hydroxide is reduced to metal by dissolution and electrolytic recovery.

The fourth step involves further purification of the germanium and gallium products, to achieve purities in excess of 99.9999 percent. Further purification of germanium is effected by a zone refining process, aimed at removing dissolved oxygen from the metal. Gallium is purified using a crystallization process.

Gallium can also be recovered from scrap using a solvent extraction process. In solvent extraction, gallium scrap is dissolved in acid, and then the gallium is extracted into an organic phase, from which pure metal is recovered. The principal sources of wastewater in the germanium and gallium subcategory are listed below, along with the pollutants typically found in each:

(1) *Still liquor* wastewater results from the excess hydrochloric acid used to chlorinate germanium raw material, and from impurities in the germanium raw material. This wastewater contains toxic metals, low pH, and suspended solids.

(2) *Chlorinator wet air pollution control* wastewater results from wet scrubbers used to control acid and chlorine fumes generated during the reduction of germanium tetrachloride. Chlorinator wet air pollution control wastewater contains toxic metals, and suspended solids.

(3) *Germanium hydrolysis filtrate* wastewater results from the depleted solution after germanium tetrachloride is reacted with water to produce germanium dioxide solids. This wastewater is characterized by toxic metals and suspended solids.

(4) *Acid wash and rinse water* wastewater is produced by the hydrofluoric acid-nitric acid wash, followed by water rinse, of germanium bars prior to zone refining. This wastewater contains germanium, and has a low pH and high fluoride content.

(5) *Gallium hydrolysis filtrate* wastewater results from the depleted solution after gallium trichloride is reacted to produce hydrated gallium solids. This wastewater is characterized by toxic metals and suspended solids.

(6) *Solvent extraction raffinate* wastewater results from the acid solution in which gallium scrap is dissolved prior to being extracted into an organic phase, from which pure metal is recovered. This wastewater is expected to contain toxic organics, metals, and suspended solids.

Secondary Indium. There is one facility currently producing secondary indium in the United States. This facility is an indirect discharger located in the northeastern United States. Plant operations began approximately 50 years ago.

The principal raw materials used for secondary indium production are scrap indium metal and spent electrolyte solutions from secondary silver refining operations.

Leaching and precipitation are the principal operations in the production of secondary indium. Indium scrap is leached with hydrochloric acid to dissolve the indium and produce an indium-laden solution.

The indium-rich leachate then undergoes a series of precipitation steps to remove impurities. Spent electrolytic solutions from secondary silver refineries may be combined with the leachate at this point. Selected impurities such as lead and tin are precipitated out of the solution. The purified indium solution is then processed to precipitate out the indium. Zinc is added to the indium-rich solution and indium ions in solution are displaced by the zinc. The indium precipitate, called indium sponge, is then removed and sent to the melting and casting operation.

Electrolytic refining is used to produce high-purity indium (up to 99.9999 percent), and utilizes low purity indium as the raw material.

Successive electrolysis processes which use the pure indium cathode as

the anode result in the production of indium of even higher purity. These process steps are repeated until the desired grade of indium is obtained.

Refined indium from the leaching, precipitation, and electrolytic refining processes as well as pure indium scrap can be melted down and cast into the desired product. All indium melting and casting operations are dry.

The principal sources of wastewater in the secondary indium subcategory are listed below, along with pollutants typically found in each:

(1) *Displacement tank effluent* is generated when indium sponge is produced by displacing indium ions from solution with zinc. This wastewater is characterized by the presence of toxic metals and suspended solids.

(2) *Spent electrolyte* wastewater results from discharging contaminated electrolyte solution from electrolytic refining operations. This wastewater is characterized by an acid pH and the presence of toxic metals and suspended solids.

Secondary Mercury. All four of the secondary mercury plants in the United States are zero dischargers. One plant achieves this discharge status by contractor disposal of process wastewater, one by complete recycle, and two plants operate dry processes. Two of the four plants are located near the industrial centers of the Northeast, one is in Illinois, and one in California. All four secondary mercury plants were built after World War II. The average plant age is 30 years. EPA data show that plant production ranges from less than 25 tons of mercury per year to 100 tons per year, with mean production approximately 55 tons per year.

The processes used at a secondary mercury production facility depend largely on the raw material used and the purity of final product desired. The three basic secondary mercury processing steps which an individual plant may utilize are discussed below.

The first step involves physically or pyrometallurgically separating mercury from gross impurities in scrap. This step precedes distillation. Electrolyte in mercuric oxide batteries is drained prior to recovering the mercury from the battery. Raw materials such as thermometers, switches, filters, controls, zinc and silver amalgams, and soil samples have mercury separated from gross impurities by roasting in a furnace. This pyrometallurgical separation vaporizes the mercury, which is recovered in a condenser, and leaves the nonvolatile solids remaining in the furnace.

The second step involves purifying mercury by distillation, which is generally accomplished in columns, retorts, stills, or kettles. Distillation typically consists of charging raw, impure mercury into the bottom of a still, and heating the charge to a prescribed temperature. While heating the charge, air may be bubbled through the still to oxidize metallic impurities. When the charge reaches a certain temperature, the mercury begins to vaporize, and the purified mercury is recovered in an overhead, water cooled condensing system. Mercury distillation is run batchwise or continuously.

In the third step, distilled mercury may be further purified using either additional distillation steps, or an acid washing process. Multiple distillation can produce very high purity mercury. Final product can have purity as high as 99.999999 percent. Further purification can also be effected by an acid wash and water rinse method. In this method, a small amount of dilute nitric acid is used to wash the distilled mercury product, and then distilled water is used to wash the residual acid away from the mercury product.

The principal sources of wastewater in the secondary mercury subcategory are listed below, along with the pollutants typically found in each:

(1) *Spent battery electrolyte* wastewater results from draining spent electrolyte from mercuric oxide batteries prior to recovering mercury by distillation. This wastewater is characterized by toxic metals, suspended solids, and a low pH.

(2) *Acid wash and rinse water* wastewater is generated by washing distilled mercury with dilute nitric acid and rinsing it with water in order to further purify the mercury product. This wastewater contains toxic metals and suspended solids.

(3) *Furnace wet air pollution control* wastewater results from controlling air emissions from the furnace used to separate mercury from gross impurities. Particulates and fumes not condensed with the mercury product are scrubbed prior to venting to the atmosphere. The scrubber liquor should contain mercury and other toxic metals, and suspended solids.

Primary Molybdenum and Rhenium. There are 13 plants in the United States which engage in primary molybdenum or rhenium production. Three plants are located in the western United States near copper and molybdenite mining operations. The remaining 10 plants are located east of the Mississippi River with five of them in the northeastern and east central United States. Four of the plants are direct dischargers and the remaining nine plants discharge no process wastewater. There are no indirect dischargers in the primary molybdenum and rhenium subcategory. The average plant age is between 25 and 35 years with a fairly even distribution of ages ranging from eight to 67 years.

Molybdenum is produced primarily as technical grade molybdic oxide which is consumed principally by the steel industry. Approximately 35,000 metric tons of molybdic oxide were produced domestically in 1982 by seven plants with an average plant production rate of 5,000 metric tons per year. Approximately 2,000 metric tons of pure molybdenum metal were produced in the United States in 1982 at six plants with an average plant production of 300 metric tons per year. Less than four metric tons per year of rhenium are produced in the United States. The production of molybdenum products can be divided into four general processes—roasting of molybdenum sulfide concentrates, production of pure molybdic oxide by sublimation, production of ammonium molybdate, and reduction of pure molybdic oxide or ammonium molybdate to produce molybdenum metal powder.

Rhenium is recovered from molybdenum roaster flue gases as crude ammonium perrhenate which can subsequently be purified and reduced to rhenium metal.

The primary source of molybdenum is a molybdenum sulfide (MoS_2) ore called molybdenite. Most domestic molybdenite is mined and concentrated at two large mines in Colorado and a smaller amount comes from a mine in New Mexico. Molybdenite is also recovered as a by-product from concentrating prophyry copper ores. Rhenium is produced only from molybdenite which is associated with copper mining operations.

Molybdenite concentrates, which are typically 90 percent molybdenum disulfide (MoS_2), are roasted in multiple hearth furnaces. The product is technical grade molybdic oxide consisting of 90 to 95 percent MoO_3. The flue gases contain products of combustion, sulfur dioxide, and rhenium heptoxide (Re_2O_7) when molybdenite concentrates from copper mining operations are roasted. Sulfur dioxide emissions are controlled with either a caustic scrubber or a sulfuric acid plant.

Pure molybdic oxide can be produced from technical grade molybdic oxide through sublimation and condensation. The tech oxide is heated in a muffle type furnace. The oxide is vaporized and carried in a stream of forced air through cooling ducts and the condensed oxide

particles are collected in a fabric filter. The purified oxide contains greater than 99.5 percent MoO_3. The pure oxide may be sold as a product, reduced to molybdenum metal powder, or used to produce various molybdenum chemicals.

Technical grade molybdic oxide is dissolved in ammonium hydroxide solution and recrystallized as pure ammonium molybdate. Prior to dissolving, the tech oxide is leached with nitric acid and rinsed with water to remove impurities. Alternatively, the molybdenite may be leached prior to roasting. The ammonium molybdate may be sold as a product, calcined to form pure molybdic oxide, or reduced to form molybdenum metal powder.

Either pure molybdic oxide or ammonium molybdate may be reduced in a hydrogen atmosphere to produce molybdenum metal powder.

When molybdenite concentrates from copper mining operations are roasted, rhenium present in the concentrate is volatilized as rhenium heptoxide (Re_2O_7). The rhenium heptoxide is water soluble and is removed from the flue gas by wet scrubbing. The rhenium is then recovered from the scrubber liquor via selective ion exchange or solvent extraction. Rhenium is stripped from the resin or solvent and crude ammonium perrhenate, NH_4ReO_4, is crystallized from the resultant solution. The crude ammonium perrhenate may be sold as a product, further purified prior to reduction to rhenium metal, or used in the manufacture of various rhenium chemicals.

The principal sources of wastewater in the primary molybdenum and rhenium subcategory are listed below, along with the pollutants typically found in each:

(1) *Molybdenum sulfide leachate and rinse water* is generated when molybdenite concentrates are leached with nitric acid and rinsed with water prior to roasting. This stream is characterized by low pH as well as the presence of toxic metals and suspended solids.

(2) *Roaster wet air pollution control* wastewater results from the use of alkaline wet scrubbing systems to control sulfur dioxide emissions from molybdenite roasting operations. This stream is characterized by high alkalinity and the presence of toxic metals and suspended solids.

(3) *Hydrogen reduction furnace scrubber* wastewater results from scrubbing hydrogen gas with water to cool and quench the gas prior to recycling the hydrogen to the reduction furnace. This wastewater stream is characterized by the presence of toxic metals and suspended solids.

(4) *Molybdic oxide leachate* wastewater results from the leaching of technical grade molybdic oxide with nitric acid, water or ammonium hydroxide prior to dissolving, purification and crystallization of ammonium molybdate. This leachate and rinse wastewater is characterized by the presence of toxic metals and ammonia.

(5) *Rhenium scrubber solution* results from scrubbing rhenium heptoxide from molybdenite roaster off-gases with water and recovering the rhenium from aqueous solution by solvent extraction or ion exchange. This wastewater stream is characterized by the presence of toxic metals.

Molybdenum Metallurgical Acid Plants. Metallurgical acid plants produce sulfuric acid from sulfur dioxide air emissions at primary molybdenum facilities. There are 3 metallurgical sulfuric acid plants associated with primary molybdenum plants in the United States. Of these two are direct dischargers, and one achieves zero discharge. One of the direct discharging facilities is in Iowa and the other two facilities are located in Pennsylvania. There are insufficient data to ascertain the age of acid plants independently of the molybdenum plants associated with them. The average production capacity for metallurgical acid plants associated with primary molybdenum operations is 50,000 to 100,000 tons per year of 100 percent sulfuric acid.

Metallurgical acid plants produce sulfuric acid from the sulfur oxide emissions of pyrometallurgical operations. By producing acid, the acid plants not only clean the smelter emissions of many tons per day of sulfur oxides, but they also produce a marketable sulfuric acid product.

Prior to entering the acid plant, the off-gas stream from pyrometallurgical operations will usually undergo various pretreatment steps. The pretreatment steps include cooling, cleaning, conditioning (humidification), mist precipitation, drying and compression.

In the acid production section, a vanadium pentoxide catalyst converts the sulfur dioxide in smelter off-gases to sulfur trioxide, and the sulfur trioxide is absorbed into a sulfuric acid stream. The sulfur trioxide combines with water in the absorbing sulfuric acid (which, in effect, increases the strength of the contacting acid stream).

The principal wastewater sources in metallurgical acid plants are as follows:

—Sintering wet air pollution control,
—Roasting wet air pollution control,
—Conversion wet air pollution control,
—Acid plant wet air pollution control,
—Mist precipitator,
—Box cooler, and
—Mist eliminator.

These wastewater sources are usually combined into a single wastewater stream—acid plant blowdown—which is treated and then recycled or discharged.

The acid plant blowdown stream contains the toxic metals arsenic, chromium, copper, lead, nickel, selenium, and zinc, and total suspended solids.

Secondary Molybdenum and Vanadium. The one secondary molybdenum and vanadium facility in the United States is a direct discharger. It is located in Southern Texas, and was built in 1973. This industry involves the recovery of molybdenum and vanadium from secondary sources using hydrometallurgical processes.

The basic secondary molybdenum and vanadium processing steps are discussed below.

After some dry preparation steps, the raw material is leached with water to remove impurities and then dissolved, producing a solution containing the molybdenum and vanadium, and a tailing waste stream.

Molybdenum and vanadium are separated by precipitating vanadium from solution. Molybdenum does not precipitate, and the filtrate is routed to the molybdenum purification process. The vanadium rich solids are washed to remove traces of molybdenum, and then are manufactured into their final product form. One product form is vanadium pentoxide (V_2O_5), produced by decomposing the solids in a furnace.

Finally, molybdenum is precipitated from solution. This produces molybdic acid solids, which are recovered by filtration. Molybdic acid solids are dried and converted to molybdenum trioxide product (MoO_3) in a furnace.

The principal sources of wastewater in the secondary molybdenum and vanadium subcategory are listed below, along with the pollutants typically found in each:

(1) *Leach tailings* wastewater results from the water leaching process used to remove inerts and other impurities from the raw material, and is characterized by toxic metals and suspended solids.

(2) *Molybdenum filtrate* wastewater is generated by the precipitation of molybdenum from a molybdenum-rich liquid produced by the vanadium recovery process. This wastewater is characterized by toxic metals, ammonia, and suspended solids.

(3) *Vanadium decomposition wet air pollution control* wastewater results from air emissions control on the furnace used to produce vanadium oxide

from vanadium solids. This wastewater contains ammonia, toxic metals, and suspended solids.

(4) *Molybdenum drying wet air pollution control* wastewater results from air emissions control on the furnace used to dry molybdic acid and to produce molybdenum trioxide from the molybdic acid. This wastewater contains molybdenum, toxic metals, and suspended solids.

Primary Nickel and Cobalt. The one primary and nickel and cobalt plant in the United States is a direct discharger. It is located in southern Louisiana and was built in 1959.

The processes used at a primary nickel and cobalt production facility depend largely on the raw material used and the final product desired. The three basic primary nickel and cobalt processing steps which an individual plant may utilize are discussed below.

The first step involves crushing and grinding the ore concentrate, which contains copper, nickel, cobalt, and various impurities. Raw material is crushed and ground in a wet ball mill, and then fed to a sulfuric acid leaching system.

The second step involves separating copper from the nickel and cobalt. This is effected by leaching with a sulfuric acid-copper sulfate solution. Nickel and cobalt are leached into solution, while copper remains in the solid phase. The copper-containing solids are routed to the copper recovery system.

In the third step, nickel and cobalt are separated from each other, and each metal is purified. Separation is accomplished by precipitating cobalt out of solution with an ammonia compound. Nickel powder is recovered from the nickel-rich solution by reduction in a hydrogen autoclave. The excess solution is routed to an ammonium sulfate recovery process. Purification of cobalt is effected by the pentammine method, where nickel and other impurities are removed. Cobalt pentammine is reduced to cobalt powder in a hydrogen autoclave. The excess solution from cobalt purification is also routed to an ammonium sulfate byproduct recovery system.

The principal sources of wastewater in the primary nickel and cobalt subcategory are listed below, along with the pollutants typically found in each:

(1) *Raw material dust control* wastewater results from slurrying the baghouse dust generated by crushing and grinding ore concentrate in the mill. This wastewater is characterized by toxic metals (mainly copper and nickel), and suspended solids.

(2) *Nickel wash water* wastewater is generated by washing the nickel powder product produced by hydrogen reduction. This wastewater contains toxic metals and suspended solids.

(3) *Nickel reduction decant* wastewater is generated by reducing the nickel-rich solution to metal powder in an autoclave. This waste stream is characterized by a neutral pH, several toxic metals, and a high ammonia (as ammonium sulfate) content.

(4) *Cobalt reduction decant* wastewater is generated by reducing the cobalt-rich solution to metal powder in an autoclave. This waste steam has similar characteristics to the nickel reduction decant waste stream.

Secondary nickel. Of the two secondary nickel plants in the United States, one is an indirect discharger and one is a zero discharger. Both plants are located near the industrial centers of Western Pennsylvania. One plant was built in 1923, and the other plant was built in 1976.

The processes used at a secondary nickel production facility depend largely upon the raw material used and the final product desired. Secondary nickel production processes can be discussed in the context of three sources of raw materials: nickel melt furnace slag, nickel carbonate produced from acidic waste streams and sludges generated during forming operations, and solid scrap. Nickel alloy scrap generated at steel mills may also be recycled within the mill, however, no refining of the nickel scrap takes place prior to recycle.

The objective of slag reclamation is to recover the nickel values from the dross or slag produced in the nickel melt furnaces of a nickel forming plant. When nickel ingots are melted in the presence of fluxing agents, oxidized metals and impurities rise to the surface of the liquid metal and are removed from the furnace. This slag is approximately 10 percent metallics.

The dross or slag is first cooled and solidifed, and then mechanically granulated with a jaw crusher and a wet rod mill, in order to facilitate nickel separation. It is then fed into a mineral jig, which is a wet operation. The jig uses specific gravity differences to recover the nickel-rich material which is recycled to the nickel melt furnace.

In the acid reclaim process, a vessel filled with soda ash (Na_2CO_3) has the spent acids, pickling wastes, and wastewater treatment sludges from nickel forming operations added to it. This pH adjustment step precipitates the nickel out of the dissolved phase into the solid phase. The depleted nickel forming waste solutions are removed by filtration, and the nickel carbonate solids are recovered. The impure nickel carbonate is the raw material for the acid reclaim process.

Impure nickel carbonate is slurried with water to produce a homogeneous solution, and then roasted in an open hearth furnace. Roasting drives off the water, and oxidizes the nickel.

The nickel oxide product from roasting is then leached with water to remove impurities, and filtered. The nickel oxide product is approximately 35 percent nickel, and is returned to the nickel melting furnaces.

Scrap generated by a manufacturing facility may be recycled to recover the nickel values. The scrap is fed into a digestion unit with nitric acid and water. The acid removes silver and other impurities, and a 95 percent nickel product is either sold or returned to the manufacturing facility. The spent solution containing significant silver values is routed to a silver recovery process. There are no waste streams associated with scrap reclaim.

The principal sources of wastewater in the secondary nickel subcategory are listed below, along with the pollutants typically found in each.

(1) *Slag reclaim tailings* wastewater results from the wet operation used to reclaim nickel from melt furnace slags, and contains toxic metals and suspended solids.

(2) *Acid reclaim leaching filtrate* wastewater results from the water leaching process where nickel oxide, produced by roasting nickel carbonate, is purified by leaching away impurities. Toxic metals and suspended solids are found in this waste stream.

(3) *Acid reclaim leaching belt filter backwash* wastewater is produced by backwashing the belt filter used to recover purified nickel oxide, and contains toxic metals and suspended solids.

Primary Precious Metals and Mercury. Seven of the eight primary precious metals and mercury plants in the United States are zero dischargers. One primary precious metals plant is a direct discharger. Six of the plants achieve zero discharge via permanent lagooning and reuse of process wastewater, and one plant does not generate process wastewater. All eight plants are located west of the Mississippi River, with four plants in Nevada, one in South Dakota, one in Montana, one in Idaho, and one in Colorado. Seven primary precious metals and mercury plants began operations within the last 20 years, and one plant began operations more than 75 years ago. EPA data show that plant production of gold ranges from less than 10,000 troy ounces per year to 200,000

troy ounces per year, with average production approximately 70,000 troy ounces per year; plant production of silver ranges from less than 10,000 troy ounces per year to more than 500,000 troy ounces per year, with average production approximately 220,000 troy ounces per year. The production of mercury is not presented to protect confidential data supplied to the Agency.

The processes used at a primary precious metals and mercury production facility depend largely on the raw material used and the final product desired. Primary precious metals produced as a by-product of primary copper manufacturing are regulated under nonferrous phase I in the primary copper refining subcategory. In nonferrous phase II, the primary precious metals raw material is not copper-based. The three basic primary precious metals and mercury processing steps which an individual plant may utilize are discussed below.

The first step involves smelting or calcining the ore mining beneficiation product in a furnace. This pyrometallurgical step is used to separate the primary precious metals or mercury from the base metals and waste ore. If there is mercury in the raw material, it is vaporized, and recovered as a product in a condenser. The calcined ore waste product is removed from the furnace. No further purification of mercury is necessary. Gold and silver containing raw materials are smelted in the presence of fluxing agents to produce a gold- and silver-rich doré metal intermediate product. Slag, containing base metals such as zinc, lead, and copper, is skimmed off the smelting furnace. Doré metal may be cast and sold as a product, or it may be refined.

The second step involves separating gold from silver, and this can be done either electrolytically or with a chlorine parting furnace. In the electrolytic method, gold and silver containing Doré metal is cast as an anode, and electrolytically refined using a silver nitrate electrolyte. Silver crystals are recovered on the cathode, and are cast as a product, and gold remains as slimes in the canvas anode bags. Gold slimes are washed with acid and rinsed with water before being cast as a product.

Gold and silver can also be separated in a parting furnace by forcing chlorine gas through molten Doré metal. Silver is converted to silver chloride, which rises to the surface of the melt and is skimmed. The gold product remains in the furnace.

In the third step, gold and silver are further purified using various methods. Gold can be further purified electrolytically, using a chloride solution. As described above, gold slimes can be further purified using an acid wash and water rise process. Silver chloride can be reduced to silver metal by dissolution and displacement from solution with iron. Silver metal is then melted with a flux and cast as silver product.

The principal sources of wastewater in the primary precious metals and mercury subcategory are listed below, along with the pollutants typically found in each.

(1) *Smelter wet air pollution control* wastewater results from control of air emissions from the precious metals doré smelter using a wet scrubber. This waste stream is characterized by toxic metals and suspended solids.

(2) *Silver chloride reduction spent solution* wastewater results from the reduction of silver chloride to silver metal by dissolution and displacement with iron. This wastewater contains toxic metals, chloride, suspended solids, oil and grease, and a low pH.

(3) *Electrolytic cells wet air pollution control* wastewater results from control of air emissions from the electrolytic cells used to further purify gold, which has already been separated from silver, using a wet scrubber. This wastewater has similar characteristics to the smelter scrubber wastewater.

(4) *Electrolyte preparation wet air pollution control* results from air emissions control on the reaction vessel used to produce silver nitrate electrolyte from pure silver and nitric acid, using a wet scrubber. This wastewater should have characteristics similar to smelter wet air pollution control wastewater.

(5) *Silver crystal wash water* wastewater results from washing the silver crystals deposited on the cathode in the electrolytic refinig of Doré metal. This wastewater should contain toxic metals and suspended solids.

(6) *Gold slimes acid wash and rinse water* wastewater is generated by the dilute nitric acid wash and water rinse of the gold slimes produced by the electrolysis of Doré metal. This wastewater is expected to contain toxic metals and suspended solids.

(7) *Calciner wet air pollution control* wastewater results from control of air emissions from the calcining furnace where mercury-containing raw material is roasted. Fumes and particulates passing through the mercury condenser are controlled with a wet scrubber, or series of scrubbers. This wastewater contains high concentrations of mercury, plus some toxic metals and suspended solids.

(8) *Calciner quench water* wastewater is generated by the water quench used to cool the calcined ore from the mercury roasting furnace. This wastewater contains toxic metals and suspended solids.

(9) *Calciner stack gas cooling water* wastewater results from the contact cooling water used to cool the gas emissions from the mercury roasting furnace. This wastewater contains mercury and suspended solids.

(10) *Mercury calcining condensate* wastewater results from the blowdown of water from the condenser where vaporized mercury is collected. This wastewater is characterized by mercury and suspended solids.

(11) *Mercury cleaning bath* wastewater is generated by the water cleaning bath through which condensed mercury is passed prior to being sold as a product. This wastewater contains mercury, some other toxic metals, and suspended solids.

Secondary Precious Metals. There are 48 plants in the United States that recovery gold, platinum, palladium, iridium, rhodium, osmium, or ruthenium from recycled materials. The plants are concentrated in the Northeast and California, with plants also located in Arizona, Florida, Illinois, Ohio, Virginia, Minnesota, and Washington. EPA data show that a small minority (three) of secondary precious metals plants are direct dischargers. Of the remainder, 29 are indirect dischargers, and 16 are zero dischargers. Most of the plants began operating within the last 15 years.

One-third of the 48 secondary precious metals plants that reported data produce less than 10,000 troy ounces of total precious metals per year; all three of the direct dischargers produce in excess of 50,000 troy ounces per year, as well as 10 of the indirect dischargers.

The processes used at a secondary precious metals production facility depend largely upon the raw materials used and the plant's final products. Secondary precious metals production processes can be divided into two stages: raw material preparation and refining steps.

Depending on the raw material being processed, a plant may use one or more raw material preparation steps to prepare the raw material for the refinery. Plants which process dental scrap, optical scrap, electrical scrap, or spent catalysts may use a pyrometallurgical process. These raw materials may be crushed, ground, and incinerated or smelted in a furnace in order to remove the carbonaceous material and volatile fraction.

Incineration produces a precious-metal bearing residue which may then be fed directly to the refinery. Smelting usually produces a copper based bullion product which can either be sold or further processed in the refinery.

Gold-containing electrical scrap can be stripped with sodium or potassium cyanide solution. Cyanide stripping works best where gold is exposed on the surface of the scrap. The gold is recovered from the cyanide solution by precipitation as a gold-laden sludge, and the sludge is routed to the refinery.

Gold, rhodium or palladium can be recovered from spent or contaminated electroplater's solutions by either a precipitation or electrolysis process. Precious metals are precipitated as a precious metal-bearing sludge from spent plating solutions using zinc or sodium hydrosulfite, and the sludge is routed to the refinery. Gold is also recovered from spent plating solutions electrolytically, and the electolysis product is routed to the refinery.

Some plants do not use any of the raw material preparation steps described above on their raw materials, and proceed directly with the refining steps. Other plants may only melt and granulate their raw material prior to refining. Granulation is a common practice with jewelry scrap.

Refining steps are taken to produce high-purity precious metals (generally 99.9–99.99 percent) from lower purity raw materials, which may have undergone raw material preparation steps. The hydrometallurgical refining process involves dissolving raw materials in strong acid, such as aqua regia (one part concentrated nitric acid: three or four parts concentrated hydrochloric acid), filtering away silver chloride solids, and precipitating gold with sulfur dioxide or chlorine gas. The filtrate from gold precipitation is the raw material for recovering platinum group metals. Platinum group metals are precipitated out of solution using ammonium chloride, and are selectively dissolved in either acid or base and recovered. These refining processes are often repeated to increase the purity of the final product. Each of the metals produced is washed with water to remove any traces of acid or base.

Other hydrometallurgical refining processes, such as electrolysis or solvent extraction, are also used to recover gold. Electrolysis involves casting the raw material as an anode, and using an acidic electrolyte to recover gold on the cathode.

Solvent extraction involves dissolving raw material in acid, and extracting gold into an organic phase. Gold is recovered from the organic phase as a pure metal, and the organic solution is reused. The gold product is washed with water.

After precious metals are refined, they may be further processed in one of three ways. Gold and platinum group metals are cast as bars; gold is granulated to form shot; and gold is reacted with potassium cyanide solution to form potassium gold cyanide (PGC) salt. PGC salt is a raw material used in the electroplating industry. The principal sources of wastewater in the secondary precious metals subcategory are listed below, along with pollutants typically found in each.

(1) *Furnace wet air pollution control* wastewater results from the scrubbing of incinerator and smelting furnace off-gases. This wastewater contains toxic organics, toxic metals, cyanide, and suspended solids.

(2) *Raw material granulation* wastewater is produced by granulating melted raw material with water in a manner similar to shot casting. The wastewater is characterized by toxic metals and suspended solids.

(3) *Spent plating solutions* wastewater is a result of recovering gold, palladium or rhodium from spent or contaminated electroplater's solutions, and is characterized by toxic metals, free and complexed cyanide, and suspended solids.

(4) *Spent cyanide stripping solution* wastewater is produced by stripping gold away from electronic scrap and then recovering the gold from solution. This wastewater consists of free and complexed cyanide, toxic metals, and suspended solids.

(5) *Refinery wet air pollution control* wastewater is a result of air emissions from basic and acid dissolution and precipitation reactions in the refinery. Pollutants found in this wastewater include toxic organics and metals, cyanide, ammonia, and suspended solids.

(6) *Gold solvent extraction raffinate and wash water* wastewater is produced by dissolving raw material in acid, and then recovering it by extraction into an organic solvent. After recovering pure gold, the product is washed with water. This wastewater is characterized by toxic organics and metals, and suspended solids.

(7) *Gold spent electrolyte* wastewater results from the electrolytic recovery of gold from raw material cast as an anode. This wastewater consists of toxic metals and suspended solids.

(8) *Gold precipitation and filtration* wastewater results from the dissolution of raw material in aqua regia, filtering away silver chloride, precipitating gold, and recovering gold by filtration.The gold product is washed with water, which is included in this effluent. This wastewater is contains toxic metals, ammonia, and suspended solids.

(9) *Platinum precipitation and filtration* wastewater results from dissolution of platinum-bearing raw material, precipitation of platinum, and water wash of the product. This wastewater is contains toxic metals, ammonia, and suspended solids.

(10) *Palladium precipitation and filtration* wastewater results from the dissolution of palladium bearing raw material, precipitation of palladium, and a water wash of the product. This wastewater contains toxic metals, ammonia, and suspended solids.

(11) *Other platinum group metals precipitation and filtration* wastewater results from dissolution of platinum group metals (PGM) bearing raw material, precipitation of the PGM, and a water wash of the product. This wastewater contains toxic metals, ammonia, and suspended solids.

(12) *Spent solutions from PGC salt manufacturing* wastewater is a result of adding excess potassium cyanide solution to pure gold in order to produce PGC salt. The excess, or spent solution contains toxic metals, free and complexed cyanide, and suspended solids.

(13) *Equipment and floor wash* wastewater results from the need for plants to recover product which would normally be lost in spills and leaks, and is characterized by toxic metals, ammonia, and suspended solids.

Primary Rare Earth Metals. The primary rare earth metals industry consists of four plants; one is located in southwest United States and the remaining three are in the northeast United States. Of these four facilities, two were built in the past 20 years, while two were built nearly 70 years ago. The average production of rare earth metals from these plants is 270 tons per year. One of the plants is a direct discharger, one is an indirect discharger, and two are zero dischargers.

Rare earth metal production can be divided into two types of metals produced: pure rare earth metals, and mischmetal, an alloy of various rare earth metals and iron. The two types of rare earth metals production processing steps which an individual plant may utilize are discussed below.

Pure rare earth metals are produced through reduction processes. Calcium reduction is used for rare earth fluoride raw materials and mischmetal reduction is used for rare earth oxide raw materials.

In calcium reduction, the pure metal fluoride is placed with calcium into a reaction vessel in which a heat-driven reaction produces the pure rare earth metal and calcium fluoride slag. The metal is further purified by melting in a vacuum to remove impurities. Final product casting is dependent upon the desired product form.

Rare earth metal oxides are reduced to metal by using mischmetal as a reducing agent. The reduced rare earth metal vaporizes and the vapor is condensed into a crystalline mass. This solid metal product may be crushed into powder or melted and cast.

Mischmetal is produced by electrolysis using rare earth chlorides as raw materials. Rare earth chlorides are often in a hydrated form. Drying furnaces are used to dehydrate the metal chlorides prior to electrolytic reduction. The off-gases from the furnace pass through a continuous spray quench and are then either discharged into the atmosphere or passed through a caustic scrubber. Mischmetal is made by mixing the desired quantities of different dry rare earth chlorides and electrolytically reducing the molten chlorides to metal. The molten mischmetal is collected from the electrolytic cell and cast into ingots.

A principal by-product of electrolytic reduction is a gas containing chlorine. This gas is first quenched to remove particulates and then passed through a caustic scrubber. The reaction between sodium hydroxide and chlorine gas produces sodium hypochlorite which is concentrated by recycling scrubber liquor and sold for industrial use.

The principal sources of wastewater in the primary rare earth metals industry are listed below, along with the pollutants typically found in each:

(1) *Dehydration furnace quench and wet air pollution control* wastewater results from air pollution control systems on the wet rare earth chloride drying furnaces. This wastewater contains suspended solids and toxic metals.

(2) *Electrolytic reduction cell quench* wastewater results from cooling gas emissions from electrolytic reduction of rare earth chlorides. This wastewater contains some toxic metals, hexachlorobenzene, and has a low pH.

(3) *Electrolytic reduction cell wet air pollution control* wastewater is presently used for by-product recovery involving sodium hypochlorite produced from sodium hydroxide and chlorine gas from the electrolytic reduction cell. Because of the recovery operation, no wastewater is discharged.

Secondary Tantalum. There are three plants in the United States that recover tantalum from secondary sources. The plants are located in the northeastern part of the United States. EPA data show that all of the plants are direct dischargers. The average age of the plants is 60 years; the oldest plant was built in 1900 while the newest plant was constructed just prior to World War II. Secondary tantalum is produced in the form of tantalum metal powder. Average tantalum powder production for the three plants is 12 tons per year.

The processes used at a secondary tantalum production facility depend upon the raw materials used. Secondary tantalum production can be discussed in the context of three raw materials: scrap tantalum alloy metal, electrical components such as capacitors, and tantalum-bearing sludge.

Scrap tantalum alloy metal is material that is generated from forming and stamping operations. This scrap is immersed in acid causing dissolution of all metal components of the alloy except tantalum. When the batch of scrap tantalum has been sufficiently leached of impurties it is filtered from the spent acid and washed with water.

Another significant raw material is scrap electrical components. Of these, capacitors make up the majority. The recovery of tantalum from capacitors is effected by acid leaching. A mixture of acids is poured into a digestor filled with the scrap. The mixture is agitated until the acid becomes spent, at which time it is decanted, and replaced with fresh acid. The procedure is repeated until pure tantalum powder remains. In order to further purify the powder, it is melted by an electron beam refining process to remove impurities. The pure tantalum is solidified and crushed into powder. Finally, it is washed with acid to remove surface oxides. After rinsing with water, the powder is dried and packaged.

Tantalum-bearing sludge is another significant raw material used for tantalum recovery. In addition to upgrading the tantalum content of the sludge, other metals of value are derived through the tantalum recovery process. The procedure involves successive leachings. After washing the leached sludge, it is dried and packaged. The resulting powder contains 25 percent tantalum.

The principal sources of wastewater in the secondary tantalum subcategory are listed below, along with the pollutants typically found in each:

(1) *Tantalum alloy leach and rinse* wastewater results from leaching tantalum alloy scrap metal, contains dissolved toxic metals such as copper and nickel, suspended solids, and has a low pH.

(2) *Capacitor leach and rinse* wastewater results from leaching of scrap electrical components which are predominantly capacitors. This wastewater has a low pH and contains suspended solids and toxic metals.

(3) *Tantalum sludge leach and rinse* wastewater results from leaching and rinsing tantalum-bearing sludge during tantalum upgrading operations. It contains toxic metals such as copper and lead, suspended solids, and has a low pH.

(4) *Tantalum powder acid wash and rinse* wastewater results from final purification of tantalum powder to remove surface oxides. This wastewater contains toxic metals, suspended solids, and has a low pH.

(5) *Leaching wet air pollution control* wastewater is the scrubber liquor resulting from acid leaching of raw materials for tantalum recovery. This wastewater contains total suspended solids and toxic metals.

Primary and Secondary Tin. There is one plant in the United States which produces primary tin and 11 plants which recover tin from secondary sources such as tin plated steel scrap and tin plating solutions and sludges. Five of the 12 plants which produce primary or secondary tin are located in the west or southwestern United States. Five of the remaining seven plants are located in the east central United States. One plant is located in Indiana and one plant is located Florida. The average plant age is between 16 and 25 years. All of the plants have been built since 1940. The one plant which produces primary tin has a production level between 1,000 and 5,000 metric tons per year. This facility is a direct discharger. Approximately 1,700 metric tons of secondary tin were produced in 1982 at 11 plants with an average plant production of approximately 150 metric tons per year. Seven of the 11 secondary tin plants achieve zero discharge; two are direct dischargers and two discharge to POTW.

Primary tin is produced by smelting tin concentrates with limestone and coke. The crude tin is then electrolytically refined and cast. Secondary tin may also be produced by smelting tin residues, particularly detinners mud from alkaline detinning operations. Most secondary tin, however, is produced by dissolving tin from tin plated steel scrap, and recovering the tin by electrowinning. Tin may also be recovered from solution by precipitation of tin as tin hydroxide. A smaller amount of secondary tin is recovered from tin plating sludges which

are generated by tin plated steel production operations.

Secondary tin production can be divided into four major operations: alkaline detinning, electrowinning, tin hydroxide precipitation, and reduction to tin metal.

The principal raw material for the secondary tin industry is tin plated steel scrap. Virtually all of this scrap comes from fabrication plants which produce cans and a variety of other tin plated steel products. Such scrap may include punched sheets, rolls and bundles. One producer also reported tin recovery from tin plated steel separated from municipal solid waste. Two producers reported that they recovered tin from spent tin electroplating solutions and plating sludges.

Primary tin is produced by smelting tin concentrates and residues in a reverberatory furnace. Sulfur dioxide emissions from the smelting furnace are controlled with a caustic scrubber. Crude molten tin is removed from the furnace, fire refined and cast into anodes. The anodes are consumed in an electrolytic refining process and the purified tin is cast into ingots.

The first step in recovering secondary tin from tin plated scrap is hot alkaline detinning. Tin plated scrap is loaded into perforated steel detinning baskets and placed in a detinning tank which contains a solution of sodium hydroxide and sodium nitrate. The solution is heated to near the boiling point and the tin dissolves into solution as sodium stannate.

Scrap containing aluminum is pretreated in a solution of sodium hydroxide, in which the aluminum dissolves. After rinsing, the dealuminized scrap is sent to the detinning tanks.

There are two variations of the alkaline detinning process: the saturated process and the unsaturated process. In the saturated process, the sodium stannate solution is allowed to become supersaturated and sodium stannate crystals precipitate from solution. The sodium stannate is recovered from the solution in a filter press and the solution is returned to the detinning tanks. The sodium stannate filter cake may then be sold as a product or redissolved in water for further processing or electrowinning.

In the unsaturated process, the sodium stannate concentration in the solution is kept below the saturation point and the solution is pumped directly to further processing or electrowinning. In both the saturated and the unsaturated process, the sodium stannate solution is purified by adding sodium sulfide or sodium hydrosulfide to precipitate lead and other metal impurities as insoluble metal sulfides.

The precipitated residue is called tin mud or detinners mud and is sold to smelters. Detinners mud may also include residues removed from the bottoms of detinning tanks. This mud contains three to five percent tin and is sold as a by-product to smelters. The tin mud is usually rinsed to recover any soluble tin which may be present. The rinse water is recycled to the detinning tanks. One producer reported an acid neutralization step in which acid is added to the mud. The neutralized mud is then dewatered in a filter press and sold to smelters.

When the detinning cycle is complete, the detinned steel is removed from the detinning tanks. The steel is then rinsed to recover any tin solution which may be adhering to it, pressed or baled, and sold as a product. The rinse water is recycled to the detinning tanks to recover tin.

The purified sodium stannate solution is sent to electrolytic cells where pure tin metal is deposited onto cathodes. The tin is then removed from the cathodes, melted and cast. The electrowinning solution is then recycled to the detinning tanks. A blowdown stream must periodically be discharged from the electrowinning circuit in order to control the concentration of aluminum, carbonates, and other impurities in the solution.

One producer reported the use of tin hydroxide as a raw material for electrowinning of tin metal. The tin hydroxide is first washed with water and then dissolved in a solution of sodium hydroxide. The resultant sodium stannate solution is then purified and added to the sodium stannate solution from alkaline detinning and the combined solution enters the electrowinning tanks.

As an alternative to recovering tin metal by electrowinning, tin can be recovered from solution as tin hydroxide. One plant which uses this process precipitates tin from a solution which is a mixture of alkaline detinning solution and a solution generated by dissolving tin plating sludge solids in water. The other plant which precipitates tin hydroxide uses spent tin electroplating solution as a raw material.

The tin hydroxide is dried and calcined in a furnace to produce tin dioxide. The tin dioxide is then charged to a reduction furnace with carbon where it is reduced to tin metal.

The primary sources of wastewater in the primary and secondary tin subcategory are listed below along with the pollutants typically found in each.

(1) *Tin smelter wet air pollution control* wastewater results from the use of wet scrubbing systems to control sulfur dioxide emissions from tin smelting operations. This wastewater is characterized by the presence of toxic metals and suspended solids.

(2) *Dealuminizing rinse* wastewater results from dissolving aluminum from municipal solid waste derived scrap prior to alkaline detinning. This stream is characterized by an alkaline pH and the presence of cyanide, toxic metals, aluminum, and suspended solids.

(3) *Tin hydroxide wash* wastewater is generated when tin hydroxide is used as a raw material in the electrowinning operations and is washed with water to remove impurities prior to dissolving and electrowinning. This waste stream contains toxic metals and suspended solids.

(4) *Tin mud acid neutalization filtrate* is generated when tin mud is upgraded by acid addition and dewatering prior to sale to tin smelters. This wastewater contains cyanide and toxic metals.

(5) *Spent electrowinning solution from new scrap* results from discharging water from the electrowinning circuit to control the buildup of impurities when new tin plated steel scrap is processed. This stream has a very alkaline pH and contains cyanide, toxic metals and suspended solids.

(6) *Spent electrowinning from municipal solid waste* is required to account for the larger volume of spent electrowinning solution which must be discharged when municipal solid waste is used as a raw material in alkaline detinning and electrowinning. This extra discharge is necessitated by impurities which are introduced into the electrowinning solution by the municipal solid waste. This wastewater is characterized by an alkaline pH and the presence of cyanide, toxic metals and suspended solids.

(7) *Tin hydroxide supernatant from scrap* is generated when tin hydroxide is precipitated from alkaline detinning solution and separated from the aqueous phase by gravity separation. This wastewater contains toxic metals, cyanide, and suspended solids.

(8) *Tin hydroxide supernatant from spent plating solutions* is generated when tin hydroxide is precipitated from spent tin electroplating solutions and separated from the aqueous phase by gravity separation. This wastewater is characterized by the presence of toxic metals, cyanide, suspended solids, and high concentrations of fluoride.

(9) *Tin hydroxide supernatant from sludge solids* results when tin hydroxide is precipitated from a solution generated

by dissolving tin plating sludge solids in water. The resultant supernatant stream is characterized by the presence of toxic metals, cyanide, fluoride and suspended solids.

(10) *Tin hydroxide filtrate* results from dewatering tin hydroxide slurry in a filter press. The resultant filtrate stream contains toxic metals, cyanide, fluoride, and suspended solids.

Primary and Secondary Titanium. Of the eight primary and secondary titanium plants in the United States, four are direct dischargers, two are indirect dischargers, and two are zero dischargers. The plants are located mostly in the eastern and northwestern states. Three plants were built around 1940, three were built between 1956 and 1958, and two have been built since 1975. EPA data show that five of the eight plants produce less than 500 kkg per year while, of the remaining three plants, two produce more than 5,000 kkg per year.

The processes used at a primary and secondary titanium production facility depend largely on the raw material used and the final product desired. The four basic primary and secondary titanium processing steps which an individual plant may utilize are discussed below.

The first step involves chlorination of rutile or ilmenite ore in a fluidized bed reactor. The resulting titanium tetrachloride is condensed from the reaction gas and purified by distillation.

The second step involves reduction by one of three methods to produce titanium metal sponge. Four plants use the Kroll process in which titanium tetrachloride ($TiCl_4$) is added to magnesium in a reduction furnace where it is converted to titanium metal and magnesium chloride. Molten magnesium chloride is tapped off as it is formed and recovered electrolytically. One plant uses the Hunter process to reduce titanium tetrachloride to the metal by sodium in an inert atmosphere. One plant reports the production of titanium sponge by reducing rutile ore in a hydrogren atmosphere without forming the chlorinated intermediate.

Titanium metal sponge is crushed and purified by leaching or by vaccum distillation. The purified metal may be sold as titanium sponge, crushed and sold as titanium powder, or further processed by alloying and casting.

Titanium is also recovered from secondary sources, particularly scrap titanium metal which is washed with acid prior to being melted and cast along with titanium from primary sources.

The principal sources of wastewater in the primary and secondary titanium subcategory are listed below, along with the pollutants typically found in each:

(1) *Chlorination off-gas wet air pollution control* wastewater results from wet scrubbers on the fluidized bed reactors used to convert rutile ore to the titanium tetrachloride. This waste stream may contain chlorine, suspended solids, and toxic metals.

(2) *Chlorination area vent wet air pollution control* wastewater results from wet scrubbers used to control fumes from the ore chlorination operation. This waste stream contains chlorine, suspended solids, and toxic metals.

(3) *$TiCl_4$ handling wet air pollution control* wastewater results from wet scrubbers used to control fumes from the handling and storage of titanium tetrachloride. The characteristics of this stream are similar to those of the reduction area scrubber water, which contains suspended solids and toxic metals.

(4) *Reduction area wet air pollution control* wastewater resulting from wet scrubbers used to control fumes generated from the reduction furnace when titanium tetrachloride is reduced to the metal sponge by magnesium. No wet air pollution control is reported to be associated with reduction by sodium or CaH_2. This wastewater is characterized by the presence of magnesium, chloride, and toxic metals.

(5) *Melt cell wet air pollution control* wastewater results from wet scrubbers used to control fumes from molten magnesium chloride which is stored in a melt cell prior to electrolytic recovery. This stream is characterized by low pH and low concentrations of toxic metals.

(6) *Cathode gas wet air pollution control* wastewater results from air pollution control devices on the electrolytic cells used for magnesium recovery. This waste stream is similar to the wastewater from the melt cell scrubber, which contains low concentrations of toxic metals.

(7) *Chlorine liquefaction wet air pollution control* wastewater results from wet scrubbers used to control vapors which escape during the liquefaction of the chlorine gas generated by the electrolytic recovery of magnesium. This stream is characterized by a low pH and the presence of toxic metals.

(8) *Sodium reduction container reconditioning wash water* is generated when water is used to rinse the containers used for the reduction of titanium tetrachloride by sodium. This stream contains chlorides, suspended solids, and toxic metals.

(9) *Chip crushing wet air pollution control* wastewater results from wet scrubbers used to control dust when titanium sponge chips are crushed prior to purification. This stream contains titanium and suspended solids.

(10) *Acid leachate and rinse water* is generated when titanium sponge is purified by leaching. Purification by vaccum distillation does not generate a wastewater. This waste stream is characterized by the presence of suspended solids and toxic metals.

(11) *Sponge crushing and screening wet air pollution control* waterwater results from wet scrubbers used to control dust from the crushing, screening, and storage of leached titanium. This waste stream contains suspended solids and toxic metals.

(12) *Acid pickle and wash water* is generated when large surface area titanium scrap is pickled and rinsed before alloying and casting. This low pH waste stream contains fluoride and toxic metals.

(13) *Scrap milling wet air pollution control* wastewater results from wet scrubbers used to control dust from the milling of titanium scrap and turnings. This waste stream contains suspended solids and toxic metals.

(14) *Scrap detergent wash water* is generated when scrap titanium is washed to remove oil and dirt before alloying and casting. This waste stream contains suspended solids, oil and grease, and toxic metals.

(15) *Casting crucible wash water* is generated when water is used to clean the crucibles used in casting operations. This stream is similar to casting contact cooling water and should contain oil and grease and toxic metals.

(16) *Casting contact cooling water* is generated during the casting operations. This stream is characterized by the presence of oil and grease, suspended solids, and toxic metals.

Secondary Tungsten and Cobalt. Of the five secondary tungsten and cobalt plants in the United States, four are direct dischargers, and one is a zero discharger. All five plants are located in the northeastern part of the country, near industrial centers, and all are in areas of net precipitation. One secondary tungsten and cobalt plant was built prior to World War I, two were built during World War II, and two plants were built in the last 20 years. EPA data show that average plant production of tungsten products is about 100 tons per year. Average plant production of cobalt products is also about 100 tons per year.

The processes used at a secondary tungsten and cobalt production facility depend largely on the raw material used and the final product desired. The basic

hydrometallurgical processing steps which an individual plant may use to recover tungsten, tungsten carbide, cobalt, and synthetic scheelite ($CaWO_4$) are discussed below.

The major hydrometallurgical processing step used to recover tungsten and tungsten carbide from scrap is to leach impurities such as cobalt, copper, nickel, silver, and zinc away from the product. Leaching usually occurs in an agitated reaction vessel with an acid solution. Tungsten, which is relatively insoluble in acid, is separated from the liquid phase by either filtration or decantation.

Prior to leaching, both tungsten and tungsten carbide scrap may be washed with detergent and rinsed with water. Washing removes surface oils and grease from the scrap in order to facilitate the leaching process.

After leaching, both tungsten and tungsten carbide powder may be washed with dilute acid or base, and rinsed with water. This wash step neutralizes and removes any residual leaching acid or impurities from the tungsten product.

Cobalt is recoverd as a by-product of tungsten carbide via a hydrometallurgical process. Cobalt is used as a binder alloy in tungsten carbide manufacturing and is recovered from tungsten carbide leaching acid.

Both tungsten and tungsten carbide scrap may be used to produce synthetic scheelite instead of pure tungsten or tungsten carbide powder. Synthetic scheelite ($CaWO_4$) is used in a primary tungsten refinery as a supplemental feed material to natural scheelite ore.

Pure tungsten scrap is smelted or roasted in a furnace to produce tungsten oxide (WO_3). Tungsten oxide is dissolved with caustic solution. After filtering away impurities, calcium chloride is added to the solution, and synthetic scheelite is produced. Synthetic scheelite is recovered by filtration.

The principal sources of wastewater in the secondary tungsten and cobalt subcategory are listed below, along with the pollutants typically found in each.

(1) *Tungsten detergent wash and rinse* wastewater is a result of washing oil and grease off the surface of tungsten scrap prior to leaching, and this stream contains toxic metals, oil and grease, and suspended solids.

(2) *Tungsten leaching acid* wastewater is generated when tungsten scrap is leached with an acid solution in order to remove impurities from the scrap. This stream is characterized by toxic metals, suspended solids, and a low pH.

(3) *Tungsten post-leaching wash and rinse* wastewater is a result of washing residual leaching acid and impurities away from the tungsten powder product. This stream consists of toxic metals and suspended solids.

(4) *Synthetic scheelite filtrate* wastewater is produced by the dissolution process where tungsten oxide produced from scrap is converted to synthetic scheelite. This waste stream is charcterized by toxic metals and suspended solids.

(5) *Tungsten carbide leaching wet air pollution control* wastewater results from the wet scrubbers used to control acid fumes generated during tungsten carbide leaching. This scrubber liquor contains toxic metals, ammonia and suspended solids.

(6) *Tungsten carbide wash water* is generated when tungsten carbide powder is washed with dilute acid and rinsed with water in order to remove residual leaching acid and impurities. This waste stream is similar to tungsten post-leaching wash and rinse wastewater, and has similar characteristics.

(7) *Cobalt sludge leaching wet air pollution control* wastewater results from the wet scrubber used to control acid fumes generated during cobalt sludge leaching. This waste stream and tungsten carbide leaching wet air pollution control should have similar characteristics.

(8) *Crystallization decant* wastewater is produced by plants which recover cobalt from tungsten carbide leaching acid by crystallization. This waste stream is characterized by toxic metals and suspended solids.

(9) *Acid wash decant* wastewater results from the purification steps used on the cobalt crystals, and contains toxic metals and suspended solids.

(10) *Cobalt hydroxide filtrate* wastewater is generated by the alkaline dissolution and precipitation process used to produce cobalt hydroxide. This waste stream is characterized by toxic metals and suspended solids.

(11) *Cobalt hydroxide filter cake wash water* is produced by washing the cobalt hydroxide filter cake with water in order to remove any traces of caustic or other impurities. This waste stream contains toxic metals.

Secondary Uranium. There are three plants in the United States that produce secondary uranium metal. Of these three, two plants are zero dischargers and the third is a direct discharger. The plants are all located east of the Mississippi River. Two plants were built in the 1950s when the uranium industry first began large scale production. The third plant was built nearly 15 years ago to supplement the growing need for uranium for commercial projects.

The uranium production process can be divided into two phases. The first phase is processing uranium scrap materials into uranium tetrafluoride (UF_4). The second phase is reduction of uranium tetrafluoride to uranium metal.

Raw materials available to uranium producers include scrap from forming operations, material that does not meet specifications for quality or purity, tailings from machining operations, and residuals present in magnesium fluoride slag from the final uranium tetrafluoride reduction processes.

The initial step in processing uranium from secondary sources is acid leaching. Uranium dissolves in nitric acid to form a nitrate compound, uranyl nitrate ($UO_2(NO_3)_2$). Recovery of uranyl nitrate from the spent acid is accomplished by addition of ammonia which precipitates ammonium diuranate. The solid is filtered and the filtrate discharged. After redissolving the precipitate in acid, the uranyl nitrate is purified by extraction into an organic solvent, leaving the impurities in the aqueous phase to be discharged. Reextraction into an aqueous phase is followed by evaporation to form concentrated uranyl nitrate. Calcination of the concentrate produces uranium trioxide (UO_3). The nitrates driven off in calcination combine with hydrogen in the air to produce nitric acid gases which are scrubbed and recycled to the acid leaching operations.

The next process step reduces uranium trioxide to uranium dioxide (UO_2). Ammonia is used to supply hydrogen for the reduction. The reaction gases are passed through a KOH scrubber to neutralize any acidity. The final step in preparation of uranium tetrafluoride is hydrofluorination of uranium dioxide. Hot hydrofluoric acid vapors are contacted with uranium dioxide. The ensuing reaction produces uranium tetrafluoride which is used for reduction to uranium metal. Unreacted gases are water scrubbed to collect residual hydrofluoric acid. The scrubber liquor is recycled to concentrate its acid content, and when a desired concentration is achieved, the solution is drawn off and sold for industrial use.

Magnesium reduction is the process converting uranium tetrafluoride to uranium metal. Magnesium metal and uranium tetrafluoride are laced in a bomb reduction vessel where at elevated temperatures the reduction reaction occurs. After cooling, the products are broken out and separated. The uranium metal product is remelted

and cast into forms suitable for forming operations.

The principal sources of wastewater in the secondary uranium subcategory are listed below, along with the pollutants typically found in each:

(1) *Refinery filtrate* wastewater results from the digestion of uranium scrap with nitric acid, and contains toxic metals and suspended solids.

(2) *Slag leach slurry* wastewater is generated by nitric acid digestion of recycled magnesium fluoride slag. The waste stream contains suspended solids and has a low pH.

(3) *Solvent extraction raffinate* wastewater results from purification of an intermediate uranium compound by extraction into an organic phase. The discharged aqueous solution contains organics and metals, and suspended solids.

(4) *Digestion operation wet air pollution control* wastewater results from wet scrubbers which control the process emissions from acid leaching. The waste stream contains suspended solids and toxic metals.

(5) *Evaporation and calcination wet air pollution control* produces no wastewater discharge. Scrubber liquors resulting from control of emissions in the evaporation and calcination operations were reported to be 100 percent reused in the digestion operation.

(6) *Hydrogen reduction and hydrofluorination KOH wet air pollution control* wastewater results from wet scrubbers that control acid fumes from the hydrogen reduction and hydrofluorination operations. The wastewater contains suspended solids and has an acidic pH.

(7) *Hydrofluorination wet air pollution control* produces no wastewater discharge. Scrubber liquor that absorbs unreacted hydrofluoric acid gases is recycled to concentrate the acid content. The acid scrubber liquor is drawn off and sold for its hydrofluoric acid content.

Primary Zirconium and Hafnium. Of the three primary zirconium and hafnium plants in the United States, one is a direct discharger, one is an indirect discharger, and one is a zero discharger. The plants are located in the states of Massachusetts, Utah, and Washington. Plant age covers a 42 year span, the oldest plant having been built in 1937.

The processes used at a primary zirconium and hafnium production facility depends largely on the raw material used. The five basic processing steps which an individual plant may utilize are discussed below.

The first step involves chlorination of zircon sand to form zirconium-hafnium tetrachloride. The sand may require drying prior to chlorination to remove excess moisture. The crude tetrachloride is recovered and separated from silicon tetrachloride ($SiCl_4$) impurities by fractional distillation. It is then dissolved in water and filtered to remove suspended solids.

The second step involves the separation of zirconium from hafnium. Several liquid-liquid extraction operations are used to separate the zirconium and hafnium while removing iron impurities. The separated zirconium and hafnium are precipitated as their hydroxides and dewatered by filtration or drying. From this point in the process, zirconium and hafnium are processed separately but identically.

In the third step, the zirconium or hafnium filter cakes are calcined to produce zirconium oxide or hafnium oxide.

The fourth step involves pure chlorination to convert the zirconium or hafnium oxides to the tetrachloride. This process is essentially the same as the first step, sand chlorination.

The fifth step involves reduction of the tetrachloride to their respective metals. The tetrachloride is reacted with magnesium in a retort furnace where it is converted to zirconium or hafnium metal and magnesium chloride. When zirconium oxide is used as a raw material instead of the tetrachloride, it is mixed with magnesium powder and retorted to produce zirconium metal sponge and magnesium oxide. Zirconium oxide can also be used to produce zirconium-nickel alloys. In that reduction process, nickel is added directly to the zirconium oxide, and the mixture is reduced by calcium in a hydrogen atmosphere.

The principal sources of wastewater in the primary zirconium and hafnium subcategory are listed below, along with the pollutants typically found in each:

(1) *Sand drying wet air pollution control* wastewater results from wet scrubbers used in the zircon sand drying operation. This stream is characterized by the presence of suspended solids and toxic metals.

(2) *Sand chlorination off-gas wet air pollution control* wastewater results from wet scrubbers used to control off-gases from the chlorinators. This wastewater is characterized by the presence of solids and chlorine.

(3) *Sand chlorination area-vent wet air pollution control* wastewater results from wet scrubbers used to control fumes in the sand chlorination area. This wastewater is characterized by the presence of solids and chlorine.

(4) *$SiCl_4$ purification wet air pollution control* wastewater is generated when wet scrubbers are used to control fumes from the purification of the silicon tetrachloride formed during sand chlorination. This stream contains suspended solids and cyanide.

(5) *$SiCl_4$ purification waste acid* results from the purification of silicon tetrachloride formed during sand chlorination. This stream may contain solids and toxic metals.

(6) *Feed makeup wet air pollution control* wastewater results from wet scrubbers used to control fumes generated when crude zirconium-hafnium tetrachloride is dissolved in water and filtered to remove solids. This stream is characterized by the presence of suspended solids and cyanide.

(7) *Iron extraction steam stripper bottoms* are generated during the steam stripping process which removes iron from hafnium, following the liquid-liquid extraction process which separates zirconium from hafnium. This waste stream contains ammonia, solids, and toxic metals.

(8) *Zirconium filtrate* wastewater results from the precipitation and filtration of zirconium hydroxide during the separation process. This waste stream contains cyanide, MIBK, solids, and toxic metals.

(9) *Hafnium filtrate* wastewater results from the precipitation and filtration of hafnium hydroxide during the separation process. This waste stream contains suspended solids and cyanide.

(10) *Calcining caustic wet air pollution control* wastewater results from wet scrubbers on the zirconium and hafnium calcining kilns. This stream is characterized by the presence of sodium sulfite.

(11) *Pure chlorination wet air pollution control* wastewater results from wet scrubbers used to control fumes from the chlorination of calcined zirconium oxide or hafnium oxide. This waste stream is similar to the sand chlorination off-gas scrubber wastewater and contains solids and chlorine.

(12) *Reduction area-vent wet air pollution control* wastewater results from water scrubbers on the reduction furnaces used for the magnesium reduction of zirconium and hafnium tetrachlorides. This stream contains solids and metals.

(13) *Magnesium recovery area wet air pollution control* wastewater results from wet scrubbers used to control fumes from the recovery of magnesium for the reduction process. This stream is characterized by low pH and the presence of magnesium and solids.

(14) *Zirconium chip crushing wet air pollution control* wastewater is generated by wet scrubbers used for dust control when zirconium metal sponge is chipped out of the reduction container and crushed prior to purification. This stream contains solids and metals.

(15) *Acid leachate* wastewater is generated when remaining impurities are removed from crushed zirconium metal sponge or zirconium alloy by leaching with hydrochloric or acetic acid. This stream is characterized by low pH and the presence of solids and toxic metals.

(16) *Leaching rinse* wastewater is generated when water is used to rinse leached zirconium sponge or zirconium alloy. This waste stream is characterized by low pH and the presence of solids and toxic metals.

III. Scope of This Rulemaking and Summary of Methodology

This proposed regulation is a part of a new chapter in water pollution control requirements. The 1973–1976 round of rulemaking emphasized the achievement of best practicable technology (BPT) by July 1, 1977. In general, this technology level represented the average of the best existing performances of well-known technologies for control of familiar (or "classical") pollutants.

In this round of rulemakings EPA is emphasizing the achievement of the best available technology economically achievable (BAT), which will result in reasonable further progress toward the national goal of eliminating the discharge of all pollutants. In general, this technology level represents the very best economically achievable performance in any industrial category or subcategory. Moreover, as a result of the Clean Water Act of 1977, the emphasis of EPA's program has shifted from "classical" pollutants to the control of a lengthy list of toxic substances.

In developing this regulation, EPA studied the nonferrous metals manufacturing category to determine whether differences in raw materials, final products, manufacturing processes, equipment age and size of plants, water use, wastewater constitutents, or other factors required the development of separate effluent limitations and standards for different segments (or subcategories) of the industry. This study included the identification of raw waste and treated effluent characteristics, including: the sources and volumes of water used, the processes employed, and the sources of pollutants and wastewaters. Sampling and analysis of specific waste streams enabled EPA to determine the presence and concentration of toxic pollutants in wastewater discharges.

EPA also identified both actual and potential control and treatment technologies (including both in-process and end-of-process technologies). The Agency analyzed both historical and newly generated data on the performance, operational limitations, 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 then estimated the costs of each control and treatment technology using a cost model developed by standard engineering analyses. EPA derived unit process costs for 70 discharging plants (plus one plant that does not discharge but has stated an intention to discharge in the future) using data and characteristics (production and flow) applied to each treatment process (*e.g.*, chemical precipitation, sedimentation, granular bed—multi-media filtration, etc.). These unit process costs were added to yield the total cost at each treatment level.

As one means of evaluating each technology option, the Agency developed estimates of the pollutant removals and the compliance costs associated with each option. Our methodologies are described below.

A. *Pollutant Removal Estimates.* In calculating pollutant removal estimates, we developed estimates for pollutant loadings in raw wastewater (by subcategory), for the mass of pollutants that would be discharged at each technology option, and for the mass of pollutants discharged currently.

Calculation of raw waste values varied depending upon whether the Agency was able to sample wastewater from unit operations within the subcategory. Where we sampled a unit operation (or sampled the same unit operation at different plants) and were able to obtain both analytical concentration data (mg/l) and production normalized flow values (liters of flow/kkg of production), we computed the mass loading associated with the unit operation (expressed in mg/kkg, *i.e.*, pollutant concentration x production normalized flow), and took the means of these mass loadings at every plant sampled.

After deriving this mean, we multiplied it by the subcategory-wide production associated with that unit operation at each plant (the production data is part of each plant's response to the data collection portfolio (dcp)—see Section IV below). The total represents estimated raw waste values for the subcategory from the unit operation. Summing raw waste values from each unit operation in the subcategory gives the total for the subcategory.

If we sampled a unit operation and were able to determine analytical concentrations of pollutants, but were unable to determine flow, we used production normalized flow data from the dcp's to compute mass loadings and otherwise followed the same procedure.

If we were unable to sample a unit operation at any plant, we computed raw waste values by making an engineering judgment as to which sampled unit operations had wastewater of similar quality. We then took these analytical values and computed a mass limitation using production normalized flow information from the dcp's. These mass limitations then were summed to give total subcategory raw waste values for that unit operation.

In determining mass loadings associated with each technology option, our general procedure is to take the achieveable concentrations associated with the option (mg/l) and compute mass loadings using either the production normalized flow associated with that option (for example, BAT regulatory flow), or the actual flow, whichever is smaller, on a plant-by-plant basis. This mass (mg/kkg of each plant's production) is then multiplied by the production for each plant in the subcategory (from dcp's, as before), which are then summed to give total mass discharged.

We used similar methods to estimate current discharge. We first identified from dcp responses what treatment is in place at each discharging facility. We then determined whether the treatment technology was being operated in a manner that would result in the pollutant mass discharge level considered achievable at each plant with the technolgy they have in place. Based on this determination, the current pollutant mass discharge at each facility was set equal to either the raw waste generated by the plant or to the mass discharge considered achievable by the treatment technology in place. The mass discharges for each facility were then summed to attain the total current discharge for a subcategory.

B. *Compliance Costs.* In estimating subcategory-wide compliance costs our first step was to develop a uniformly-applicable cost model, relating total plant costs associated with installation and operation of wastewater treatment technologies to production and flow data specific to each plant. Section VIII of the General Development Document

provides additional discussion of our cost estimates.

The first step in developing our cost estimates is to perform material balances (pollutant loadings) for the plant's wastewater treatment processes. These material balances are used to determine the type and size of the treatment system needed. The resulting equipment and process selections are then used to calculate investment as well as operation and maintenance (O&M) costs for each component in the treatment system. We then add 37.5 percent system capital costs for engineering, contingency, and contractor's fees to arrive at the total investment cost. Annual costs for the plant to comply with this regulation are determined as the sum of the O&M costs, monitoring costs, taxes, and amortized investment cost. The cost model data base used relies heavily on actual practice reported in this category and on equipment vendor quotes.

Our estimates include capital costs for only those processes that a plant has not yet installed; the annual costs (without depreciation or interest) for each process are included regardless of whether or not this process has been installed. We believe this is a very conservative assumption since most plants have installed treatment to meet NPDES or other requirements rather than in anticipation of this regulation.

The second step is the calculation of flow to the treatment system. For each regulatory option and wastewater source, the Agency has established a flow allowance. The actual wastewater flow (reported in plant dcps) from each production operation is compared to the corresponding regulatory flow for that operation and the lower of the two is selected as the basis for cost estimation (i.e., treatment equipment size, amount of treatment chemicals needed, etc.). This procedure eliminates the overestimation of end-of-pipe treatment system costs for plants that are currently below the regulatory flow allowances. For plants with flows currently above the regulatory flow allowances, costs for installation and operation of equipment necessary to achieve flow reductions to the regulatory flow are included.

Third, several cost and design assumptions are inherent in the computations. Among the most significant of these are the following:

(1) The dollar base is March of 1982;

(2) Twenty percent excess capacity is included in cost estimations;

(3) Unless otherwise specified, all wastewater treatment sludges are considered to be nonhazardous;

(4) Costs for segregation of wastewaters not included in this regulation (e.g., noncontact cooling water) or for routing regulated waste streams not currently treated to the treatment system are estimated on the basis of purchase and installation of 500 feet of four-inch piping (with valves, pipe racks, and elbows) for each stream. Storm water is segregated by including costs for installation of 300 feet of two-foot diameter underground concrete pipe to route storm water around the treatment system;

(5) Monitoring costs are calculated using a frequency that is a function of flow for each plant and a sampling and analysis cost of $120 per sample;

(6) Where a plant has wastewater sources from two nonferrous phase II subcategories (e.g., secondary tantalum and secondary tungsten and cobalt plant wastewater), the costs are normally apportioned between subcategories on a flow-weighted basis, since hydraulic flow is the primary determinant for equipment size and cost. At a specific plant, however, no incremental costs are incurred by a subcategory for flow reduction, if the waste streams associated with that subcategory do not undergo flow reduction. Thus if only the tungsten leaching scrubber from a combined secondary tantalum and secondary tungsten and cobalt plant undergoes flow reduction, all incremental costs are assigned to the secondary tungsten and cobalt subcategory, and the compliance costs estimated for the secondary tantalum subcategory remain the same. Where waste streams from both subcategories undergo flow reduction, a new flow ratio is calculated to apportion costs. (This in essence is only a bookkeeping exercise of how to allot this cost; the total costs calculated remain the same); and

(7) In most cases, where a plant has wastewater sources from the nonferrous phase II category and a category other than nonferrous manufacturing (for example, nonferrous forming) we calculated the costs of segregating these different wastewaters. The only exception is for overlap plants between nonferrous phase I and nonferrous phase II, where we estimated costs for combined treatment, and then flow-apportioned the costs to each category. This means of cost estimation accounts for the possibility that respective regulations for each category are based on different technologies (and may control different pollutants). (We assumed the costs of segregation even if combined treatment, in practice, is a less costly means of compliance. This is one of a number of areas where the Agency was knowingly conservative in estimating compliance costs.)

IV. Data Gathering Efforts

The data gathering program is described briefly in Section III and in substantial detail in Section V of the General Development Document and the subcategory supplements. A data collection portfolio (dcp) was developed to collect information about the industry and was mailed out on May 6, 1983, under the authority of Section 308 of the Clean Water Act, to each company known or believed to perform smelting and refining of the metals discussed in Section III of this notice in the United States. Several plants were sampled in order to obtain wastewater characterization data. Supplemental data were obtained from NPDES permit files, engineering studies on treatment technologies, and a one-page version of the dcp (called the "mini-dcp") which was mailed out in 1977.

EPA reviewed and evaluated existing literature for background information to clarify and define various aspects of the nonferrous metals manufacturing category and to determine general characteristics and trends in production processes and wastewater treatment technology. Review of current literature continued throughout the development of these guidelines. We also reviewed earlier EPA development documents for particular nonferrous metals manufacturing subcategories.

The available information included a summary of the industry describing the production processes, the wastewater characteristics associated with the processes, recommended pollutant parameters requiring control; applicable end-of-pipe treatment technologies for wastewaters; effluent characteristics resulting from this treatment, and a background bibliography. Also included in these studies were detailed production and sampling information for many plants.

Frequent contact has been maintained with industry personnel. Contributions from these sources were particularly useful for clarifying differences in production processes.

The nonferrous metals manufacturing plants were surveyed to gather information regarding plant size, age and production, the production processes used, and the quantity, treatment, and disposal of wastewater generated at these plants. The dcp's also requested economic information including plant capacity, employment, sales, and existing regulatory costs for the base year of 1982. This information was requested in data collection

portfolios (dcp's) mailed to all companies known or believed to be engaged in nonferrous metals manufacturing activities. A listing of the companies comprising the nonferrous metals manufacturing industry (as classified by standard industrial code numbers) was compiled by consulting trade associations and the U.S. Bureau of Mines.

In all, dcp's were sent to the corporate headquarters (where they were known) of 220 firms (276 facilities). In many cases, companies contacted were not actually members of the nonferrous metals manufacturing category as it is defined by the Agency. Where firms had operations at more than one location, a dcp was submitted for each plant.

If the dcp's were not returned, we collected information on production processes, sources of wastewater, and treatment technology at these plants by telephone. The information so gathered was validated by sending a copy of the information recorded to the party consulted. The information was assumed to be correct as recorded if no reply was received in 30 days. In total, more than 99 percent of the industry was contacted either by mail or by telephone.

The dcp responses were interpreted individually, and the following data were documented for future reference and evaluation:

—Company name, plant location, and name of the firm dcp was sent to;
—Plant discharge status as direct (to surface water), indirect (to POTW), or zero discharge;
—Production process and waste streams present at the plant, as well as associated flow rates, production rates, operating hours, wastewater treatment, reuse, or disposal methods, and the quality and nature of process chemicals;
—Capital and annual wastewater treatment costs; and
—Availability of pollutant monitoring data provided by the plant.

Plants in all the nonferrous metals manufacturing phase II subcategories submitted their questionnaires to the EPA and were covered by the Agency's standard confidentiality procedures. Confidential information was handled in accordance with 40 CFR Part 2.

To aid in the economic analysis, additional industry and market information was obtained from trade associations, Bureau of Mines minerals specialists and several publicly available data bases. Also, a number of the plants are corporations and therefore provide annual reports to their stockholders, and to the Security and Exchange Commission, as required by law. To the extent possible, copies of these reports were obtained and used to estimate financial parameters needed for the economic impact analyses. Finally, further plant-specific information was acquired by calling a number of the plants directly. Details of these phone conversations are available in the record for this proposed rulemaking.

V. Sampling and Analytical Program

The sampling and analysis program for this rulemaking concentrated on the toxic pollutants designated in the Clean Water Act. However, we sampled and analyzed nonferrous metals wastewaters for conventional and nonconventional pollutants as well as inorganic and organic toxic pollutants. The Agency has not promulgated analytical methods for many of the organic toxic pollutants under section 304(h) of the Act, although a number of these methods have been proposed (44 FR 69464 (December 3, 1979); 44 FR 75028 (December 18, 1979)). Additional information on the development of sampling and analysis methods for toxic organic pollutants is contained in the preamble to the proposed regulations for the Leather Tanning Point Source Category, 40 CFR Part 425 (44 FR 38749 (July 2, 1979)).

Information gathered in the data collection portfolios was used to select sites for wastewater sampling. The plants sampled were selected taking into account how well each facility represented the subcategory as indicated by available data, potential problems in meeting technology-based standards, differences in production processes used, and wastewater treatment in place.

After selection of the plants to be sampled, each plant was contacted by telephone, and a letter of notification was sent to each plant as to when a visit would be expected. Generally, a pre-sampling site visit was made in order to acquire facility information necessary for efficient on-site sampling. The information resulted in selection of the sources of wastewater to be sampled at each plant and the sampling techniques to be used. The sample points included, but were not limited to, untreated and treated discharges, process wastewater, and partially treated wastewater.

During this program, 29 nonferrous metals manufacturing plants were sampled.

Wastewater samples were collected in two phases. In the first phase, a large number of plants (21) were sampled in an attempt to characterize all the significant waste streams and production processes in these industries. In the second phase, we sampled a smaller number of plants (eight), in an attempt to fill any gaps in the data base, and to confirm data acquired during the first phase of sampling. Samples were generally analyzed for 128 of the 129 toxic pollutants and other pollutants deemed appropriate. (Because no safe analytical standard was available for TCDD, samples were never analyzed for this pollutant, although there is no reason that it would be present in nonferrous metals manufacturing wastewater.) At least one plant in every major subcategory was sampled during the data collection effort, with some subcategories sampled at more than one plant, when the production processes were different. For example, both molybdenum sulfide roasting and molybdic oxide reduction plants were sampled in the primary molybdenum and rhenium subcategory. Appendix C details those pollutants not analyzed for.

To avoid unnecessary expense and direct the scope of the sampling program, analyses were not performed for a number of pollutants not expected to be present in a plant's wastewater. This determination was based on raw materials and production processes used. Two sources of information were used for selecting the analyzed pollutants: the pollutants that industry believes or knows are present in their wastewater based on dcp responses, and the pollutants the Agency believes should be present after studying the processes and materials used by the industry. If industry and the Agency did not believe a pollutant or class of pollutants would likely be present in the wastewater after studying the processes and materials used, analyses for that pollutant were not run. EPA collected this information in the following manner.

The 129 toxic pollutants were listed in each dcp and each facility was asked to indicate for each particular pollutant whether it was known to be present or believed to be present. If the pollutant had been analyzed for and detected, the facility was to indicate that it was known to be present. If the pollutant had not been analyzed, but might be present in the wastewater, the facility was to indicate that it was believed to be present. The reported results are tabulated in Section V of each of the subcategory supplements.

Wherever possible, each sample of an individual raw waste stream, a combined waste stream or a treated effluent was collected by an automatic time series compositor during sampling periods as long as 24 hours. Where

automatic compositing was not possible, grab samples were taken and composited manually.

EPA used the analytical techniques described in *Sampling and Analysis Procedures for Screening of Industrial Effluents for Priority Pollutants*, revised in April 1977. A very similar method is found among those proposed on December 3, 1979 (40 FR 69464).

VI. Industry Subcategorization

In developing this regulation, it was necessary to determine whether different effluent limitations and standards were appropriate for different segments (subcategories) of the industry. The major factors considered in identifying subcategories included: waste characteristics, raw materials used, manufacturing processes, products manufactured, water use, water pollution control technology, treatment costs, solid waste generation, size of plant, age of plant, number of employees, total energy requirements, non-water quality characteristics, and unique plant characteristics.

The Agency set forth a subcategorization scheme based on manufacturing processes in its first proposed regulation for this category on November 30, 1973. EPA stated that manufacturing operations and treatability of wastewaters were considered to be the most significant factors effecting the manner in which the category would be regulated. The proposed regulation on November 30, 1973 (38 FR 33170) established three subcategories, bauxite refining, primary aluminum smelting and secondary aluminum smelting in 40 CFR Part 421. These same subcategories were retained in the final rule promulgated on April 8, 1974 (39 FR 12822).

On February 27, 1975, EPA amended 40 CFR Part 421 by adding five new subcategories, primary copper smelting, primary copper refining, secondary copper, primary lead and primary zinc (40 FR 8514). Again, the manufacturing processes were considered to be the most significant factor in subcategorizing the industry.

On July 2, 1980, EPA modified the subcategorization set forth in the interim final regulation from February 27, 1975 for BPT. The primary copper smelting subcategory was retained. The primary copper refining subcategory which originally included only refineries not on-site with primary copper smelters was changed to the primary copper electrolytic refining subcategory. This new subcategory included all electrolytic refining operations, whether or not they are on-site with a smelter. In addition, EPA added a new subcategory for metallurgical acid plants associated with primary copper smelters. The new subcategory was added because we believed that establishing separate limitations for these three subcategories would ensure that the maximum feasible BPT pollutant reduction could be accomplished for each plant.

On February 17, 1983, EPA proposed to amend 40 CFR Part 421 by adding four new subcategories, primary tungsten, primary columbium-tantalum, secondary silver, and secondary lead (48 FR 7032). Again, the manufacturing processes were considered to be the most significant factor in subcategorizing the industry. These same subcategories were retained in the final rule promulgated on March 8, 1984 (49 FR 8742).

The subcategorization scheme is again modified by today's notice. We again considered raw materials, final products, manufacturing processes, geographical location, plant size and age, wastewater characteristics, nonwater quality environmental impacts, energy costs, and solid waste generation. Our conclusion, as before, is that subcategorization should be based on manufacturing process alone. We are proposing that sulfuric acid plants associated (i.e., on-site) with primary molybdenum roasters be included as part of the metallurgical acid plants subcategory finalized for primary copper, primary lead, and primary zinc metallurgical acid plants on March 8, 1984 (49 FR 8742) (see Section VIII—New Subcategorizations). With respect to the other plants covered by this regulation, the proposed regulation set forth below will amend 40 CFR Part 421—Nonferrous Metals Manufacturing Point Source Category, by adding effluent limitations guidelines, new source performance standards and pretreatment standards for new and existing sources for the following subcategories: primary antimony subcategory (Subpart N), primary beryllium subcategory (Subpart O), primary boron subcategory (Subpart P), primary cesium and rubidium subcategory (Subpart Q), primary and secondary germanium and gallium subcategory (Subpart R), secondary indium subcategory (Subpart S), secondary mercury subcategory (Subpart T), primary molybdenum and rhenium subcategory (Subpart U), secondary molybdenum and vanadium subcategory (Subpart V), primary nickel and cobalt subcategory (Subpart W), secondary nickel subcategory (Subpart X), primary precious metals and mercury subcategory (Subpart Y), secondary precious metals subcategory (Subpart Z), primary rare earth metals subcategory (Subpart AA), secondary tantalum subcategory (Subpart AB), primary and secondary tin subcategory (Subpart AC), primary and secondary titanium subcategory (Subpart AD), secondary tungsten and cobalt subcategory (Subpart AE), secondary uranium subcategory (Subpart AF), and primary zirconium and hafnium subcategory (Subpart AG). As discussed in Section II, EPA is proposing minor technical amendments to the bauxite refining subcategory (Subpart A). We are also considering establishing concentration limits for three pollutants (2-chlorophenol, phenol, and phenols (4AAP) in the net precipitation discharges from bauxite red-mud ponds and soliciting comments on limitations for these three pollutants in these discharges. (See Section XI for a detailed discussion of the limitations under consideration).

VII. Available Wastewater Control and Treatment Technology

A. Control Technologies Considered

The control and treatment technologies available for this category include both in-process and end-of-pipe treatments. These technologies were considered appropriate for the treatment of nonferrous metals manufacturing wastewater and formed the basis for the regulatory options. These control and treatment technologies are discussed in greater detail in Section VII of the General Development Document. The applicability of each of the technologies to specific sources of wastewater is discussed in the subcategory supplements.

In-process treatment includes wastewater flow reduction through the practice of recycle. Recycling of process water is the practice of returning water to the process to be used again for the same purpose either with or without treatment. In establishing BPT for secondary precious metals and other subcategories, EPA considered complete recycle and reuse of equipment and floor wash water after treatment with chemical precipitation and sedimentation to remove suspended solids and metals. EPA also considered partial recycle of process water by using cooling towers and holding tanks. In doing so, we considered that it may be necessary to discharge a bleed stream to purge dissolved and suspended solids that tend to accumulate in the system.

Dry scrubbing can be used in specific applications as an alternative to wet air pollution control, thereby avoiding the discharge of wastewater. It's application is generally limited to control of

particulate emissions and has only been considered in that context in this rulemaking. Dry scrubbing, as it was considered in this rulemaking, is accomplished through the use of baghouses.

End-of-pipe treatment includes technologies used to reduce pollutant concentrations prior to discharge. The following end-of-pipe treatments are considered for this proposal:

Chemical Precipitation. Chemical precipitation generally involves adjusting the pH through chemical addition to precipitate out of solution metal ions (e.g., copper) and certain anions (e.g., fluoride). The chemical commonly associated with this treatment is lime; however, sulfide, caustic or acid are also used depending on the specific situation.

Sedimentation. Sedimentation is a process which removes solid particles from a liquid matrix by gravitational force. This is done by reducing the velocity of the feed stream in a large volume tank or lagoon so that gravitational settling can occur. This treatment when combined with chemical precipitation is frequently referred to as lime and settle treatment.

Ammonia Steam Stripping. Steam is used to remove ammonia from process wastewater. Generally, the steam is introduced into a separation column countercurrent to the process wastewater. The ammonia is absorbed into the steam. In some instances it may be necessary to add lime so that the pH of the wastewater is elevated in order to remove more stable ammonia compounds.

Cyanide Precipitation. Cyanide can be precipitated out of solution using ferrous sulfate. The cyanide is generally complexed with ferrous sulfate at a pH of 9. It is subsequently precipitated with ferrous sulfate addition at pH 3.

Oil Skimming. Oil and other materials with a specific gravity less than water often float unassisted to the surface of the wastewater. Skimming removes these floating wastes usually in a tank designed to allow floating debris to rise while the water flows to an outlet located below the floating layer. A variety of devices are used to remove the floating layer from the surface.

Carbon Adsorption. The use of activated carbon to remove dissolved organics is one of the most efficient organic removal processes available. The carbon removes contaminants from water by the process of adsorption or the attraction and accumulation of one substance on the surface of another. Activated carbon preferentially adsorbs organic compounds and because of this selectivity is particularly effective in removing organic compounds from aqueous solution.

Multimedia Filtration. Gravity mixed-media filtration may be used as an end-of-pipe polishing step to reduce concentrations of toxic metals and total suspended solids. Rapid sand or pressure filters would perform as well.

B. Status of In-Place Technology

Current wastewater treatment practices in the total nonferrous metals manufacturing category range from no treatment to treatment with chemical precipitation, sedimentation and filtration. Of the 236 discharging plants, 121 plants have chemical precipitation and sedimentation treatment to remove metals and suspended solids, 12 have technologies for the control of cyanide, four have technology for oil removal, eight practice ammonia stripping and 25 practice end-of-pipe filtration. The remainder of the dischargers did not report any treatment for their nonferrous metals manufacturing wastewaters.

Recycle after treatment consisting of lime precipitation and sedimentation is practiced at 22 plants. Thirty-nine plants practice recycle of scrubber water without any treatment.

C. Control and Treatment Options

EPA considered the following treatment and control options as the basis for BPT, BAT, NSPS, PSES, and PSNS for those facilities included by today's rulemaking within the nonferrous metals manufacturing category.

Option A—End-of-pipe treatment consisting of chemical precipitation and sedimentation, and preliminary treatment, where necessary, consisting of oil skimming, cyanide precipitation, and ammonia steam stripping. This combination of technology reduces toxic metals and cyanide, conventional and nonconventional pollutants.

Option B—Option B is equal to Option A preceded by flow reduction of process wastewater through the use of cooling towers for contact cooling water and holding tanks for all other process wastewater subject to recycle.

Option C—Option C is equal to Option B plus end-of-pipe polishing filtration for further reduction of toxic metals and TSS.

Option D—Option D is equal to Option C plus treatment of isolated waste streams with activated carbon adsorption for removal of toxic organics and activated alumina for reduction of fluorides and arsenic concentrations. This option was only considered for nonferrous metals phase I and is retained here only for consistency.

Option E—Option E consists of Option C plus activated carbon adsorption applied to the total plant discharge as a polishing step to reduce toxic organic concentrations.

Option F—Option F consists of Option C plus reverse osmosis treatment to attain complete recycle of all process wastewater. This option was only considered for nonferrous phase I.

Option G—Option G consists of chemical oxidation applied to the total plant discharge, as a step to reduce toxic organic concentrations, without any other end-of-pipe treatment or pretreatment.

VIII. Substantive Changes From Prior Regulations

The regulations proposed today contain several substantive changes to regulations proposed and promulgated previously.

A. *New Subcategorizations.* As discussed in Section VI of today's notice, EPA is proposing to include metallurgical acid plants associated (i.e., on-site) with primary molybdenum roasters as part of the metallurgical acid plants subcategory finalized on March 8, 1984 (49 FR 8742). All these plants would accordingly have identical effluent limitations and standards. In making this determination, the Agency considered the way in which acid plants are operated when associated with the primary smelters and the characteristics of the wastewater generated by each type of acid plant. Our conclusion is that these processes, rate of process discharge, and wastewater matrices are essentially identical justifying a single subcategory for all acid plants.

Metallurgical acid plants are constructed on-site with primary copper, lead, zinc, and molybdenum smelters to treat the smelter emissions, remove the sulfur dioxide, and produce sulfuric acid as a marketable by-product. Although two basic technologies, single contact and double contact, are used in the industry, the Agency found no predominance of either technology in place in plants of the four metal types. Nor was there any signficant observable difference in the amount of water discharged from plants using the two technologies. Finally, the Agency found no difference in the characterization of the wastewater at plants which burn supplemental sulfur to enhance the performance of the acid plant.

The processes are also similar in terms of waste streams generated. Wastewaters are typically combined in acid plants into a single waste stream (acid plant blowdown). Principal streams going into the blowdown

(compressor condensate, blowdown from acid plant scrubbing, mist precipitation, mist elimination, and steam generation) are common to all four types of plants.

The wastewater matrices from all four types of acid plants also are similar. The Agency reviewed the analytical data that were obtained in sampling programs described in Section V and compared the characteristics of untreated acid plant blowdown from plants associated with each of the four primary metals considered. There were similar concentrations (i.e., in the same order of magnitude) of antimony, arsenic, chromium, mercury, and selenium, among the four. All of these metals were present at concentrations that are treatable to the same effluent concentration upon application of chemical precipitation and sedimentation or chemical precipitation, sedimentation and multimedia filtration, and are within the range used in calculating treatment effectiveness for these technologies.

Therefore, in light of these essential similarities of process, wastewater flow and composition, we have chosen to include all acid plants in a single subcategory.

B. *Building Blocks.* The regulations proposed today use the so-called building block approach promulgated for phase I, whereby EPA considers both end-of-pipe treatment technologies and process changes and controls within the plant prior to discharge to a common end-of-pipe treatment system. (This examination, of course, is mandated by the Clean Water Act. See e.g., sections 304(b)(2)(A) and 306(a)(1).) As a result, the proposed regulation identifies principal process steps that discharge wastewater, determines what wastewater flows (and in some cases, pollutant concentrations) are permissible for this indigenous operation, and establishes a mass-based limitation or standard for each such step ("building block"). These limitations (or standards) then are added together to give the permissible mass-based discharge for the entire process.

Under the building block approach proposed today, to determine the allowable discharge from a point source a discharger must first identify the specific process sources that comprise that discharge. He should then multiply the limitations or standards (mg/kkg or mg/troy ounce) for each wastewater present in his plant, shown today in 40 CFR Part 421, by the production of that source (kkg or troy ounce), in the units specified, to yield the mass discharge from each source. The mass from all of the sources should then be added to yield the maximum for any one day and the maximum for monthly averages for that discharge point. Waste streams not identified in today's notice may be regulated on a case-by-case basis by the permit writer pursuant to the authority granted in section 402.

We stress that a plant is to receive a discharge allowance for a particular building block only if it is actually operating that particular process. The plant need not be discharging wastewater from the process to receive the allowance, however. Thus, if the regulation contains a discharge allowance for wet scrubber effluent and a particular plant has dry scrubbers, it cannot include a discharge allowance for wet scrubbers as part of its aggregate limitation. On the other hand, if it has wet scrubbers and discharges less than the allowable limit (or does not discharge from the scrubbers), it would receive the full regulatory allowance. In this way, the building block approach recognizes and accommodates the fact that not all plants used identical steps in manufacturing a given metal.

C. *Building Block Approach Applied to Integrated Facilities.* There are several facilities within this category that have integrated manufacturing operations; that is, they combine wastewater from smelting and refining operations, which are part of this point source category, with wastewater from other manufacturing operations which are not a part of this category, and treat the combined stream prior to discharge. Indirect dischargers that are integrated facilities are subject to pretreatment standards as specified by the "combined waste stream formula" set forth at 40 CFR 403.6(e). In establishing direct discharger permit requirements for integrated facilities subject to effluent guidelines that are mass-based for each category, the permit writer can apply the same building block approach discussed above, simply aggregating each allowable discharge.

As an example, we will use a facility which combines secondary precious metals and secondary silver refining, and precious metals forming wastewater and treats this water in a waste treatment system prior to discharge. The permit writer must first identify the manufacturing operations using process water in the facility. The facility in this example discharges wastewater from gold precipitation and filtration, precipitation and filtration of nonphotographic solutions (silver), and surface treatment rinse water. Then by multiplying the production calculated according to 40 CFR 122.63(b)(2) for each of these operations by the limitations or standards in 40 CFR Pat 421 for both precipitation and filtration waste streams and in 40 CFR Part 471 for surface treatment rinse water and by summing the product obtained for each of these waste streams, the permit writer can obtain the allowable mass discharge.

If, for example, the production of gold resulting from gold precipitation and filtration is 200,000 troy ounce per year, the production of silver resulting from precipitation and filtration of nonphotographic solutions is 150,000 troy ounce per year, and the surface treatment rinse water production is 7.774 off-kkg of precious metals surface treated per year, the maximum for any one day limitation based on the best available technology economically achievable (BAT) for the pollutant copper is 1.7439 kg/yr as calculated below:

Gold Precipitation and Filtration

200,000 troy ounce/yr × 5.632 mg/troy ounce = 1.1264 kg/yr

Precipitation and Filtration of Nonphotographic Solutions

150,000 troy ounce/yr × 3.930 mg/troy ounce = 0.5895 kg/yr

Surface Treatment Rinse Water

7.774 Off-kkg/yr × 3,600 mg/kkg = 0.028 kg/yr

Total = 1.7439 kg/yr

In establishing limitations for integrated facilities for which a portion of the plant is covered by concentration-based limitations, the permit writer can determine the appropriate mass limitations for the entire facility or point source as follows. The portion of the wastewater covered by this category receives mass limitations according to the building block methodology described above. The permit writer must then determine an appropriate flow for the portion of the facility subject to concentration-based limitations and multiply it by the concentration limitations to yield mass limitations. The mass limitations applicable to the discharge are obtained by summing these two sets of mass limitations.

Under § 403.12(b)(4) of the General Pretreatment Regulations, a facility must monitor the flow of regulated process streams and other streams as necessary to allow use of the Combined Wastestream Formula. A facility must monitor the flows of its regulated streams. However, a facility can avoid monitoring its other streams (unregulated and dilute) under this section by agreeing to meet a mass limitation at least as stringent as the one

which would be calculated under the Combined Wastestream Formula if these other streams were taken into consideration. An integrated nonferrous metals manufacturing facility combining regulated process streams with either unregulated or dilute streams, or both, can avoid monitoring the flows of those streams if it agrees to meet the mass limit calculated solely through use of the limits applicable to the regulated streams. Such a limit would be as stringent as any which could possibly be derived under the formula if either the unregulated or dilute streams, or both, were taken into consideration. If, however, the facility desires to take into account potential pollutants contained in these unregulated or dilute streams, monitoring of these streams will be required to enable calculation of the alternative limit under the formula.

It should be noted that it is an entirely different matter where concentration-based rather than mass-based limits are involved. A facility cannot, for example, avoid monitoring unregulated or dilute streams by agreeing to meet the concentration limit applicable to its regulated streams. This is because application of the formula could result in a more stringent concentration-based limit if the unregulated or dilute streams were taken into consideration.

As an example, we will use a facility which combines process wastewater from a mill using froth flotation to concentrate copper ore with SO_2 scrubber water from a primary molybdenum roaster. The portion of the limitations attributable to the roaster SO_2 scrubber water is calculated by multiplying the limitations in subpart U of 40 CFR Part 421 in today's notice by the molybdenum sulfide roasted production. The permit writer must then determine the appropriate flow for the discharge from the mill and multiply it by the concentrations set forth in subpart J of 40 CFR Part 440 at 47 FR 54618. If the molybdenum sulfide roasted production is 175,000 kkg per year and the flow from the froth flotation mill is 2,000,000 liters per year, the maximum for any one day limitation based on the best available technology economically achievable (BAT) for the pollutant nickel is 1511.7 kg/yr as calculated below:

Froth flotation mill wastewater

2,000,000 1/yr×0.2 mg/1×1 kg/10^6 mg=0.4 kg/yr

SO_2 Scrubber Water

8.636 mg/kg×175,000 kkg/yr=1511.3 kg/yr

Total=1511.7 kg/yr

The Agency recognizes that there may be different technology bases for the limitations and standards applicable to an integrated facility. As an example, the technology basis for BAT for tin smelting is chemical precipitation, sedimentation and filtration whereas the technology basis for BAT for tin forming is lime precipitation and sedimentation. EPA developed these limitations based on specified in-plant controls and end-of-pipe treatment technology; however, it does not require that the facility implement these specific in-plant controls and end-of-pipe technology. The facility combining wastewater from manufacturing operations covered by the two categories must install technology and modify the manufacturing operations so as to comply with the mass limitations.

D. *Allowances for Net Precipitation in Bauxite Refining.* Promulgated BPT and BAT limitations for the bauxite refining subcategory are based on use of settling impoundments. Facilities in this subcategory are subject to a zero discharge requirement; however, they can discharge on a monthly basis a volume of water equal to the difference between precipitation that falls within the impoundment and evaporation within that impoundment for that month.

We are proposing today to make minor technical amendments to delete or correct references to FDF considerations under Part 125 and pretreatment references to Part 128. We are giving consideration to establishing concentration-based limitations on the net precipitation discharge to control the discharge of phenol based toxic pollutants. Samples of red-mud impoundment discharges collected by EPA showed treatable concentrations of two listed toxic organic compounds, phenol and 2-chlorophenol, and phenols (4AAP). The concentration-based limitations we are considering are based on carbon adsorption treatment of the net precipitation discharge. We formally solicit comment on concentration-based limitations for these pollutants in the net precipitation discharge for bauxite refining.

IX. Summary of Generic Issues

EPA has identified several issues that are generic to many of the subcategories and to the limitations and standards proposed in today's notice. (Many of these issues were identified as a result of the Agency's consideration of public comment on the phase I portion of this rulemaking.) These issues are discussed in this section, rather than in the discussion of each particular subcategory.

A. *Data Bases to Determine Achievable Concentrations and Variability Factors for Hydroxide Precipitation-Sedimentation and for Filtration.* As discussed in Section VII, chemical precipitation-sedimentation and filtration were considered as a part of various treatment options for BPT, BAT, NSPS, PSES and PSNS. The methods of determining achievable concentrations and variability factors used to compute monthly average and daily maximum concentrations are discussed for these technologies below.

a. *Hydroxide Precipitation-Sedimentation.* In considering the performance achievable using hydroxide (usually lime) precipitation-sedimentation of metals with and without polishing filtration, EPA evaluated data for 23 pollutants from 10 subcategories in nonferrous metals manufacturing phase II and plants in other categories with similar wastewater. The data base we selected for lime precipitation and sedimentation (lime and settle) without filtration is the so-called combined metals data base. (See generally 49 FR 8742, March 8, 1984.)

The data base for the performance and variability of hydroxide precipitation-sedimentation technology is a composite of data drawn from EPA protocol sampling and analysis of aluminum forming, copper forming, battery manufacturing, porcelain enameling, and coil coating wastewaters. These data, collectively called the combined metals data base ("CMDB"), include influent and effluent concentrations for nine pollutants. The wastewaters from each of the five categories have been found to be statistically similar in all material respects. A study of statistical homogeneity of these wastewaters is part of the record for this rulemaking.

Two analyses were performed to evaluate these two sets of data. First, the mean wastewater pollutant concentrations of categories in the CMDB were compared statistically with the mean wastewater pollutant concentrations in the nonferrous data base. The technique used to compare these data is referred to as analysis of variance. The analysis of variance methodology is well known to statisticians and is sometimes referred to as a homogeneity analysis. The primary result of the analysis is that, except for lead (Pb), there was no statistical difference detected between the mean effluent pollutant concentrations from categories in the CMDB and the mean effluent pollutant concentrations from the nonferrous

phase II category. The differences in mean effluent Pb concentration will be resolved by using the treatment effectiveness concentrations for Pb which have been developed from a data base which includes over 200 Pb concentration measurements from the effluent wastewaters of several lead battery manufacturing and/or secondary lead plants that employ lime precipitation and sedimentation treatment. The treatment effectiveness concentrations that were developed are substantially larger than those estimated from the CMDB. The procedures used to develop these Pb treatment effectiveness concentrations are described in a memorandum which is included in the record to this proposed rulemaking. The other analysis that the Agency conducted to support the nonferrous phase II proposed rule also employed analysis of variance. The analysis of variance in this second analysis compares the mean wastewater pollutant concentrations among the nonferrous phase II subcategories. The results indicate that the mean pollutant concentrations measured in the subcategories of the nonferrous phase II category are generally similar across subcategories. A report which describes the methodology and results of the analysis of variance comparisons that have been performed to support the nonferrous phase II proposed rulemaking is also included in the record.

We view the use of the combined metals data base as appropriate for setting effluent limitations for the following six pollutants in nonferrous metals manufacturing plants: cadmium, copper, lead, nickel, zinc, and TSS. There are several reasons for this conclusion:

(1) *Process Chemistry:* We believe that properly operated hydroxide precipitation and sedimentation will result in effluent concentrations that are directly related to pollutant solubilities. Since the nonferrous metals manufacturing raw wastewater matrix contains the same toxic pollutants in the same order of magnitude (for the most part) as the combined metals data base raw wastewater and the technology is solubility-based, we believe the mean treatment process effluent variability will be identical.

(2) *Homogeneity:* EPA examined the statistical similarity among wastewater pollutant concentrations in the nonferrous subcategories, as well as between the pooled nonferrous subcategories and the CMDB. The purpose of these analyses was to test the Agency's engineering hypothesis that the mean untreated wastewater concentrations in the nonferrous category were similar to those in the CMDB. In general, the results of the analysis showed that the nonferrous subcategories are statistically similar with respect to mean pollutant concentrations across subcategories. The results also show that the nonferrous metals manufacturing pollutant concentration data combined across subcategories are comparable to the CMDB pollutant concentration data. The similarity of nonferrous and CMDB untreated and treated wastewater pollutant concentrations was established through a statistical assessment. The results of the statistical analysis provide further support to EPA's engineering evaluation that hydroxide precipitation and sedimentation treatment in the nonferrous category reduces the toxic metal pollutant concentrations achieved by the same technology applied to the wastewater from the categories in the CMDB.

We are proposing limits based on chemical precipitation and sedimentation technology for certain pollutants not included in the combined metals data base. Treatment performance concentrations for these pollutants are calculated either from nonferrous metals manufacturing data (for arsenic, selenium, silver, antimony, boron, molybdenum, and tin), or from categories with wastewaters similar to nonferrous metals manufacturing (fluoride from electrical components manufacturing data, cobalt from porcelain enameling data, and uranium and radium 226 from ore mining and dressing data). No treatment effectiveness concentrations are available for germanium, indium and titanium which are proposed for limitation in some subcategories. For these pollutants we have selected treatment effectiveness concentrations by comparing the theoretical solubilities of these pollutants to pollutants in the CMDB at comparable pH levels. As we have discussed above, hydroxide precipitation and sedimentation technology is to a degree solubility related. As such, we believe that these additional pollutants will be reduced to the same effluent concentrations as the corresponding pollutant in the CMDB.

b. *Filtration.* EPA established the pollutant concentrations achievable with lime precipitation, sedimentation, and polishing filtration with data from three plants with the technology in-place: one (phase I) nonferrous metals manufacturing plant and two porcelain enameling plants whose wastewater is similar (as determined by statistical analysis for homogeneity) to wastewater generated by nonferrous metals manufacturing plants. In generating long-term average standards, EPA applied variability factors based on the pooled variances from the combined metals data base because the combined data base provided a broader statistical basis for computing variability than the data from the three plants sampled. The use of lime and settle combined data base variability factors is probably a conservative assumption because filtration is a less variable technology than lime and settle, since it is less operator-dependent.

For pollutants for which there were no data relating to filtration effectiveness from these three plants, long-term concentrations were developed assuming that removal by filtration would remove 33 percent more pollutants than lime precipitation and sedimentation. This assumption was based upon a comparision of removals of several pollutants by lime precipitation, sedimentation, and filtration which showed 33 percent incremental removal attributable to filtration.

EPA selected this approach because of the extensive long-term data available from these three plants. We believe that the use of polishing filtration data from procelain enameling plants is justified because procelain enameling was included in the combined metals data base. Since we have determined that lime precipitation and sedimentation will produce identical results on both nonferrous metals manufacturing and procelain enameling wastewater, it is reasonable for the Agency to assume that polishing filters treating these identical intermediate waste streams will produce an identical final effluent.

c. *Ammonia Steam Stripping.* This technology is used routinely to reduce ammonia concentrations. To evaluate treatment effectiveness, EPA collected chemical analysis data of raw waste (treatment influent) and treated waste (treatment effluent) from one plant in the iron and steel manufacturing category. These data form the data base for determining the effectiveness of ammonia steam stripping technology in this category and are contained within the administrative record supporting this regulation. We believe this treatment performance can be transferred to nonferrous subcategories because the technology is solubility related and the nonferrous subcategories considered here do not contain interfering agents

that would reduce ammonia removal effectiveness.

An arithmetic mean of the treatment effluent data (from iron and steel) produced an ammonia long-term mean value of 32.2 mg/l. The one-day maximum, 10-day, and 30-day average concentrations attainable by ammonia steam stripping were calculated using the long-term mean of the 32.2 mg/l and the variability factors that express an overall pooled variance estimate developed from the combined metals data base. This produced ammonia concentrations of 133.3, 58.6, and 52.1 mg/l ammonia for the one-day maximum, 10-day, and 30-day averages, respectively.

The Agency has verified the proposed steam stripping performance values using steam stripping data collected at a zirconium-hafnium plant, a plant in the nonferrous phase II category, which has raw ammonia concentrations comparable to those in the iron and steel manufacturing data. Data collected by the plant represent almost two years of daily operations, and support the long-term mean used to establish treatment effectiveness.

There is one exception to this discussion. In those subcategories where we are not altering existing BPT requirements—bauxite refining and metallurgical acid plants—those limitations necessarily continue to be based on subcategory specific data.

BAT limitations for all subcategories employing filtration will be based on the data base for polishing filtration discussed above.

We solicit comment on our use of the combined data base for nonferrous metals manufacturing. We specifically request submission of additional data from nonferrous metals manufacturing plants using properly operated lime and settle and lime, settle, and filtration systems.

B. *Mass-Based Standards vs. Concentration-Based standards for PSES and PSNS.* In proposing PSES and PSNS, we considered whether to propose exclusively mass-based standards, or to allow POTW the alternative of concentration or mass-based standards. Mass-based standards ensure that limitations are achieved by means of pollutant removal rather than by dilution. They are particularly important when a mass limitation is based upon flow reduction technology because pollutant reductions associated with the flow reduction cannot be ensured except by a reduction in the amount of pollutant allowed to be discharged. Mass-based standards, however, are harder to implement because POTWs face increased difficulties in monitoring. POTW also must develop specific limits for each plant based on the unit operations present and the production occurring in each operation. We have resolved these competing considerations by proposing mass-based standards for PSES and PSNS where we believe that the incremental pollutant removals associated with flow reduction are significant enough to warrant mass-based standards.

C. *pH.* In those subcategories where we are first proposing BPT, we are proposing pH limitations of 7.5 to 10. We are proposing this range to allow for proper performance of the lime precipitation and sedimentation technology. This technology generally requires a wastewater pH of 8.8 to 9.3 (depending on wastewater compositions) to achieve optimum precipitation of toxic metals. This level is somewhat different from the pH 6–9 limitations that the Agency has set for BPT in the past. We are proposing the higher range to allow for proper performance of the lime and settle treatment without requiring the addition of acid to adjust the pH before discharge.

D. *Frequency of Sampling to Demonstrate Compliance with 30-Day Average Limitations.* The proposed regulation establishes monthly average limitations that are based on the average of 10 consecutive sampling days (not necessarily consecutive calendar days). The 10-day average value was selected as the minimum number of consecutive samples which need to be averaged to arrive at a stable slope on a statistically based curve relating one-day and 30-day average values and it approximates the most frequent monitoring requirements of direct discharge permits. The monthly average numbers shown in the regulation are to be achieved regardless of the number of samples averaged and are to be used by plants with combined waste streams that use the "combined waste stream formula"set forth in 40 CFR 403.6(e) and by permit writers in writing direct discharge permits.

E. *Compliance Date for PSES.* The Agency is proposing that the date for compliance with PSES for existing indirect dischargers subject to this rulemaking be three years from the date of promulgation. Few indirect dischargers in this category have installed and are properly operating the treatment technology for PSES. In addition, the readjustment of internal processing conditions to achieve reduced wastewater flows may require further time above installation of end-of-pipe treatment equipment. Many plants in this and other industries also will be installing the treatment equipment suggested as model technologies for this regulation which may result in delays in engineering, ordering, installing, and operating this equipment. Under these circumstances, we think that three years is the appropriate compliance date under Section 307(b)(1) of the Act. We invite comment on the appropriateness of the compliance date.

F. *Recycle of Wet Scrubber and Contact Cooling Wastewater.* We are proposing as BAT and PSES for most subcategories that 90 percent of wet air pollution control and contact cooling wastewater be recycled (we have proposed a higher rate for certain subcategories where reported rates of recycle are even higher). Water is used in wet air pollution control systems to capture particulate matter or fumes evolved during manufacturing. Cooling water is used to remove excess heat from cast metal products.

We observed extensive recycle of these streams throughout the category. Indeed, some plants reported 100 percent recycle of process wastewater from these operations. The Agency believes, however, that most plants may have to discharge a portion of the recirculating flow to prevent the buildup of dissolved solids. The Agency believes that through operation of cooling towers with a discharge of 10 percent of the recirculating flow, contact cooling water and scrubber water can be reused while controlling scale formation, equipment corrosion and maintaining product quality.

Existing practice in nonferrous phase I and phase II supports our selection of a 90 percent recycle rate. Ninety percent recycle is extensively demonstrated in phase I (see 48 FR 7052 and subcategory supplements to the General Development Document).

Twenty-two of 29 secondary precious metals plants using wet air pollution control, four of eight primary precious metals and mercury plants, one secondary mercury plant, one secondary molybdenum and vanadium plant, and one of the two discharging primary molybdenum and rhenium plants practice recycle.

In determining the flow allowance, the Agency examined the production normalized flows for each operation. From the data set for each operation, a normalized flow allowance was developed based on existing performance. In most cases, the normalized flow is not based on recycle with the exception of those instances where recycle is widely demonstrated for a production operation, as it is for

wet scrubbing operations. Plants that were found to use an excessive amount of water on a production normalized basis when compared to other plants were not included in developing the flow allowance. The BAT flow allowance based on recycle was then calculated by reducing the normalized flow by a factor of 10 to require 90 percent recycle.

The Agency would like to point out that the regulations do not require each plant to achieve 90 percent recycle to meet these promulgated mass allowances. For example, a plant achieving the lowest process water use observed in the subcategory may only need to recycle 50 percent or less.

The Agency realizes that the flow rates for wet scrubber streams may not be possible without preliminary treatment to remove the material that has been scrubbed. In developing compliance costs, the Agency carefully examined current methods of recycle and pretreatment for each wet scrubbing operation. Costs for in-process flow reduction were then developed based on the demonstrated recycling methods. In many instances, we developed costs for preliminary treatment consisting of holding and settling tanks to remove suspended solids, while in other (most unusual) instances we developed costs for lime and settle treatment used to achieve recycle of the scrubber liquor.

G. *Cost of Compliance at Integrated Facilities.* As discussed in section VIII (Building Block Approach Applied to Integrated Facilities), integrated facilities subject to both this proposed regulation and to regulations for other point source categories must install technology and modify processes so as to comply with mass limitations calculated using the building block approach. In estimating the cost of compliance with this proposed regulation, we did not generally include specific costs associated with integrated facilities.

We believe this approach is justified for plants not currently providing BPT or BAT because we have included costs for separate treatment of wastewater in calculating costs associated with each regulation. Costs associated with the segregation of the combined waste streams are not normally significant compared to the cost of the treatment equipment. However, we did include the cost of piping and peripherals needed to route non-phase II wastewater away from phase II treatment.

For plants currently providing BPT or BAT on combined wastewater, we believe compatibility of combined treatment is demonstrated by these plants' own conduct. Therefore, we do not believe this proposed regulation will require segregation and separate treatment at these plants.

We solicit comment on these assumptions. We also request cost data from plants that have experienced costs or that have developed cost estimates that reflect specific costs associated with integrated facilities.

X. Best Practicable Technology (BPT) Effluent Limitations

The factors considered in defining best practicable control technology currently available (BPT) include the total cost of applying technology in relation to the effluent reduction benefits derived, the age of equipment and facilities involved, the processes employed, nonwater quality environmental impacts (including energy requirements), and other factors the Administrator considers appropriate. In general, the BPT level represents the average of the best existing performances of plants of various ages, sizes, processes or other common characteristics. Where existing performance is uniformly inadequate, BPT may be transferred from a different subcategory or category. Limitations based on transfer technology must be supported by a conclusion that the technology is, indeed, transferable and a reasonable prediction that it will be capable of achieving the prescribed effluent limits. See *Tanners' Council of America* v. *Train*, 540 F. 2d 1188 (4th Cir. 1976). BPT focuses on end-of-pipe treatment rather than process changes or internal controls, except where such are common industry practice.

The basic end-of-pipe treatment for BPT in this rulemaking is lime and settle treatment. We are transferring lime and settle treatment technology and performance for the primary antimony, primary beryllium, primary boron, primary cesium and rubidium, primary and secondary germanium and gallium, secondary indium, secondary mercury, primary molybdenum and rhenium, secondary molybdenum and vanadium, primary nickel and cobalt, secondary nickel, primary precious metals and mercury, secondary precious metals, primary rare earth metals, secondary tantalum, primary and secondary tin, primary and secondary titanium, secondary tungsten and cobalt, secondary uranium, and primary zirconium and hafnium subcategories from aluminum forming, copper forming, battery manufacturing, porcelain enameling and coil coating plants. As discussed in section IX of this preamble, Summary of Generic Issues, the data base for the performance of lime and settle is a composite of data from the industrial categories listed known as the combined metals data base (CMDB). This data base was selected because lime and settle treatment applied to nonferrous metals manufacturing wastewater in each of the subcategories listed above will result in effluent concentrations identical to those achieved by the plants in the CMDB. This is based on the fact that the raw wastewater matrix in each of these subcategories contains the same pollutants in the same order of magnitude as the combined metals data base raw wastewater. The CMDB was also selected because it was determined to be homogeneous with the raw wastewaters in these subcategories.

We are transferring steam stripping technology and performance for ammonia removal in the primary molybdenum and rhenium, secondary molybdenum and vanadium, primary nickel and cobalt, secondary tungsten and cobalt, secondary uranium, secondary precious metals, primary and secondary tin and primary zirconium and hafnium subcategories of the nonferrous metals manufacturing phase II from one iron and steel manufacturing plant. As discussed in Section IX of this preamble, Summary of Generic Issues, we believe that steam stripping performance can be transferred to these subcategories because the technology is solubility related, and because the raw wastewater concentrations of ammonia in these subcategories and in iron and steel manufacturing are similar. We believe that plants in these subcategories will achieve effluent concentrations identical to those achieved by the one iron and steel plant.

One plant in the secondary precious metals subcategory currently uses cyanide precipitation to treat process wastewater. We are transferring cyanide precipitation technology and performance for the secondary precious metals, primary and secondary tin, and the primary zirconium and hafnium subcategories in nonferrous metals manufacturing phase II from coil coating plants. We believe that the technology is transferrable to these subcategories because the raw wastewater concentrations are of the same order of magnitude as those observed in coil coating wastewater. In that cyanide precipitation converts all cyanide species to complex cyanides and that precipitation of the complexed cyanides is solubility related, we believe that the technology will achieve identical effluent concentrations in both categories.

The cost-benefit inquiry for BPT is a limited balancing, committed to EPA's

discretion, which does not require the Agency to quantify benefits in monetary terms. See, e.g. *American Iron and Steel Institute* v. *EPA*, 526 F. 2d 1027 (3rd Cir. 1975). In balancing costs in relation to pollutant removal benefits, EPA considers the volume and nature of existing discharges, the volume and nature of discharges expected after application of BPT, the general environmental effects of the pollutants, and the cost and economic impacts of the required pollution control level. The Act does not require or permit consideration of water quality problems attributable to particular point sources or industries, or water quality improvements in particular water quality bodies. Accordingly, water quality considerations were not the basis for selecting the proposed BPT. See *Weyerhaeuser Company* v. *Costle*, 590 F. 2d 1011 (D.C. Cir. 1978).

In developing the proposed BPT limitations, the Agency considered the amount of water used per unit production in each waste stream. These data were used to determine the average (mean) water discharge for each subcategory operation. Aberrant flows were excluded from mean calculations. Since the proposed BPT limitations were based on the average water discharge, plants with greater than average discharge flows may have to implement some method of flow reduction in order to achieve the effluent limits of BPT.

Next, we evaluated the appropriate treatment technology for BPT treatment. The proposed BPT level treatment for each subcategory was based on the average of the best existing performance currently demonstrated throughout that subcategory. As stated above, BPT was based on end-of-pipe treatment technologies except in those instances where a process change or internal control is common practice in the subcategory. As an example, both of the plants in the rare earth metals subcategory that use wet air pollution control on electrolytic refining operations discharge no process wastewater through by-product recovery of the scrubber liquor. We are proposing zero discharge from this stream because by-product recovery is so widely demonstrated for this waste stream.

The effluent concentrations resulting from the application of the proposed model BPT technology are identical for all wastewater streams; however, the mass limitations vary for each waste stream depending on the regulatory flow. The BPT limitations were calculated by multiplying the effluent concentrations (mg/1) achievable by the selected option technology by the regulatory flow (1/kg production normalizing parameter) established for each waste stream.

Where we already have promulgated BPT, we are not proposing to alter these existing limitations because we have determined that the existing regulation adequately characterizes BPT and because the 1984 BAT compliance date is imminent. We therefore are leaving unaltered existing BPT limitations for the bauxite refining subcategory and are proposing to alter only the applicability of the metallurgical acid plants subcategory.

To fulfill our statutory obligation, we are proposing BPT in those subcategories we have not addressed previously, namely primary antimony, primary beryllium, primary molybdenum and rhenium, secondary molybdenum and vanadium, primary nickel and cobalt, primary precious metals and mercury, secondary precious metals, primary rare earth metals, secondary tantalum, primary and secondary tin, primary and secondary titanium, secondary tungsten and cobalt, secondary uranium, primary and secondary germanium and gallium and primary zirconium and hafnium. We also are proposing that molybdenum metallurigical acid plants be subject to existing limits already promulgated for copper, lead, and zinc metallurgical acid plants. We are not proposing BPT for the five subcategories without direct discharging plants: primary boron, primary cesium and rubidium, secondary indium, secondary mercury, and secondary nickel. Our basis for these decisions is explained below. The pollutant reduction benefits from applying BPT in the regulated subcategories listed above substantially outweigh the costs of compliance.

Primary Antimony

We are proposing BPT requirements for the primary antimony subcategory, since BPT has not yet been promulgated. The technology basis for the BPT limitations is lime precipitation and sedimentation technology to remove metals and solids from combined wastewaters and to control pH. These technologies are not in-place at the one discharger in this subcategory. The pollutants specifically proposed for regulation at BPT are antimony, arsenic, lead, mercury, TSS, and pH.

Implementation of the proposed BPT limitations will remove annually an estimated 2,642 kg of toxic metals and 965 kg of TSS over estimated current discharge, which is equal to the raw waste load because no treatment is in-place. We project a capital cost of approximately $34,200 and an annualized cost of approximately $17,300 for achieving proposed BPT.

More stringent technology options were not selected for BPT since they require in-process changes and, therefore, are more appropriately considered under BAT.

Bauxite Refining

EPA promulgated BPT effluent limitations for the bauxite refining subcategory on April 8, 1974 under Subpart A of 40 CFR Part 421. The promulgated BPT is based on zero discharge of process wastewater except for an allowance for net precipitation that falls within process wastewater impoundments. EPA is only proposing minor technical amendments to the existing BPT limitations. The technology basis of the existing BPT is impoundment and recycle.

Primary Beryllium

We are proposing BPT requirements for the primary beryllium subcategory, since BPT has not yet been promulgated. The technology basis for the BPT limitations is lime precipation and sedimentation technology to remove metals and solids from combined wastewaters and to control pH and fluoride. This technology is already in-place at the one discharger in the subcategory. The pollutants specifically proposed for regulation at BPT are beryllium, chromium, copper, fluoride, TSS, and pH.

Because the one discharging facility in the primary beryllium subcategory already has the BPT technology in-place, and our data indicate that the technology is achieving the proposed BPT limitations, there will be no pollutant removal above the current discharge level and no incremental capital or annual costs.

More stringent technology options were not selected for BPT since they require in-process changes or end-of-pipe technologies less widely practiced in the subcategory, and, therefore, are more appropriately considered under BAT.

Primary Boron

We are not proposing best practicable technology for existing direct dischargers for the primary boron subcategory since there are no existing direct dischargers.

Primary Cesium and Rubidium

We are not proposing BPT limitations for the primary cesium and rubidium subcategory because there are no existing direct dischargers.

Primary and Secondary Germanium and Gallium

We are proposing BPT requirements for the primary and secondary germanium and gallium subcategory, since BPT has not yet been promulgated. Level A provisions are applicable to facilities which only reduce germanium dioxide in a hydrogen furnace and wash and rinse the germanium product in conjunction with zone refining. Level B provisions are applicable to all other facilities in the subcategory. The technology basis for both Levels A and B for the BPT limitations are lime precipitation and sedimentation technology to remove metals, fluoride and solids from combined wastewaters and to control pH. The pollutants specifically proposed for regulation at BPT are arsenic, lead, zinc, germanium, fluoride, TSS, and pH.

Although there are no existing direct dischargers in this subcategory, BPT is proposed for any existing zero discharger that elects to discharge at some point in the future. This action is deemed necessary because wastewaters from germanium and gallium operations which contain significant loadings of toxic pollutants are currently being disposed of in a RCRA permitted surface impoundment.

More stringent technology options were not selected for BPT since they require in-process changes or end-of-pipe technologies less widely practiced in the subcategory, and, therefore, are more appropriately considered under BAT. EPA is proposing a two tier regulatory scheme for this subcategory however the same technology apply to both levels at BPT.

The cost and specific removal data for this subcategory are not presented here because the data on which they are based have been claimed to be confidential. The Agency has determined that the benefits justify the costs for this subcategory.

Secondary Indium

We are not proposing BPT limitations for the secondary indium subcategory since there are no existing direct dischargers.

Secondary Mercury

We are not proposing BPT limitations for the secondary mercury subcategory since there are no existing direct dischargers.

Primary Molybdenum and Rhenium

We are proposing BPT requirements for the primary molybdenum and rhenium subcategory, since BPT has not yet been promulgated. The technology basis for the BPT limitations is lime precipitation and sedimentation technology to remove metals and solids from combined wastewaters and to control pH, and ammonia steam stripping preliminary treatment. These technologies are already in-place at one of the two direct dischargers in the subcategory. The pollutants specifically proposed for regulation at BPT are arsenic, lead, nickel, selenium, molybdenum, ammonia, TSS, and pH. As described previously, we also are proposing to add acid plants associated with primary molybdenum plants to those regulated by promulgated BPT limitations for the metallurgical acid plant subcategory.

Implementation of the proposed BPT limitations will remove annually an estimated 73,631 kg of toxic metals, 1,049 kg of molybdenum, 62,813 kg of ammonia, and 51,529 kg of TSS. While one of the discharging plants has the basic equipment components in-place to comply with BPT, we do not believe that either plant is currently achieving the BPT mass limitations.

The cost and specific removal data for this subcategory are not presented here because the data on which they are based have been claimed to be confidential. The Agency has determined that the benefits justify the costs for this subcategory.

More stringent technology options were not selected for BPT since they require in-process changes or end-of-pipe technologies less widely practiced in the subcategory, and, therefore, are more appropriately considered under BAT.

We are expanding the applicability of the existing BPT requirements established for the metallurgical acid plants subcategory to include the acid plants associated with primary molybdenum roasting operations. The technology basis for the existing BPT limitations is lime precipitation and sedimentation technology to remove metals and solids from combined wastewaters and to control pH. These technologies are already in-place at both of the dischargers included under the expanded applicability. The pollutants specifically proposed for regulation at BPT are cadmium, copper, lead, zinc, TSS, and pH.

Compliance with the existing BPT limitations for metallurgical acid plants by the two direct discharging primary molybdenum facilities which operate sulfuric acid plants will result in the removal of an estimated 8,026 kg of toxic metals, and 10,903 kg of TSS. While both plants have the equipment in-place to comply with BPT, we do not believe that the plants are currently achieving the proposed BPT limitations.

The cost and specific removal data for this subcategory are not presented here because the data on which they are based have been claimed to be confidential. The Agency has determined that the benefits justify the costs for this subcategory.

Secondary Molybdenum and Vanadium

We are proposing BPT requirements for the secondary molybdenum and vanadium subcategory, since BPT has not yet been promulgated. The technology basis for the BPT limitations is lime precipitation and sedimentation technology to remove metals and solids from combined wastewaters and to control pH, and ammonia steam stripping to remove ammonia. These technologies are already in-place at the one discharger in the subcategory. The pollutants specifically proposed for regulation at BPT are antimony, lead, nickel, molybdenum, ammonia, TSS, and pH.

Implementation of these proposed BPT limitations will remove annually an estimated 25,100 kg of toxic metals, and 74,000 kg of TSS.

The cost and specific removal data for this subcategory are not presented here because the data on which they are based have been claimed to be confidential. The Agency has determined that the benefits justify the costs for this subcategory.

More stringent technology options were not selected for BPT since they require in-process changes or end-of-pipe technologies less widely practiced in the subcategory, and, therefore, are more appropriately considered under BAT.

Primary Nickel and Cobalt

We are proposing BPT requirements for the primary nickel and cobalt subcategory, since BPT has not yet been promulgated. The technology basis for the BPT limitations is lime precipitation and sedimentation technology to remove metals and solids from combined wastewaters and to control pH, and ammonia steam stripping to remove ammonia. Lime precipitation and sedimentation technology is already in-place at the one discharger in the subcategory. The pollutants specifically proposed for regulation at BPT are copper, nickel, cobalt, ammonia, TSS, and pH.

Implementation of the proposed BPT limitations will remove annually an estimated 241 kg of toxic metals.

The cost and specific removal data for this subcategory are not presented here

because the data on which they are based have been claimed to be confidential. The Agency has determined that the benefits justify the costs for this subcategory.

More stringent technology options were not selected for BPT since they require in-process changes or end-of-pipe technologies less widely practiced in the subcategory, and, therefore, are more appropriately considered under BAT.

Secondary Nickel

We are not proposing BPT requirements for the secondary nickel subcategory, since there are no existing direct dischargers.

Primary Precious Metals and Mercury

We are proposing BPT requirements for the primary precious metals and mercury subcategory, since BPT has not yet been promulgated. The technology basis for the BPT limitations is lime precipitation and sedimentation technology to remove metals and solids from combined wastewaters and to control pH, and oil skimming to remove oil and grease. These technologies are not in-place at the one discharger in this subcategory. The pollutants specifically proposed for regulation at BPT are arsenic, lead, mercury, silver, zinc, oil and grease, TSS, and pH.

Implementation of the proposed BPT limitations will remove annually an estimated 914 kg of toxic metals and 334 kg of TSS. We project a capital cost of $27,500 and an annualized cost of $9,000 for achieving proposed BPT limitations.

More stringent technology options were not selected for BPT since they require in-process changes or end-of-pipe technologies less widely practiced in the subcategory, and, therefore, are more appropriately considered under BAT.

Secondary Precious Metals

We are proposing BPT requirements for the secondary precious metals subcategory, since BPT has not yet been promulgated. The technology basis for the BPT limitations is hydroxide precipitation and sedimentation technology to remove metals and solids from combined wastewaters and to control pH, ammonia steam stripping to remove ammonia, and cyanide precipitation to remove free and complex cyanide. Chemical precipitation and sedimentation technology is already in-place at 20 of the plants in the subcategory including all three direct dischargers. One plant has cyanide precipitation in-place. The technology basis for steam stripping is discussed above. The pollutants specifically proposed for regulation at BPT are copper, cyanide, zinc, ammonia, TSS, and pH.

Implementation of the proposed BPT limitations will remove annually an estimated 34,570 kg of toxic pollutants (which include 6.3 kg of cyanide), 490 kg of ammonia, and 11,200 kg of TSS.

The cost and specific removal data for this subcategory are not presented here because the data on which they are based have been claimed to be confidential. The Agency has determined that the benefits justify the costs for this subcategory.

More stringent technology options were not selected for BPT since they require in-process changes or end-of-pipe technologies less widely practiced in the subcategory, and, therefore, are more appropriately considered under BAT.

Primary Rare Earth Metals

We are proposing BPT requirements for the primary rare earth metals subcategory, since BPT has not yet been promulgated. The technology basis for the BPT limitations is lime precipitation and sedimentation technology to remove metals and solids from combined wastewaters and to control pH. These technologies are already in-place at the one direct discharger in the subcategory. The pollutants specifically proposed for regulation at BPT are chromium, lead, nickel, TSS, and pH.

Compliance with of the proposed BPT limitations will remove annually an estimated 0.13 kg of toxic metals and 81.6 kg of TSS (no toxic organics would be removed). We project no capital or additional annual cost for achieving proposed BPT because the technology is already in-place at the one direct discharging facility in this subcategory.

More stringent technology options were not selected for BPT since they require in-process changes or end-of-pipe technologies less widely practiced in the subcategory. Therefore, they are more appropriately considered under BAT.

Secondary Tantalum

We are proposing BPT requirements for the secondary tantalum subcategory, since BPT has not yet been promulgated. The technology basis for the BPT limitations is lime precipitation and sedimentation technology to remove metals and solids from combined wastewaters and to control pH. These technologies are already in-place at all three of the dischargers in the subcategory. The pollutants specifically proposed for regulation at BPT are copper, lead, nickel, zinc, TSS, and pH.

Implementation of the proposed BPT limitations will remove annually an estimated 26,268 kg of toxic metals and 20,079 kg of TSS.

The cost and specific removal data for this subcategory are not presented here because the data on which they are based have been claimed to be confidential. The Agency has determined that the benefits justify the costs for this subcategory.

More stringent technology options were not selected for BPT since they require in-process changes or end-of-pipe technologies less widely practiced in the subcategory. Therefore, they are more appropriately considered under BAT.

Primary and Secondary Tin

We are proposing BPT requirements for the primary and secondary tin subcategory, since BPT has not yet been promulgated. The technology basis for the BPT limitations is chemical precipitation and sedimentation technology to remove metals, fluoride, and solids from combined wastewaters and to control pH, with preliminary treatment consisting of cyanide precipitation and ammonia steam stripping. Chemical precipitation and sedimentation technology is already in-place at two of the three direct dischargers in the subcategory. The pollutants specifically proposed for regulation at BPT are antimony, cyanide, lead, nickel, tin, ammonia, fluoride, TSS, and pH.

Implementation of the proposed BPT limitations will remove annually an estimated 1,169 kg of toxic metals, 144 kg of cyanide, 237,220 kg of fluoride, and 58,560 kg of TSS.

More stringent technology options were not selected for BPT since they require in-process changes or end-of-pipe technologies not demonstrated in the subcategory, and, therefore, are more appropriately considered under BAT.

Primary and Secondary Titanium

We are proposing BPT requirements for the primary and secondary titanium subcategory, since BPT has not yet been promulgated. The technology basis for the BPT limitations is lime precipitation and sedimentation technology to remove metals and solids from combined wastewaters and to control pH, and oil skimming preliminary treatment for streams with treatable concentrations of oil and grease. These technologies are already in place at two of the four direct dischargers in the subcategory. EPA is proposing a two tier regulatory scheme for this subcategory. However, the same

technologies apply to both tiers at BPT. The pollutants specifically proposed for regulation at BPT are chromium, lead, nickel, thallium, fluoride, titanium, oil and grease, TSS, and pH.

Implementation of the proposed BPT limitations will remove annually an estimated 113 kg of toxic metals, 5,791 kg of titanium, and 58,864 kg of TSS. While two plants have the equipment in-place to comply with BPT, we do not believe that the plants are currently achieving the proposed BPT limitations. We project a capital cost of $481,000 and annualized cost of $330,000 for achieving proposed BPT in all plants.

More stringent technology options were not selected for BPT since they require in-process changes or end-of-pipe technologies less widely practiced in the subcategory, and, therefore, are more appropriately considered under BAT.

Secondary Tungsten and Cobalt

We are proposing BPT requirements for the secondary tungsten and cobalt subcategory, since BPT has not yet been promulgated. The technology basis for the BPT limitations is lime precipitation and sedimentation technology to remove metals and solids from combined wastewaters and to control pH, oil skimming and ammonia steam stripping to remove ammonia. Lime precipitation and sedimentation technology is already in-place at three direct dischargers in the subcategory. The pollutants specifically proposed for regulation at BPT are copper, nickel, cobalt, ammonia, oil and grease, TSS, and pH.

Implementation of the proposed BPT limitations will remove annually an estimated 150,650 kg of toxic metals, and 108,700 kg of TSS.

The cost and specific removal data for this subcategory are not presented here because the data on which they are based have been claimed to be confidential. The Agency has determined that the benefits justify the costs for this subcategory.

More stringent technology options were not selected for BPT since they require in-process changes or end-of-pipe technologies less widely practiced in the subcategory, and, therefore, are more appropriately considered under BAT.

Secondary Uranium

We are proposing BPT requirements for the secondary uranium subcategory, since BPT has not yet been promulgated. The technology basis for the BPT limitations is lime precipitation and sedimentation technology to remove metals and solids from combined wastewaters and to control pH. BPT also includes ammonia steam stripping. These technologies are already in-place at the one discharger in the subcategory. The pollutants specifically proposed for regulation at BPT are chromium, copper, nickel, ammonia, fluoride, uranium, TSS, and pH.

Implementation of the proposed BPT limitations will remove annually an estimated 1,280 kg of toxic metals, 12,000 kg of ammonia and 1,763 kg of TSS. While the one discharging plant has the equipment in-place to comply with BPT, we do not believe that the plant is currently achieving the proposed BPT limitations. We project capital and annual costs of $28,600 and $73,644 (1982 dollars) respectively for modifications to technology presently in-place at the discharging facility to achieve proposed BPT regulations.

More stringent technology options were not selected for BPT since they require in-process changes or end-of-pipe technologies less widely practiced in the subcategory. Therefore, they are more appropriately considered under BPT.

Primary Zirconium and Hafnium

We are proposing BPT requirements for the primary zirconium and hafnium subcategory, since BPT has not yet been promulgated. The technology basis for the BPT limitations is lime precipitation and sedimentation technology to remove metals and solids from combined wastewaters and to control pH plus ammonia steam stripping, cyanide precipitation and barium chloride co-precipitation preliminary treatment of streams containing ammonia, cyanide or radium. Lime precipitation and sedimentation technology and ammonia steam stripping is already in-place at one discharger in the subcategory. The pollutants specifically proposed for regulation at BPT are chromium, cyanide, lead, nickel, ammonia, radium (226), TSS, and pH.

Implementation of the proposed BPT limitations will remove annually an estimated 703 kg of toxic metals, and 281,882 kg of TSS.

The cost and specific removal data for this subcategory are not presented here because the data on which they are based have been claimed to be confidential. The Agency has determined that the benefits justify the costs for this subcategory.

More stringent technology options were not selected for BPT since they require in-process changes or end-of-pipe technologies less widely practiced in the subcategory, and, therefore, are more appropriately considered under BAT.

XI. Best Available Technology (BAT) Effluent Limitations

The factors considered in assessing best available technology economically achievable (BAT) include the age of equipment and facilities involved, the process employed, process changes, nonwater quality environmental impacts (including energy requirements) and the costs of applying such technology (section 304(b)(2)(B) of the Clean Water Act). At a minimum, the BAT technology level represents the best economically achievable performance of plants of various ages, sizes, processes or other shared characteristics. As with BPT, where the Agency has found the existing performance to be uniformly inadequate, BAT may be transferred from a different subcategory or category. BAT may include feasible process changes or internal controls, even when not in common industry practice.

The required assessment of BAT "considers" costs, but does not require a balancing of costs against pollutant removal benefits (see *Weyerhaeuser* v. *Costle, supra*). In devloping the proposed BAT, however, EPA has given substantial weight to the reasonableness of cost. The Agency has considered the volume and nature of discharges expected after application of BAT, the general environmental effects of the pollutants, and the costs and economic impacts of the required pollution control levels.

Despite this expanded consideration of costs, the primary determinant of BAT is still pollutant removal capability. As a result of the Clean Water Act of 1977, the achievement of BAT has become the principal national means of controlling toxic water pollution.

The Agency has evaluated five major sets of technology options, set out in section VII, that might be considered BAT level technology. Each of these options would substantially reduce the discharge of toxic pollutants. These options are described in detail in section X of the General Development Document.

We also considered dry scrubbing as an in-process modification for BAT. This technology, however, generally was not sufficiently demonstrated for nonferrous metals subcategories subject to this rulemaking. The emissions from many of the manufacturing processes were found to contain hot particulate matter and acidic fumes. Emissions of this nature would tend to cause operational problems in dry scrubbers. The materials of construction would also be prohibitively expensive. Finally, we rejected dry scrubbing because the

retrofit costs associated with implementation of this technology would also be prohibitively expensive.

As a means of evaluating the economic achievability of each of these options, the Agency developed estimates of the compliance costs. An estimate of capital and annual costs for each of the options was prepared for each subcategory as an aid in choosing the best BAT options. All compliance costs are based on March 1982 dollars.

The cost methodology has been described in detail in section III of this preamble. For most treatment technologies, standard cost literature sources and vendor quotations were used for module capital and annual costs. Data from several sources were combined to yield average or typical costs as a function of flow or other characteristic design parameters. In a small number of modules, the technical literature was reviewed to identify the key design criteria, which were then used as a basis for vendor contacts. The resulting costs for individual pieces of equipment were combined to yield module costs. In either case, the cost data were coupled with flow data from each plant to establish system costs for each facility.

End-of-pipe filtration is demonstrated at 23 nonferrous metals plants in subcategories covered under nonferrous metals manufacturing phase I, and 2 plants covered under phase II in the primary nickel and cobalt and secondary precious metals subcategories. We are transferring end-of-pipe filtration performance for the Primary Antimony, Primary Beryllium, Primary and Secondary Gemanium and Gallium, Primary Molybdenum and Rhenium, Secondary Molybdenum and Vanadium, Primary Nickel and Cobalt, Primary Precious Metals and Mercury, Secondary Precious Metals, Primary Rare Earth Metals, Secondary Tantalum, Primary and Secondary Tin, Primary and Secondary Titanium, Secondary Tungsten and Cobalt, Secondary Uranium, and Primary Zirconium and Hafnium subcategories of this proposed rulemaking from one nonferrous metals manufacturing plant and two porcelain enameling plants. As discussed in section IX of this preamble Summary of Generic Issues, this data base was selected because the raw wastewater among plants in nonferrous metals manufacturing phase II and in categories in the CMDB is similar. We believe that filtration will achieve the same effluent concentrations for nonferrous metals manufacturing wastewater as for the one nonferrous metals manufacturing and two porcelain enameling plants.

In-process flow reduction is an integral part of the proposed BAT in the primary beryllium, primary molybdenum and rhenium, primary precious metals and mercury, secondary precious metals, primary rare earth metals, primary and secondary titanium, secondary tungsten and cobalt, and primary zirconium and hafnium subcategories. Flow reduction is demonstrated in the category for wet air pollution control wastewater and contact cooling water. The demonstration status of in-process flow reduction and the level of recycle considered for this proposed rulemaking are discussed more fully in section IX of this preamble, Summary of Generic Issues. Flow reduction measures result in concentrating the pollutants present in wastewater. Treatment of a more concentrated stream allows a greater net removal of pollutants and a reduced flow may reduce the size of the treatment equipment and hence the cost of treatment. The Agency believes that the BAT technology based limitations proposed for the subcategories in this rulemaking are economically achievable.

Primary Antimony

Our proposed BAT limitations for this subcategory are based on lime precipitation and sedimentation (BPT technology) with the addition of filtration.

The pollutants specifically limited under BAT are antimony, arsenic, lead, and mercury. The toxic pollutants cadmium, copper and zinc were also considered for regulation because they were found at treatable concentrations in the raw wastewaters from this subcategory. These pollutants were not selected for specific regulation because they will be effectively controlled when the regulated toxic metals are treated to the levels achievable by the model BAT technology.

Implementation of the proposed BAT limitations would remove annually an estimated 2,644 kg of toxic pollutants, which is 1.3 kg of toxic metals over the estimated BPT discharge. Estimated capital cost for achieving proposed BAT is $41,250, and annualized cost is $21,183.

Bauxite Refining

We are proposing today to make minor technical amendments to delete or correct references to FDF considerations under Part 125 and pretreatment references to Part 128. The existing BAT (promulgated on April 8, 1974 under Subpart A of 40 CFR Part 421) prohibits the discharge of process wastewater except for an allowance for net precipitation that falls within process wastewater impoundments.

Information has become available to the Agency that suggests the need for treatment of the red mud impoundment effluent to remove toxic organic pollutants not considered in the development of the promulgated limitations. In keeping with the emphasis of the Clean Water Act of 1977 on toxic pollutants, we have considered the discharge from process wastewater impoundments as a part of this rulemaking and are now considering the regulation of toxic pollutants.

Therefore, we also are soliciting comments on the need for BAT limitations on the net precipitation discharge from red-mud ponds based on activated carbon treatment to remove toxic organic pollutants. The pollutants being considered for control under BAT are 2-chlorophenol, phenol (GC/MS) and total phenols (4AAP). The limitations would be based on achieving a daily maximum concentration of 0.010 mg/l for each pollutant. The toxic pollutants 2,4,6-trichlorophenol, 4,6-dichlorophenol, 2-nitrophenol and 4-nitrophenol were also considered for possible regulation because they were found at treatable concentrations in the raw wastewaters from this subcategory. These pollutants are not presently being considered for regulation because they would be effectively controlled by the toxic organic limitations presently being considered.

The BAT limitations on the toxic pollutants under consideration would remove annually an estimated 4,835 kg of toxic pollutants from the estimated current discharge. Estimated capital cost for achieving proposed BAT is $7.60 million, and annualized cost is $2.98 million.

The Agency may promulgate concentration based BAT limitations as discussed above for net precipitation discharge. Accordingly the public should submit comments on this issue at this time. The Agency specifically invites comments on the need to modify the existing regulation. If EPA determines that a change in the existing regulation is necessary, EPA intends to promulgate the technical option discussed above.

Primary Beryllium

Our proposed BAT limitations for this subcategory are based on lime precipitation and sedimentation (BPT technology), with the addition of in-process wastewater reduction, and filtration. Flow reduction is based on 90 percent recycle of beryllium oxide calcining furnace wet air pollution control. Although the one beryllium

plant currently generating beryllium oxide calcining furnace wet air pollution control wastewater does not practice recycle, recycle of similar streams is demonstrated extensively in other subcategories of the nonferrous metals manufacturing category.

The polllutants specifically limited under BAT are beryllium, chromium, copper, and fluoride.

Implementation of the proposed BAT limitations would remove annually an estimated 257 kg of toxic pollutants, which is 8 kg of toxic metals over the estimated BPT discharge. An intermediate option considered for BAT is flow reduction plus lime precipitation and sedimentation. This option would remove an estimated 7.3 kg of toxic metals over the estimated BPT discharge.

The costs and specific removal data for this subcategory are not presented here because the data on which they are based has been claimed to be confidential.

Primary Boron

We are not proposing limitations based on best available technology for existing direct dischargers for the primary boron subcategory since there are no existing direct dischargers.

Primary Cesium and Rubidium

We are not proposing BAT limitations for the primary cesium and rubidium subcategory because there are no existing direct dischargers.

Primary and Secondary Germanium and Gallium

We are proposing Level A BAT limitations for this subcategory based on lime precipitation and sedimentation (BPT technology) for plants that only reduce germanium oxide in a hydrogen furnance and then wash and rinse the germanium product in conjunction with zone refining. This is equivalent to BPT technology. Level B BAT limitations are proposed for all other facilities in this subcategory. The Level B effluent limitations are based on the addition of filtration.

The pollutants specifically limited under BAT are arsenic, lead, zinc, germanium and fluoride. The toxic pollutants antimony, cadmium, chromium, copper, nickel, selenium, silver and thallium were also considered for regulation because they were found at treatable concentrations in the raw wastewaters from this subcategory. These pollutants were not selected for specific regulation because they will be effectively controlled when the regulated toxic metals are treated to the levels achievable by the model BAT technology. The Agency considered applying the same technology levels to this entire subcategory but decided to propose this two tiered regulatory scheme because there was little additional pollutant removal from the Level A wastewater streams when treated by the added Level B technology.

Although there are no existing direct dischargers in this subcategory, BAT is proposed for any existing zero discharger who elects to discharge at some point in the future. This action was deemed necessary because wastewaters from germanium and gallium operations which contain significant loadings of toxic pollutants are currently being disposed of in a RCRA permitted surface impoundment.

It is estimated that Level A plants in this subcategory would remove 335 kg of toxic metals annually. It is also estimated that Level B plants in this subcategory would remove 548 kg of toxic metals annually.

The costs and specific removal data for this subcategory are not presented here because the data on which they are based has been claimed to be confidential.

Secondary Indium

We are not proposing BAT limitations for the secondary indium subcategory since there are no existing direct dischargers.

Secondary Mercury

We are not proposing BAT limitations for the secondary mercury subcategory since there are no existing direct dischargers.

Primary Molybdenum and Rhenium

Our proposed BAT limitations for this subcategory are based on (BPT technology) preliminary treatment of ammonia steam stripping, end-of-pipe treatment consisting of lime precipitation and sedimentation, with the addition of in-process wastewater reduction, and filtration. Flow reductions are based on 90 percent recycle of scrubber liquor, a rate demonstrated by one of the two direct discharger plants.

The pollutants specifically limited under BAT are arsenic, lead, molybdenum, nickel, selenium, and ammonia. The toxic pollutants chromium, copper and zinc were also considered for regulation because they were found at treatable concentrations in the raw wastewaters from this subcategory. These pollutants were not selected for specific regulation because they will be effectively controlled when the regulated toxic metals are treated to the levels achievable by the model BAT technology.

Implementation of the proposed BAT limitations would remove annually an estimated 73,655 kg of toxic metals, which is 24 kg of toxic metals greater than the estimated BPT removal. No additional ammonia is removed at BAT.

An intermediate option considered for BAT is preliminary treatment with ammonia steam stripping followed by end-of-pipe treatment consisting of chemical precipitation and sedimentation with the addition of flow reduction. This option would remove an estimated 13 kg of toxic metals more than the estimated BPT discharge.

The costs and specific removal data for this subcategory are not presented here because the data on which they are based has been claimed to be confidential.

We are expanding the applicability of the existing BAT limitations for metallurgical acid plants to include acid plants associated with primary molybdenum roasting operations. The existing BAT limitations are based on the BPT technology (lime precipitation and sedimentation), in-process wastewater reduction, sulfide precipitation and filtration. Flow reduction are based on 90 percent recycle of scrubber liquor.

Compliance with the BAT limitations for the existing metallurgical acid plants subcategory by the two direct discharging primary molybdenum facilities which operate sulfuric acid plants will result in the annual removal of an estimated 8,245 kg of toxic pollutants.

Secondary Molybdenum and Vanadium

Our proposed BAT limitations for this subcategory are based on preliminary treatment consisting of ammonia steam stripping followed by end-of-pipe treatment consisting of lime precipitation and sedimentation (BPT technology) and filtration.

The pollutants specifically limited under BAT are antimony, lead, molybdenum, nickel, and ammonia. The toxic pollutants arsenic, beryllium, cadmium, chromium and zinc were also considered for regulation because they were found at treatable concentrations in the raw wastewaters from this subcategory. These pollutants were not selected for specific regulation because they will be effectively controlled when the regulated toxic metals are treated to the levels achievable by the model BAT technology.

Implementation of the proposed BAT limitations would remove annually an estimated 25,190 kg of toxic pollutants,

which is 80 kg of toxic metals greater than the estimated BPT removal.

The costs and specific removal data for this subcategory are not presented here because the data on which they are based has been claimed to be confidential.

Primary Nickel and Cobalt

Our proposed BAT limitations for this subcategory are based on preliminary treatment of ammonia steam stripping followed by end-of-pipe treatment consisting of lime precipitation and sedimentation (BPT technology), and filtration. Filters are presently utilized by the one plant in this subcategory.

We are proposing filtration as part of the BAT technology because this technology is demonstrated in the primary nickel and cobalt category (the one discharger in this subcategory presently has a filter, and a total of 25 facilities in eight nonferrous metals manufacturing subcategories currently have filters), and results in additional removals of toxic metals. In addition, filtration adds reliability to the treatment system by making it less susceptible to operator error and to sudden changes in raw wastewater flows and concentrations.

The pollutants specifically limited under BAT are cobalt, copper, nickel, and ammonia. The toxic pollutant zinc was also considered for regulation because it was found at treatable concentrations in the raw wastewaters from this subcategory. This pollutant was not selected for specific regulation because it will be effectively controlled when the regulated toxic metals are treated to the levels achievable by the model BAT technology.

Implementation of the proposed BAT limitations would remove annually an estimated 246 kg of toxic metals, which is 5 kg of toxic metals greater than the estimated BPT removal.

The costs and specific removal data for this subcategory are not presented here because the data on which they are based has been claimed to be confidential.

Secondary Nickel

We are not proposing BAT for the secondary nickel subcategory since there are no existing direct dischargers.

Primary Precious Metals and Mercury

Our proposed BAT limitations for this subcategory are based on preliminary treatment consisting of oil skimming and end-of-pipe treatment consisting of lime precipitation and sedimentation (BPT technology), and filtration. BAT also includes flow reduction.

The pollutants specifically limited under BAT are arsenic, lead, mercury, silver, and zinc. The toxic pollutants cadmium, chromium, copper, nickel and thallium were also considered for regulation because they were found at treatable concentrations in the raw wastewaters from this subcategory. These pollutants were not selected for specific regulation because they will be effectively controlled when the regulated toxic metals are treated to the levels achievable by the model BAT technology.

Implementation of the proposed BAT limitations would remove annually an estimated 914.5 kg of toxic pollutants, which is 0.5 kg of toxic metals greater than the estimated BPT removal. No additional oil and grease is removed at BAT. Estimated capital cost for achieving proposed BAT is $30,000, and annualized cost is $10,000.

Secondary Precious Metals

Our proposed BAT limitations for this subcategory are based on preliminary treatment consisting of cyanide precipitation and ammonia steam stripping and end-of-pipe treatment consisting of chemical precipitation and sedimentation (BPT technology) with the addition of in-process wastewater flow reduction, and filtration. Flow reductions are based on recycle of scrubber effluent. Twenty-one of the 29 existing plants currently have scrubber liquor recycle rates of 90 percent or greater. Filters also are presently utilized by one plant in the subcategory.

The pollutants specifically limited under BAT are copper, cyanide, zinc, and ammonia. The toxic pollutants antimony, arsenic, cadmium, chromium, lead, nickel, selenium, silver and thallium were also considered for regulation because they were found at treatable concentrations in the raw wastewaters from this subcategory. These pollutants were not selected for specific regulation because they will be effectively controlled when the regulated toxic metals are treated to the levels achievable by the model BAT technology.

Implementation of the proposed BAT limitations would remove annually an estimated 34,580 kg of toxic pollutants, which is 10 kg of toxic pollutants greater than the estimated BPT removal. No additional ammonia or cyanide is removed at BAT.

An intermediate option considered for BAT is flow reduction plus preliminary treatment consisting of cyanide precipitation, ammonia steam stripping and end-of-pipe treatment consisting of chemical precipitation and sedimentation. This option would remove an estimated 6.3 kg of toxic metals more than the estimated BPT removal.

The costs and specific removal data for this subcategory are not presented here becaue the data on which they are based has been claimed to be confidential.

Primary Rare Earth Metals

Our proposed BAT limitations for this subcategory are based on lime precipitation and sedimentation (BPT technology) with the addition of in-process flow reduction and filtration. Flow reduction is based on 90 percent recycle of scrubber effluent. Activated carbon absorption technology is proposed to control the discharge of hexachlorobenzene which is not effectively removed by existing treatment in the subcategory. Activated carbon technology is transferred from the iron and steel category where it is a demonstrated technology for removal of toxic organics.

The pollutants specifically limited under BAT are hexachlorobenzene, chromium, lead, and nickel. The toxic pollutants benzene, arsenic, cadmium, copper, selenium, silver, thallium and zinc were also considered for regulation because they were found at treatable concentrations in the raw wastewaters from this subcategory. These pollutants were not selected for specific regulation because they will be effectively controlled when the regulated toxic pollutants are treated to the levels achievable by the model BAT technology.

Implementation of the proposed BAT limitations would remove annually an estimated 18.3 kg of toxic pollutants (14.9 kg of toxic organics and 3.4 kg of toxic metals) and 198 kg of suspended solids more than the estimated BPT removal. An intermediate option considered for BAT is lime precipitation and sedimentation with the addition of in-process flow reduction and filtration. This option would remove an estimated 3.4 kg of toxic metals more than the estimated BPT removal. No toxic organics would be removed.

The costs and specific removal data for this subcategory are not presented here because the data on which they are based has been claimed to be confidential.

Secondary Tantalum

Our proposed BAT limitations for this subcategory are based on lime preciptation and sedimentation (BPT technology) with the addition of filtration.

The pollutants specifically limited under BAT are copper, lead, nickel, and zinc. The toxic pollutants antimony, beryllium; cadmium, chromium and silver were also considered for regulation because they were found at treatable concentrations in the raw wastewaters from this subcategory. These pollutants were not selected for specific regulation because they will be effectively controlled when the regulated toxic metals are treated to the levels achievable by the model BAT technology.

Implementation of the proposed BAT limitations would remove annually an estimated 26,273 kg of toxic metals, which is 4.8 kg of toxic metals more than the estimated BPT removal.

The costs and specific removal data for this subcategory are not presented here because the data on which they are based has been claimed to be confidential.

Primary and Secondary Tin

Our proposed BAT limitations for this subcategory are based on preliminary treatment consisting of ammonia steam stripping and cyanide precipitation when required, and end-of-pipe treatment consisting of chemical precipitation and sedimentation, and polishing filtration.

The pollutants specifically limited under BAT are antimony, cyanide, lead, nickel, tin, ammonia, and fluoride. The toxic pollutants arsenic, cadmium, chromium, copper, selenium, silver, thallium and zinc were also considered for regulation because they were found at treatable concentrations in the raw wastewaters from this subcategory. These pollutants were not selected for specific regulation because they will be effectively controlled when the regulated toxic metals are treated to the levels achievable by the model BAT technology.

Implementation of the proposed BAT limitations would remove annually an estimated 1,045 kg of toxic metals, which is 91 kg of toxic metals over the estimated BPT discharge. No additional fluoride is removed at BAT. The costs and specific removal data for this subcategory are not presented here because the data on which they are based has been claimed to be confidential.

Primary and Secondary Titanium

We are proposing Level A BAT limitations for titanium plants which do not practice electrolytic recovery of magnesium and which use vacuum distillation instead of leaching to purify titanium sponge as the final product are based on lime precipitation, sedimentation, and oil skimming (BPT technology) plus in-process wastewater flow reduction. Level B BAT limitations are proposed for all other titanium plants are based on lime precipitation, sedimentation, and oil skimming pretreatment where required (BPT technology) plus flow reduction, and filtration. Flow reduction is based on 90 percent recycle of scrubber effluent through holding tanks and 90 percent recycle of casting contact cooling water through cooling towers. The Agency considered applying the same technology levels to this entire subcategory but decided to propose this two tiered regulatory scheme because there was little additional pollutant removal from the Level A wastewater streams when treated by the added Level B technology.

The pollutants specifically limited under BAT are chromium, lead, nickel, thallium, titanium, and fluoride. The toxic pollutants antimony, cadmium, copper and zinc were also considered for regulation because they were found at treatable concentrations in the raw wastewaters from this subcategory. These pollutants were not selected for specific regulation because they will be adequately treated when the regulated toxic metals are treated to the levels achievable by the model BAT technology.

There are currently no direct discharging Level A plants in this subcategory. It is estimated that if the four existing direct discharging Level B plants in this subcategory became Level A dischargers they would incur a capital cost of approximately $641,000 and an annualized cost of $325,000; 135 kg of toxic pollutants would be removed.

Implementation of the proposed Level B BAT limitations would remove annually an estimated 298 kg of toxic pollutants. Estimated capital cost for achieving proposed BAT is $1,030,000, and annualized cost is $585,000.

Secondary Tungsten and Cobalt

Our proposed BAT limitations for this subcategory are based on lime precipitation and sedimentation (BPT technology) ammonia steam stripping plus in-process wastewater reduction, and filtration. Flow reductions are based on 90 percent recycle of scrubber effluent, which is the rate reported by the only existing plant with a scrubber.

The pollutants specifically limited under BAT are cobalt, copper, nickel, and ammonia. The toxic pollutants arsenic, cadmium, chromium, lead, silver and zinc were also considered for regulation because they were found at treatable concentrations in the raw wastewaters from this subcategory. These pollutants were not selected for specific regulation because they will be effectively controlled when the regulated toxic metals are treated to the levels achievable by the model BAT technology.

Implementation of the proposed BAT limitations would remove annually an estimated 150,700 kg of toxic pollutants.

The costs and specific removal data for this subcategory are not presented here because the data on which they are based has been claimed to be confidential.

The intermediate option we considered for BAT is flow reduction plus ammonia steam stripping and chemical precipitation and sedimentation. This option would remove an estimated 26 kg of toxic metals over the estimated BPT discharge.

Secondary Uranium

Our proposed BAT limitations for this subcategory are based on ammonia steam stripping and lime precipitation and sedimentation (BPT technology), plus filtration.

The pollutants specifically limited under BAT are chromium, copper, nickel, ammonia, uranium and fluoride. The toxic pollutants arsenic, cadmium, lead, selenium, silver and zinc were also considered for regulation because they were found at treatable concentrations in the raw wastewaters from the subcategory. These pollutants were not selected for specific regulation because they will be effectively controlled when the regulated toxic metals are treated to the levels achievable by the model BAT technology.

Implementation of the proposed BAT limitations would remove annually an estimated 1,304 kg of toxic metals and 12,000 kg of ammonia. Estimated capital cost for achieving proposed BAT is $54,312, and annualized cost is $86,452 (1982 dollars).

Primary Zirconium and Hafnium

Our proposed Level A BAT limitations for plants which only produce zirconium or zirconium-nickel alloys by magnesium reduction of ZrO_2 are based on barium chloride coprecipitation, cyanide precipitation, ammonia stream stripping and chemical precipitation and sedimentation (BPT technology), plus in-process wastewater flow reduction. Level B limitations apply to all other plants in the subcategory. The proposed Level B BAT limitations are based on barium chloride coprecipitation, cyanide precipitation, ammonia stream stripping and chemical precipitation and

sedimentation (BPT technology), plus flow reduction, and filtration.

The achievable concentration for ammonia steam stripping is based on iron and steel manufacturing category data. Flow reductions are based on 90 percent recycle of scrubber effluent. The Agency considered applying the same technology levels to this entire subcategory but decided to propose this two tiered regulatory scheme because there was little additional pollutant removal from the Level A wastewater streams when treated by the added Level B technology.

The pollutants specifically limited under BAT are chromium, cyanide, lead, nickel, radium (226) and ammonia. The toxic pollutants cadmium, thallium and zinc were also considered for regulation because they were found at treatable concentrations in the raw wastewaters from this subcategory. These pollutants were not selected for specific regulation because they will be effectively controlled when the regulated toxic metals are treated to the levels achievable by the model BAT technology.

There are currently no level A direct discharging plants in this subcategory.

The costs and specific removal data for this subcategory are not presented here because the data on which they are based has been claimed to be confidential.

XII. New Source Performance Standards (NSPS)

The basis for new source performance standards (NSPS) under section 306 of the Act is the best available demonstrated technology. New plants have the opportunity to design and use the best and most efficient nonferrous metals manufacturing processes and wastewater treatment technologies, without facing the added costs and restrictions encountered in retrofitting an existing plant. Therefore, Congress directed EPA to consider the best demonstrated process changes, in-plant controls, and end-of-pipe treatment technologies which reduce pollution to the maximum extent feasible.

The Agency has considered four major sets of technology options for this phase of nonferrous metals manufacturing which might be applied at the BDT level discussed in section VII. Each of these options would substantially reduce the discharge of toxic pollutants. These options are described in detail in Section X of the General Development Document. The option selected for each subcategory and the underlying rationale are presented below.

We are transferring lime precipitation and sedimentation technology and performance for the primary boron, primary cesium and rubidium, secondary indium, secondary mercury and secondary nickel subcategories from aluminum forming, copper forming, coil coating, battery manufacturing and porcelain enameling plants. This technology is not demonstrated on nonferrous metals manufacturing phase II process wastewater discharges in these subcategories. While lime precipitation and sedimentation is not demonstrated in these subcategories, we believe that it is transferable because of its widespread demonstration in this (the nonferrous metals manufacturing) category and by the categories considered in the CMDB. The raw wastewater characteristics of the primary boron, primary cesium and rubidium, secondary indium, secondary mercury and secondary nickel subcategories are similar to those found in this category. Likewise, the raw wastewater characteristics of these phase II subcategories are similar to those for the plants in the combined metals data base (see Section IX of this preamble). We believe that the technology when applied to wastewater in these phase II subcategories will achieve the same effluent concentration as plants in the CMDB.

We are transferring filtration technology for the primary cesium and rubidium, secondary indium, secondary mercury and secondary nickel subcategories from one nonferrous metals manufacturing phase I plant and two porcelain enameling plants. This technology is not demonstrated on nonferrous manufacturing phase II process wastewater discharges in these subcategories. While filtration is not demonstrated in these subcategories, we believe that it is transferrable because of its demonstration in this category. The raw wastewater characteristics of the primary cesium and rubidium, secondary indium, secondary mercury and secondary nickel subcategories are similar to those found in the other subcategories in the nonferrous metals manufacturing category. Likewise, the raw wastewater characteristics of these phase II subcategories are similar to those for plants in the data base used for filtration performance (see section IX of this preamble). We believe that this technology when applied to wastewater in these phase II subcategories will achieve the same effluent concentrations as the plants used to establish filtration performance.

Primary Antimony

We are proposing that NSPS be equal to BAT. Our review of the subcategory indicates that no new demonstrated technologies that improve on BAT technology exist. We do not believe that new plants could achieve any flow reduction beyond the allowances proposed for BAT. Because NSPS is equal to BAT we believe that the proposed NSPS will not pose a barrier to the entry of new plants into this subcategory.

Bauxite Refining

As discussed under BAT, we are soliciting comment on the achievability of NSPS equivalent to the BAT limitations. The standards we are considering would require that new bauxite plants achieve a maximum daily concentration of 0.010 mg/1 for 2-chlorophenol, phenol, and phenols (4AAP). Because the NSPS being considered is equal to the BAT we are considering, we believe that the proposed NSPS will not pose a barrier to the entry of new plants into this subcategory.

Primary Beryllium

We are proposing that NSPS be equal to BAT. Our review of the subcategory indicates that no new demonstrated technologies that improve on BAT technology exist. We do not believe that new plants could achieve any flow reduction beyond the allowances proposed for BAT. Because NSPS is equal to BAT we believe that the proposed NSPS will not have a detrimental impact on the entry of new plants into this subcategory.

Primary Boron

Our proposed NSPS limitations for this subcategory are based on lime precipitation and sedimentation technology. This technology is fully demonstrated in many nonferrous metals subcategories and would be expected to perform at the same level in this subcategory.

The pollutants specifically limited under NSPS are boron, lead, nickel, TSS, and pH. The toxic pollutants cadmium, chromium, thallium and zinc were also considered for regulation because they are present at treatable concentrations in the raw wastewaters from this subcategory. These pollutants were not selected for specific regulation because they will be effectively controlled when the regulated toxic metals are treated to the levels achievable by the model technology.

The costs and specific removal data for this subcategory are not presented

here because the data on which they are based has been claimed to be confidential. We believe that the proposed NSPS limitations are achievable, and that they are not a barrier to entry of new plants into this subcategory.

Primary Cesium and Rubidium

Our proposed NSPS for the primary cesium and rubidium subcategory are based on lime precipitation, sedimentation, and filtration technology.

The pollutants and pollutant parameters specifically limited under NSPS are lead, thallium, zinc, TSS, and pH. The toxic pollutants antimony, arsenic, beryllium, cadmium, chromium, copper, nickel and silver were also considered for regulation because they are present at treatable concentrations in the raw wastewaters from this subcategory. These pollutants were not selected for specific regulation because they will be effectively controlled when the regulated toxic metals are treated to the levels achievable by the model technology.

The costs and specific removal data for this subcategory are not presented here because the data on which they are based has been claimed to be confidential. We believe the proposed NSPS is economically achievable, and that they are not a barrier to entry of new plants into this subcategory.

Primary and Secondary Germanium and Gallium

We are proposing that NSPS be equal to BAT. Our review of the subcategory indicates that no new demonstrated technologies that improve on BAT technology exist. We do not believe that new plants could achieve any flow reduction beyond the allowances proposed for BAT. Because NSPS is equal to BAT we believe that the proposed NSPS will not have a detrimental impact on the entry of new plants into this subcategory.

Secondary Indium

We are proposing that NSPS for the secondary indium subcategory be based on lime precipitation, sedimentation, (the same model technology as PSES) and polishing filtration. The pollutants and pollutant parameters specifically limited under NSPS are cadmium, lead, zinc, indium, total suspended solids and pH. The toxic pollutants chromium, nickel, selenium, silver and thallium were also considered for regulation because they are present at treatable concentrations in the raw wastewaters from this subcategory. These pollutants were not selected for specific regulation because they will be effectively controlled when the regulated toxic metals are treated to the levels achievable by the model technology.

The costs and specific removal data for this subcategory are not presented here because the data on which they are based has been claimed to be confidential. We believe the proposed NSPS is economically achievable, and that they do not pose a barrier to entry of new plants into this subcategory.

Secondary Mercury

Our proposed NSPS for this subcategory are based on lime precipitation, sedimentation, and filtration. This technology is fully demonstrated in many nonferrous metals manufacturing subcategories and would be expected to perform at the same level in this subcategory.

The pollutants specifically limited under NSPS are lead, mercury, TSS, and pH. The toxic pollutants arsenic, cadmium, copper, silver and zinc were also considered for regulation because they are present at treatable concentrations in the raw wastewaters from this subcategory. These pollutants were not selected for specific regulation because they will be effectively controlled when the regulated toxic metals are treated to the levels achievable by the model technology.

We believe the proposed NSPS is economically achievable, and that they are not a barrier to entry of new plants into this subcategory.

Primary Molybdenum and Rhenium

We are proposing that NSPS be equal to BAT. Our review of the subcategory indicates that no new demonstrated technologies that improve on BAT technology exist. We do not believe that new plants could achieve any flow reduction beyond the allowances proposed for BAT. Because NSPS is equal to BAT we believe that the proposed NSPS will not have a detrimental impact on the entry of new plants into this subcategory.

We are expanding the applicability of the existing NSPS regulation for the metallurgical acid plants subcategory to include acid plants associated with primary molybdenum roasting operations. We do not believe that this expanded applicability will have a detrimental impact on the entry of new plants into this subcategory.

Secondary Molybdenum and Vanadium

We are proposing that NSPS be equal to BAT. Our review of the subcategory indicates that no new demonstrated technologies that improve on BAT technology exist. We do not believe that new plants could achieve any flow reduction beyond the allowances proposed for BAT. Because NSPS is equal to BAT we believe that the proposed NSPS will not pose a barrier to the entry of new plants into this subcategory.

Primary Nickel and Cobalt

We are proposing that NSPS be equal to BAT. Our review of the subcategory indicates that no new demonstrated technologies that improve on BAT technology exist. We do not believe that new plants could achieve any flow reduction beyond the allowances proposed for BAT. Because NSPS is equal to BAT we believe that the proposed NSPS will not pose a barrier to the entry of new plants into this subcategory.

Secondary Nickel

We are proposing that NSPS be equivalent to PSES. Our review of the subcategory indicates that no new demonstrated technologies that improve on PSES technology exist. We do not believe that new plants could achieve any flow reduction beyond the allowances proposed for BAT. Because NSPS is equal to PSES we believe that the proposed NSPS will not pose a barrier to the entry of new plants into this subcategory.

Primary Precious Metals and Mercury

We are proposing that NSPS be equal to BAT. Our review of the subcategory indicates that no new demonstrated technologies that improve on BAT technology exist. We do not believe that new plants could achieve any flow reduction beyond the allowances proposed for BAT. Because NSPS is equal to BAT we believe that the proposed NSPS will not have a detrimental impact on the entry of new plants into this subcategory.

Secondary Precious Metals

We are proposing that NSPS be equal to BAT, except for furnace air pollution control, which we are proposing as zero discharge. Except for furnace air pollution control, our review of the industry indicates that no new demonstrated technologies exist that improve on BAT technology. Zero discharge for furnace air pollution control is based on dry scrubbing, which is demonstrated at 11 out of 16 plants with furnace air pollution control. Cost for dry scrubbing air pollution control in a new facility is no greater than the cost for wet scrubbing which was the basis for BAT cost estimates. We believe that the proposed NSPS is economically achievable, and that they are not a

barrier to entry of new plants into this subcategory.

Primary Rare Earth Metals

We are proposing that NSPS be equal to BAT. Our review of the subcategory indicates that no new demonstrated technologies that improve on BAT technology exist. We do not believe that new plants could achieve any flow reduction beyond the allowances proposed for BAT. Because NSPS is equal to BAT we believe that the proposed NSPS will not have a detrimental impact on the entry of new plants into this subcategory.

Secondary Tantalum

We are proposing that NSPS be equal to BAT. Our review of the subcategory indicates that no new demonstrated technologies that improve on BAT technology exist. We do not believe that new plants could achieve any flow reduction beyond the allowances proposed for BAT. Because NSPS is equal to BAT we believe that the proposed NSPS will not pose a barrier to the entry of new plants into this subcategory.

Primary and Secondary Tin

We are proposing that NSPS be equal to BAT. Our review of the subcategory indicates that no new demonstrated technologies that improve on BAT technology exist. We do not believe that new plants could achieve any flow reduction beyond the allowances proposed for BAT. Because NSPS is equal to BAT we believe that the proposed NSPS will not pose a barrier to the entry of new plants into this subcategory.

Primary and Secondary Titanium

We are proposing that NSPS be equal to BAT plus flow reduction technology with additional flow reduction for four streams. Zero discharge is proposed for chip crushing, sponge crushing and screening, and scrap milling wet air pollution control wastewater based on dry scrubbing. Zero discharge is also proposed for chlorine liquefaction wet air pollution control based on by-product recovery of scrubber liquor as hypochlorous acid. Cost for dry scrubbing air pollution control in a new facility is no greater than the cost for wet scrubbing which was the basis for BAT cost estimates. We believe that the proposed NSPS is economically achievable and that it will not pose a barrier to the entry of new plants into this subcategory.

Secondary Tungsten and Cobalt

We are proposing that NSPS be equal to BAT. Our review of the subcategory indicates that no new demonstrated technologies that improve on BAT technology exist. We do not believe that new plants could achieve any flow reduction beyond the allowances proposed for BAT. Because NSPS is equal to BAT we believe that the proposed NSPS will not pose a barrier to the entry of new plants into this subcategory.

Secondary Uranium

We are proposing that NSPS be equal to BAT. Our review of the subcategory indicates that no new demonstrated technologies that improve on BAT technology exist. We do not believe that new plants could achieve any flow reduction beyond the allowances proposed for BAT. Because NSPS is equal to BAT we believe that the proposed NSPS will not pose a barrier to the entry of new plants into this subcategory.

Primary Zirconium and Hafnium

We are proposing that NSPS be equal to BAT. Our review of the subcategory indicates that no new demonstrated technologies that improve on BAT technology exist. We do not believe that new plants could achieve any flow reduction beyond the allowances proposed for BAT. Because NSPS is equal to BAT we believe that the proposed NSPS will not pose a barrier to the entry of new plants into this subcategory.

XIII. Pretreatment Standards for Existing Sources (PSES)

Section 307(b) of the Act requires EPA to promulgate pretreatment standards for existing sources (PSES) to prevent the discharge of pollutants which pass through, interfere with, or are otherwise incompatible with the operation of POTW. These standards must be achieved within three years of promulgation. The legislative history of the 1977 Act indicates that pretreatment standards are to be technology based, generally analogous to BAT for direct dischargers. (Conference Report 95–830 at 87; Reprinted in Comm. on Environmental and Public Works, 95th Cong. 2d Sess., *A Legislative History of the Clean Water Act of 1977*, Vol. 3 at 272.)

Before proposing pretreatment standards, the Agency examines whether the pollutants discharged by the industry pass through the POTW or interfere with the POTW operation or its chosen sludge disposal practices. In determining whether pollutants pass through the Agency compares the percentage of a pollutant removed by a well-operated POTW, achieving secondary treatment, with the percentage removed by indirect dischargers applying the best available technology economically achievable. A pollutant is deemed to pass through the POTW when the average percentage removed nationwide by a well-operated POTW meeting secondary treatment requirements, is less than the percentage removed by dischargers complying with BAT level effluent limitations guidelines for that pollutant. (See generally, *46* FR at 9415–16 (January 28, 1981).)

This definition of pass through satisfies two competing objectives set by Congress: (1) That standards for indirect dischargers be equivalent to standards for direct dischargers, while at the same time, (2) that the treatment capability and performance of the POTW be recognized and taken into account in regulating the discharge of pollutants from indirect dischargers.

The Agency compares percentage removal rather than the mass or concentration of pollutants discharged because the latter would not take into account the mass of pollutants discharged to the POTW from non-industrial sources nor the dilution of the pollutants in the POTW effluent to lower concentrations due to the addition of large amounts of non-industrial wastewater. We have data to indicate that pollutants are removed to a degree when treated in a POTW. The percentage of removal in POTW for selected pollutants is antimony—0; arsenic—20; cadmium—38; chromium—18; copper—58; cyanide—52; lead—48; mercury—69; nickel—19; selenium—0; silver—66; zinc—65; hexachlorobenzene—12, ammonia—40 and fluoride—0. These removal levels are used in determining pass through of pollutant.

There were no data concerning POTW removals for beryllium, boron, cobalt, germanium, indium, molybdenum, radium 226, thallium, tin, titanium, and uranium, to compare with our estimates of in-plant treatment. Removal of these pollutants is solubility related. Since the removal of metal pollutants for which data are available is also solubility related, EPA believes that these pollutants may pass through a POTW. We have assumed that these metals pass through a POTW in today's notice (zero removal); however, we formally solicit comments and data on whether these pollutants do pass through POTW and on actual POTW removal performance. Where EPA has regulated

these pollutants they are a major pollutant generated in a substantial mass in the subcategory.

EPA is proposing mass-based PSES for eight of the 20 discharging subcategories to assure the effluent reduction benefits associated with flow reductions in those subcategories.

We are transferring lime preciptation and sedimentation technology and its performance for the secondary indium and secondary nickel subcategories from aluminum forming, copper forming, coil coating, battery manufacturing and porcelain enameling plants. This technology is not demonstrated in existing plants in these subcategories. While lime precipitation and sedimentation is not demonstrated in these subcategories, we believe that it is transferrable because of its widespread demonstration in this category. The raw wastewater characteristics of secondary indium and secondary nickel subcategories are similar to those found in this category. Likewise, the raw wastewater characteristics of the phase II subcategories are similar to those for plants in the CMDB (see section IX of this preamble). We believe that the technology when applied to wastewater in these phase II subcategories will achieve the same effluent concentrations as plants in the CMDB.

We are transferring filtration technology for the secondary nickel subcategory from one nonferrous metals manufacturing plant and two porcelain enameling plants. This technology is not demonstrated on existing secondary nickel process wastewater discharges. While filtration is not demonstrated in this subcategory, we believe that it is transferrable because it is demonstrated in the nonferrous metals manufacturing category. The raw wastewater characteristics of the secondary nickel subcategory are similar to those found in the other nonferrous metals manufacturing subcategories and in the plants used for establishing filtration performance (See section IX of this preamble). We believe that this technology when applied to secondary nickel wastewater will achieve the same effluent concentrations as the plants used to establish filtration performance.

Primary Antimony

We are not proposing PSES limitations for the primary antimony subcategory because there are no existing indirect dischargers.

Bauxite Refining

We are not proposing PSES limitations for the bauxite refining subcategory because there are no existing indirect dischargers.

Primary Beryllium

We are not proposing pretreatment standards for existing sources for the primary beryllium subcategory since there are no indirect dischargers.

Primary Boron

We are not proposing pretreatment standards for existing sources for the primary boron subcategory since there are no existing indirect dischargers.

Primary Cesium and Rubidium

We are not proposing PSES for the primary cesium and rubidium subcategory because there are no existing indirect dischargers.

Primary and Secondary Germanium and Gallium

We are proposing two levels of PSES for this subcategory. The first level, A, consists of lime precipitation and sedimentation. Level A applies to plants which only reduce germanium dioxide to metal and practice zone refining and acid washing and rinsing. These plants only have one waste stream—acid wash and rinse water. The second level, B, consists of lime precipitation, sedimentation, and filtration. Level B applies to all other plants in the subcategory.

The pollutants controlled at PSES are the same as those controlled at BAT.

We are proposing PSES to prevent pass-through of arsenic, lead, zinc fluoride and germanium. These pollutants are removed by a well-operated POTW achieving secondary treatment at an average of 33 percent while BAT Level A technology removes approximately 87 percent and Level B technology over approximately 99 percent.

Implementation of the proposed Level A PSES limitations would remove annually an estimated 20 kg of toxic metals, 818 kg of germanium and 376 kg of fluoride.

There are no existing Level B plants in the subcategory which are indirect dischargers. It is estimated that if Level A became Level B plants, an additional 32 kg of toxic metals would be removed annually by the proposed Level B PSES.

The costs and specific removal data for this subcategory are not presented here because the data on which they are based has been claimed to be confidential. The proposed PSES will not result in adverse economic impacts.

Secondary Indium

We are proposing PSES limitations for this subcategory based on lime precipitation and sedimentation technology. The pollutants sepcifically regulated under PSES are cadmium, lead, zinc, and indium. The toxic pollutants chromium, nickel, selenium, silver and thallium were also considered for regulation because they are present at treatable concentrations in the raw wastewaters from this subcategory. These pollutants were not selected for specific regulation becuase they will be effectively controlled when the regulated toxic metals are treated to the levels achievable by the model technology. It is necessary to propose PSES to prevent pass-through of cadmium, lead, and zinc. These toxic pollutants are removed by a well-operated POTW achieving secondary treatment at an average of 38 percent while this BAT level technology removes approximately 99 percent.

Implementation of the proposed PSES limitations would remove annually an estimated 568 kg of toxic metals and 288 kg of indium.

Secondary Mercury

We are not proposing pretreatment standards for existing sources for the secondary mercury subcategory since there are no existing indirect dischargers.

Primary Molybdenum and Rhenium

We are not proposing pretreatment standards for existing sources for the primary molybdenum and rhenium subcategory since there are no existing indirect dischargers.

Secondary Molybdenum and Vanadium

We are not proposing pretreatment standards for existing sources for the secondary molybdenum and vanadium subcategory since there are no existing indirect dischargers.

Primary Nickel and Cobalt

We are not proposing pretreatment standards for existing sources for the primary nickel and cobalt subcategory since there are no existing indirect dischargers.

Secondary Nickel

We are proposing PSES for this subcategory based on chemical precipitation, sedimentation, and filtration (filtration is proposed for acid reclaim leaching filtrate and acid reclaim leaching filter backwash, but not for slag reclaim tailings). The pollutants specifically regulated under PSES are chromium, copper and nickel. The toxic pollutants arsenic and zinc were also considered for regulation because they are present at treatable concentrations in the raw wastewaters from this subcategory. These pollutants were not selected for specific regulations because

they will be effectively controlled when the regulated toxic metals are treated to the levels achievable by the model technololgy. We are proposing PSES to prevent pass-through of chromium copper, and nickel. These toxic pollutants are removed by a well-operated POTW at an average of 32 percent while PSES technology removes approximately 84 percent.

Implementation of the proposed PSES limitations would remove annually an estimated 1,113 kg of toxic metals. We estimate a capital cost of $287,000 and an annualized cost of $120,000 to achieve the proposed PSES. The proposed PSES will not result in adverse economic impacts.

Primary Precious Metals and Mercury

We are not proposing pretreatment standards for existing sources for the primary precious metals and mercury subcategory because there are no existing indirect dischargers.

Secondary Precious Metals

We are proposing PSES equal to BAT for this subcategory. It is necessary to propose this PSES to prevent pass-through of copper, cyanide, zinc, and ammonia. These toxic pollutants are removed by a well-operated POTW achieving secondary treatment at an average of 32 percent while BAT level technology removes approximately 99 percent.

The technology basis for PSES thus is hydroxide precipitation and sedimentation, ammonia steam stripping, cyanide precipitation, wastewater flow reduction, and filtration. The achievable concentration for ammonia steam stripping is based on iron and steel manufacturing category data, as explained in the discussion of BPT and BAT for this subcategory. Flow reduction is based on the same recycle of scrubber effluent that is the flow basis of BAT. Recycle is practiced by 21 of the 29 existing plants in the subcategory.

Implementation of the proposed PSES limitations would remove annually an estimated 98,550 kg of toxic pollutants including 840 kg of cyanide, and an estimated 9,240 kg of ammonia. Capital cost for achieving proposed PSES is $1,419,000 and annualized cost of $984,000. The proposed PSES will not result in adverse economic impacts.

An intermediate option considered for PSES is BAT equivalent technology without filters. This option removes an estimated 65,319 kg of toxic pollutants and 9,240 kg of ammonia. We estimate the capital cost of this technololgy is $1,325,000, and annual cost $928,000.

Primary Rare Earth Metals

We are proposing PSES equal to BAT for this subcategory. It is necessary to propose PSES to prevent pass-through of hexachlorobenzene, chromium, lead, and nickel. These toxic pollutants are removed by a well-operated POTW achieving secondary treatment at an average of 28 percent while BAT technology removes approximately 74 percent.

The technology basis for PSES is lime precipitation and sedimentation, wastewater flow reduction, filtration, and activated carbon. Flow reduction is based on 90 percent recycle of scrubber effluent that is the flow basis of BAT. Filtration is an effluent polishing step that removes additional pollutants.

Implementation of the proposed PSES limitations would remove annually an estimated 10.9 kg of toxic pollutants.

The costs and specific removal data for this subcategory are not presented here because the data on which they are based has been claimed to be confidential. The proposed PSES will not result in adverse economic impacts.

An intermediate option considered for PSES is BAT equivalent technology without activated carbon adsorption. This option removes an estimated 1.9 kg of toxic pollutants.

Secondary Tantalum

We are not proposing pretreatment standards for existing sources for the secondary tantalum subcategory since there are no existing indirect dischargers.

Primary and Secondary Tin

We are proposing PSES equal to BAT for this subcategory. It is necessary to propose PSES to prevent pass-through of antimony, cyanide, lead, nickel, tin, ammonia, and fluoride. The four toxic pollutants and fluoride are removed by a well-operated POTW achieving secondary treatment at an average of 17 percent while BAT technology removes approximately 97 percent.

The technology basis for PSES thus is chemical precipitation and sedimentation, with preliminary treatment consisting of cyanide precipitation and ammonia steam stripping and filtration.

Implementation of the Proposed PSES limitations would remove annually an estimated 152 kg of toxic metals, 6,282 kg of tin, 32 kg of cyanide and 25,105 kg fluoride over estimated current discharge. Removals over estimated raw discharge are the same as removals over current discharge because neither of the indirect dischargers in this subcategory has any treatment in place. Capital cost for achieving proposed PSES is $341,700, and annual cost of $119,900. The proposed PSES will not result in adverse economic impacts.

Primary and Secondary Titanium

We are proposing PSES equal to BAT for this subcategory. It is necessary to propose PSES to avoid pass-through of chromium, lead, nickel, thallium, titanium and fluoride. The four toxic pollutants are removed by a well-operated POTW achieving secondary treatment at an average of 14 percent while BAT Level A technology removes approximately 53 percent and Level B technology removes approximately 76 percent.

Implementation of the proposed PSES limitations would remove annually an estimated 1.7 kg of toxic pollutants and 147 kg of titanium.

The costs and specific removal data for this subcategory are not presented here because the data on which they are based has been claimed to be confidential. The proposed PSES will not result in adverse economic impacts.

Secondary Tungsten and Cobalt

We are not proposing pretreatment standards for existing sources for the secondary tungsten and cobalt subcategory since there are no existing indirect dischargers.

Secondary Uranium

We are not proposing pretreatment standards for existing sources for the secondary uranium subcategory since there are no existing indirect dischargers.

Primary Zirconium and Hafnium

We are proposing PSES for Levels A and B equal to BAT for this subcategory. It is necessary to propose PSES to prevent pass-through of chromium, cyanide, lead, nickel, ammonia and radium (226). These toxic pollutants are removed by a well-operated POTW at an average of 30 percent, while BAT Level A technology removes approximately 40 percent and Level B technology removes approximately 80 percent.

Level A PSES is for plants which only reduce zirconium or zirconium/nickel alloys from ZrO_2 with magnesium or hydrogen. The technology basis for Level A PSES is preliminary treatment consisting of ammonia steam stripping and cyanide precipitation where necessary, lime precipitation, sedimentation, and flow reduction. Level B PSES is for all other plants in the subcategory. Level B PSES is based on preliminary treatment consisting of

ammonia steam stripping and cyanide precipitation where necessary, lime precipitation, sedimentation, wastewater flow reduction, and filtration. Flow reduction is based on 90 percent recycle of scrubber effluent.

Implementation of the proposed PSES Level A limitations would remove annually an estimated 0.5 kg of toxic pollutants. There is no capital cost for achieving the proposed Level A PSES.

There are currently no Level B plants in this subcategory which are indirect dischargers. If nondischarging plants in this subcategory were to become Level B indirect dischargers, compliance with the proposed Level B PSES would remove 10.6 kg of toxic metals, 7.3 kg of cyanide, and 15 kg of ammonia annually.

The costs and specific removal data for this subcategory are not presented here because the data on which they are based has been claimed to be confidential. The proposed PSES will not result in adverse economic impacts.

XIV. Pretreatment Standards for New Sources (PSNS)

Section 307(c) of the Act requires EPA to promulgate pretreatment standards for new sources (PSNS) at the same time that it promulgates NSPS. New indirect dischargers will produce wastes having the same pass-through problems as described for existing dischargers. In selecting the technology basis for PSNS, the Agency compares the toxic pollutant removal achieved by a well-operated POTW to that achieved by a direct discharger meeting NSPS. New indirect dischargers, like new direct dischargers, have the opportunity to incorporate the best available demonstrated technologies including process changes, in-plant controls, and end-of-pipe treatment technologies, and to use plant site selection to ensure adequate treatment system installation.

We are proposing only mass-based PSNS for all discharging subcategories to assure that the identified flow reduction technologies are considered in new plant designs.

Primary Antimony

We are proposing PSNS equivalent to NSPS and BAT. The technology basis for proposed PSNS is identical to NSPS and BAT. It is necessary to propose PSNS to prevent pass-through of toxic metals. These metals are removed by a well operated POTW achieving secondary treatment at an average of 61 percent. PSNS technology removes these pollutants at an average of 98 percent. We know of no economically feasible, demonstrated technology that is better than BAT level technology. No additional flow reduction for new sources is feasible beyond the allowances proposed for BAT. We believe that the proposed PSNS are achievable, and that they are not a barrier to entry of new plants into this subcategory.

Bauxite Refining

We are not proposing any modifications to PSNS since it is unlikely that any new bauxite sources will be constructed as indirect dischargers.

Primary Beryllium

The technology basis for proposed PSNS is identical to NSPS and BAT. It is necessary to propose PSNS to prevent pass-through of beryllium, chromium, copper and fluoride. These toxic pollutants are removed by a well-operated POTW achieving secondary treatment at an average of 41 percent while BAT technology removes approximately 93 percent. We know of no economically feasible, demonstrated technololgy that is better than BAT technology. The PSNS flow allowances are based on minimization of process wastewater wherever possible through the use of holding tanks for wet scrubbing wastewater. The discharges are based on 90 percent recycle of this waste stream (see section IX—Recycle of Wet Scrubber and Contact Cooling Water). No additional flow reduction for new sources is feasible. Because PSNS does not include any additional costs compared to NSPS and BAT, we do not believe it will prevent entry of new plants.

Primary Boron

We are proposing PSNS equivalent to NSPS (lime precipitation and sedimentation technololgy) for this subcategory. It is necessary to propose PSNS to prevent pass-through of boron, lead and nickel, which are the regulated pollutants in this subcategory. These toxic pollutants are removed by a well-operated POTW achieving secondary treatment at an average of 34 percent while NSPS level technology removes approximately 85 percent.

We believe that the proposed PSNS are achievable, and that they are not a barrier to entry of new plants into this subcategory.

Primary Cesium and Rubidium

We are proposing PSNS equivalent to NSPS. The technology basis for proposed PSNS is identical to NSPS. It is necessary to propose this PSNS to prevent pass-through of toxic metals. These metals are removed by a well-operated POTW achieving secondary treatment at an average of 38 percent. PSNS technology removes these pollutants at an average of 95 percent. We know of no economically feasible, demonstrated technology that is better than NSPS technology.

The costs and specific removal data for this subcategory are not presented here because the data on which they are based and has been claimed to be confidential. We believe that the proposed PSNS are achievable, and that they are not a barrier to entry of new plants into this subcategory.

Primary and Secondary Germanium and Gallium

We are proposing PSNS equivalent to PSES, NSPS and BAT. The technology basis for proposed PSNS is identical to NSPS, PSES and BAT. The same pollutants pass-through as at PSES, for the same reasons.

We believe that the proposed PSNS are achievable, and that they are not a barrier to entry of new plants into this subcategory.

Secondary Indium

We are proposing PSNS equal to NSPS. The technology basis for proposed PSNS is identical to NSPS. The same pollutants pass through as at PSES, for the same reasons.

We believe that the proposed PSNS are achievable, and that they are not a barrier to entry of new plants into this subcategory.

Secondary Mercury

We are proposing PSNS equivalent to NSPS for this subcategory. It is necessary to propose PSNS to prevent pass-through of lead and mercury. These toxic pollutants are removed by a well-operated POTW achieving secondary treatment at an average of 59 percent, while PSNS level technology removes approximately 99 percent.

We believe that the proposed PSNS are achievable, and that they are not a barrier to entry of new plants into this subcategory.

Primary Molybdenum and Rhenium

We are proposing PSNS equal to NSPS and BAT for this subcategory. It is necessary to propose PSNS to prevent pass-through of arsenic, lead, nickel, selenium, molybdenum and ammonia. These toxic pollutants are removed by a well-operated POTW achieving secondary treatment at an average of 13 percent, while the NSPS and BAT level technology removes approximately 79 percent.

We believe that the proposed PSNS are achievable, and that they are not a

barrier to entry of new plants into this subcategory.

We are proposing to expand the applicability of the existing PSNS for metallurgical acid plants to include metallurgical acid plants associated with primary molybdenum roasters. It is necessary to propose PSNS to prevent pass-through of arsenic, cadmium, copper, lead, and zinc. These toxic pollutants are removed by a well-operated POTW achieving secondary treatment at an average of 42 percent, while BAT level technology removes approximately 83 percent.

We believe that the proposed PSNS are achievable, and that they are not a barrier to entry of new plants into this subcategory.

Secondary Molybdemum and Vanadium

We are proposing PSNS equal to NSPS and BAT for this subcategory. It is necessary to propose PSNS to prevent pass-through of antimony, lead, nickel, molybdenum and ammonia. These toxic pollutants are removed by a well-operated POTW achieving secondary treatment at an average of 23 percent, while the NSPS and BAT level technology removes approximately 98 percent.

The technology basis for PSNS thus is hydroxide precipitation and sedimentation, ammonia steam stripping, and filtration. The achievable concentration for ammonia steam stripping is based on iron and steel manufacturing category data, as explained in the discussion of BPT and BAT for this subcategory. Filters are demonstrated at 25 facilities in the nonferrous metals manufacturing category.

We believe that the proposed PSNS are achievable, and that they are not a barrier to entry of new plants into this subcategory.

Primary Nickel and Cobalt

We are proposing PSNS equal to BAT and NSPS for this subcategory. It is necessary to propose PSNS to prevent pass-through of copper, nickel, cobalt, and ammonia. These toxic pollutants are removed by a well operated POTW at an average of 26 percent, while BAT technology removes approximately 58 percent.

The technology basis for PSNS thus is lime precipitation and sedimentation, ammonia steam stripping, and filtration. The achievable concentration for ammonia steam stripping is based on iron and steel manufacturing category data, as explained in the discussion of BPT and BAT for this subcategory.

We believe that the proposed PSNS are achievable, and that they are not a barrier to entry of new plants into this subcategory.

Secondary Nickel

We are proposing PSNS equivalent NSPS and PSES. The same pollutants pass through at PSNS as at PSES, for the same reasons. We know of no economically feasible, demonstrated technology that is better than PSES technology. The PSES flow allowances are based on minimization of process wastewater wherever possible.

We believe that the proposed PSNS are achievable, and that they are not a barrier to entry of new plants into this subcategory.

Primary Precious Metals and Mercury

We are proposing PSNS equal to NSPS and BAT for this subcategory. It is necessary to propose PSNS to prevent pass-through of arsenic, lead, mercury, silver, and zinc. These toxic pollutants are removed by a well-operated POTW at an average of 62 percent, while the NSPS and BAT technology removes approximately 93 percent.

The technology basis for PSNS thus is lime precipitation and sedimentation, oil skimming, wastewater flow reduction and filtration. Flow reduction is based on 90 percent recycle of scrubber effluent that is the flow basis of BAT.

We believe that the proposed PSNS are achievable, and that they are not a barrier to entry of new plants into this subcategory.

Secondary Precious Metals

We are proposing PSNS equivalent to NSPS. The technology basis for proposed PSNS is identical to NSPS. This is equivalent to PSES and BAT, with additional flow reduction based on dry air pollution control on furnace emissions. The same pollutants pass through at PSNS as at PSES, for the same reasons. We know of no economically feasible, demonstrated technology that is better than NSPS technology. The NSPS flow allowances are based on minimization of process wastewater wherever possible through the use of holding tanks to recycle wet scrubbing wastewater and the use of dry scrubbing to control furnace emissions. The discharges are based on recycle of these waste streams (see section IX—Recycle of Wet Scrubber and Contact Cooling Water).

There are no additional costs associated with the installation of dry scrubbers instead of wet scrubbers which were used for estimating cost of BAT. We believe that the proposed PSNS are achievable, and that they are not a barrier to entry of new plants into this subcategory.

Primary Rare Earth Metals

We are proposing PSNS equivalent to PSES, NSPS and BAT. The technology basis for proposed PSNS is identical to NSPS, PSES, and BAT. The same pollutants pass through at PSNS as at PSES, for the same reasons. We know of no economically feasible, demonstrated technology that is better than PSES technology. The PSNS flow allowances are equal to the BAT, NSPS and PSES flow allowances.

We believe that the proposed PSNS are achievable, and that they are not a barrier to entry of new plants into this subcategory.

Secondary Tantalum

We are proposing PSNS equal to NSPS and BAT. It is necessary to propose PSNS to prevent pass-through of copper, lead, nickel, and zinc. These toxic pollutants are removed by a well-operated POTW achieving secondary treatment at an average of 48 percent while BAT level technology removes approximately 99 percent.

We believe that the proposed PSNS are achievable, and that they are not a barrier to entry of new plants into this subcategory.

Primary and Secondary Tin

We are proposing PSNS equivalent to PSES, NSPS and BAT. The technology basis for proposed PSNS is identical to NSPS, PSES, and BAT. The same pollutants pass through at PSNS as at PSES, for the same reasons. We know of no economically feasible, demonstrated technology that is better than PSES technology. The PSNS flow allowances are identical to the flow allowances for BAT, NSPS, and PSES.

There would be no additional cost for PSNS above the costs estimated for BAT. We believe that the proposed PSNS are achievable, and that they are not a barrier to entry of new plants into this subcategory.

Primary and Secondary Titanium

We are proposing Level A and Level B PSNS equivalent to NSPS. The technology basis for proposed PSNS is identical to NSPS. The same pollutants are regulated at PSNS as at PSES and they pass through at PSNS as at PSES, for the same reasons. The PSNS and NSPS flow allowances are based on minimization of process wastewater wherever possible through the use of cooling towers to recycle contact cooling water and holding tanks for wet scrubbing wastewater. The discharge allowance for pollutants is the same at PSNS and NSPS. The discharges are based on 90 percent recycle of these

waste streams (see section IX—Recycle of Wet Scrubber and Contact Cooling Water). As in NSPS, flow reduction beyond BAT is proposed for chip crushing, sponge crushing and screening and scrap milling wet air pollution control based on dry scrubbing. Also zero discharge is proposed for chlorine liquefaction wet air pollution control based on byproduct recovery.

We believe that the proposed PSNS are achievable, and that they are not a barrier to entry of new plants into this subcatetory.

Secondary Tungsten and Cobalt

We are proposing PSNS equal to NSPS and BAT for this subcategory. It is necessary to propose PSNS to prevent pass-through of copper, nickel, cobalt, and ammonia. These toxic pollutants are removed by a well-operated POTW achieving secondary treatment at an average of 26 percent, while the NSPS and BAT level technology removes approximately 97 percent.

The technology basis for PSNS thus is lime precipitation and sedimentation, oil skimming, ammonia steam stripping, wastewater flow reduction and filtration. The achievable concentration for ammonia steam stripping is based on iron and steel manufacturing category data, as explained in the discussion of BPT and BAT for this subcategory. Flow reduction is based on 90 percent recycle of scrubber effluent that is the flow basis of BAT.

We believe that the proposed PSNS are achievable, and that they are not a barrier to entry of new plants into this subcategory.

Secondary Uranium

We are proposing PSNS equal to NSPS and BAT for this subcategory. It is necessary to propose PSNS to prevent pass-through of chromium, copper, nickel, ammonia, uranium and fluoride. These toxic pollutants are removed by a well-operated POTW achieving secondary treatment at an average of 40 percent, while the NSPS and BAT level technology removes approximately 88 percent.

The technology basis for PSNS is lime precipitation, sedimentation, and ammonia steam stripping, followed by filtration.

We believe that the proposed PSNS are achievable, and that they are not a barrier to entry of new plants into this subcategory.

Primary Zirconium and Hafnium

We are proposing PSNS equivalent to PSES, NSPS and BAT. The technology basis for proposed PSNS is identical to NSPS. The same pollutants pass through as at PSES, for the same reasons. We know of no economically feasible, demonstrated technology that is better than PSES technology.

We believe that the proposed PSNS are achievable, and that they are not a barrier to entry of new plants into this subcategory.

XV. Regulated Pollutants

The basis upon which the controlled pollutants were selected, as well as the general nature and environmental effects of these pollutants, is set out in sections V, VI, IX, and X of the General Development Document and each of the subcategory supplements. Some of these pollutants are designated as toxic under section 307(a) of the Act. Three pollutants have been deleted from the list of 129. These are dichlorodifluoromethane, and trichlorofluoromethane (46 FR 2226 (January 8, 1981)), and bis(chloromethyl ether (46 FR 10723 (February 4, 1981)).

The pollutants selected for regulation are listed by subcategory in Appendix B.

XVI. Pollutants and Subcategories Not Regulated

The Settlement Agreement contains provisions authorizing the exclusion from regulation, in certain instances, of toxic pollutants and industry subcategories.

A. Exclusion of Pollutants

Paragraph 8(a)(iii) of the Settlement Agreement allows the administrator to exclude from regulation toxic pollutants not detectable by section 304(h) analytical methods or other state-of-the-art methods. The toxic pollutants not detected and, therefore, excluded from regulation are listed in Appendix C of this notice by subcategory. Also included in Appendix C are toxic pollutants not analyzed for in each subcategory.

Paragraph 8(a)(iii) also allows the Administrator to exclude from regulation toxic pollutants detected in amounts too small to be effectively reduced by technologies known to the administrator. Appendix D to this notice lists the toxic pollutants in each subcategory which were detected in the effluent in amounts at or below the nominal limit of analytical quantification. Appendix E to this notice lists the toxic pollutants in each subcategory present in amounts which are too small to be effectively reduced by technologies considered applicable to the category and which, therefore, are excluded from regulation.

Paragraph 8(a)(iii) also allows the Administrator to exclude from regulation toxic pollutants detectable in the effluent from only a small number of sources within the subcategory because the are uniquely related to those sources. Appendix F to this notice lists for each subcategory the toxic pollutants which were detected in the effluents of only one plant, are uniquely related to the plant, and are not related to the manufacturing processes under study.

Paragraph 8(a)(iii) also allows the Administrator to exclude from regulation toxic pollutants which will be effectively controlled by the technologies upon which are based other effluent limitations and guidelines or pretreatment standards. Appendix G lists those toxic pollutants which will be effectively controlled by the BAT limitations, NSPS, and pretreatment standards, even though they are not specifically regulated.

B. Exclusion of Subcategories

EPA executed an affidavit on May 10, 1979 excluding six primary and five secondary metal subcategories from regulation under Paragraph 8(a)(iv) of the Settlement Agreement. The subcategories were:

Primary Arsenic
Primary Antimony
Primary Barium
Primary Bismuth
Primary Calcium
Primary Tin
Secondary Beryllium
Secondary Cadmium
Secondary Molybdenum
Secondary Tantalum
Secondary Babbitt

Four of these excluded subcategories—primary antimony, primary tin, secondary molybdenum, and secondary tantalum, have been reconsidered for regulation in nonferrous phase II. This is due to data received by EPA since May 10, 1979, showing a need for effluent guidelines to be established for these four subcategories. Today's notice proposes effluent limitations and guidelines which include these four subcategories.

In addition to the subcategories already excluded under Paragraph 8(a)(iv) of the Settlement Agreement, EPA proposed to exclude two additional primary and one additional secondary metal subcategory from regulation. EPA proposes these exclusions because no existing primary lithium or secondary zinc plants discharge wastewater and because there are no pollutants at treatable concentrations in primary magnesium discharges. The subcategories are:

Primary Lithium
Primary Magnesium
Secondary Zinc

The Agency is excluding the following subcategories from BAT effluent guidelines and pretreatment standards for existing sources under provisions of Paragraph 8(a)(iv) because there are no facilities discharging wastewater to surface waters or POTW. They are:

Primary Boron
Primary Cesium and Rubidium
Secondary Mercury

The Agency is excluding the following subcategories from BAT effluent guidelines under provisions of Paragraph 8(a)(iv) because there are no facilities discharging wastewater to surface waters. They are:

Secondary Indium
Secondary Nickel

In today's notice, EPA proposes to exclude 10 subcategories from pretreatment standards for existing sources because there are no facilities discharging wastewater to POTW. They are:

Primary Antimony
Bauxite Refining
Primary Beryllium
Primary Molybdenum and Rhenium
Secondary Molybdenum and Vanadium
Primary Nickel and Cobalt
Primary Precious Metals and Mercury
Secondary Tantalum
Secondary Tungsten and Cobalt
Secondary Uranium

XVII. Cost and Economic Impacts

The economic assessment of the proposed regulation is presented in the "Economic Impact Analysis of Proposed Effluent Standards and Limitations for the Nonferrous Smelting and Refining Industry, Phase II," EPA 440/2-84-009. This report details the investment and annual costs for the industry and for each metal subcategory covered by the proposed regulation. Compliance costs are based on engineering estimates of incremental capital requirements above the water pollution control equipment already in-place. The report assesses the impact of effluent control costs associated with each regulatory option in terms of price changes, cost of production changes, plant closures and associated loss of employment, financial impacts and balances of trade effects.

In addition, EPA has conducted an analysis of the incremental removal cost per pound equivalent for each of the proposed technology based options. A pound equivalent is calculated by multiplying the number of pounds of pollutant discharged by a weighting factor for that pollutant. The weighting factor is equal to the water quality criterion for a standard pollutant (copper) divided by the water quality criterion for the pollutant being evaluated. For some pollutants however, toxicity data with respect to human health or chronic, aquatic freshwater criteria are unavailable. Alternative data sources were therefore employed to determine weighting factors for these pollutants based on criteria similar, but not identical, to those used for other pollutants.

The use of "pound equivalent" gives relatively more weight to removal of pollutants that are more toxic. 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, which includes detailed descriptions of how all weighting factors were determined, is entitled "Cost Effectiveness Analysis of Proposed Effluent Standards and Limitations for the Nonferrous Metals Manufacturing Industry (Phase II)" and is included in the record for this rulemaking.

The Agency projects there will be 72 "wet-process" manufacturing facilities covered by this regulation. Thirty-four of these plants will discharge their wastewater directly into navigable waters, and 38 will discharge into publicly owned treatment works (POTW). In addition, there will be 83 other facilities which will not produce any wastewater, and therefore not incur costs as a result of the regulation.

Total capital costs for the discharging plants as a result of this regulation are estimated to be $7 million, while total annual costs, including depreciation and interest, are estimated to be $4.4 million. These costs are expressed in 1982 dollars. The major projected economic impacts associated with these costs are 3 plant closures and 2 production line closures at the BPT level of control with an accompanying employment loss of 47 people. The 3 plant closures and one line closure are in the primary and secondary tin subcategory, while the remaining line closure is in the secondary precious metals subcategory. The tin closures imply a potential loss of 12 percent of production capacity for that subcategory, while the production loss for secondary precious is insignificant. While the impacts of the regulation on tin manufacturers are projected to be significant, in that four of the five discharging plants or lines in the tin subcategory would discontinue production as a result of this regulation, we suspect the assumptions employed in our baseline scenario may be pessimistic. Hence, the Agency solicits comment and plans to obtain further market and plant-specific information to improve the accuracy of our analysis. We intend to request additional financial data under the authority of section 308 of the CWA. Information obtained from these plants will be combined with other public data sources to reassess projected baseline conditions for the tin market. If, at promulgation, after reassessing and updating the financial information, EPA determines that there would be a disproportionate impact on any specific segment of this subcategory, the Agency may establish standards based on less stringent technologies. We will solicit data and information specifically relevant to alternative technologies and the appropriateness of a size cut-off with respect to production levels, especially in light of the additional pollutants that would be discharged to the waters.

No further significant impacts are projected as a result of the regulation. Price increases are not expected to exceed 2.5 percent for any subcategory, and balance of trade effects are minimal. No further production loss beyond that described above is expected to occur.

The Economic Impact Analysis assumed a reasonable rate of monitoring (between one and 30 times per month), varying by size of plant and flow. However, since the regulatory limits are based on monitoring 10 times a month, we performed a sensitivity analysis including costs associated with the increased monitoring activity. The analysis showed three additional plant closures occurring as a result of the higher monitoring costs.

For purposes of this regulation, the Agency created 24 separate subcategories based on metal products produced. The economic analysis focuses on 21 of these subcategories, since the remaining three were exempt from regulation under Paragraph 8 of the Clean Water Act. The 21 subcategories are discussed in detail in the economic impact analysis document. Plant descriptions are provided along with market analyses of the metals products produced in each subcategory.

The methodology employed to determine economic impacts is very similar to that used for the Phase I portion of the Nonferrous Metals Manufacturing category (EPA 440/2-84-004). The approach begins with a screening analysis to identify plants that will be significantly affected by the regulation. This consists of a comparison of a plant's estimated annual compliance costs to its projected revenues. If this ratio is found to exceed 1 percent, the plant is then subjected to a 2-step closure analysis: a net present value test and a liquidity test.

The net present value test is designed to assess the firm's long-term profitability. The viability of the plant is judged by a comparison of its cash flows over the entire compliance period to its current liquidation value. The liquidity test, on the other hand, assesses the firm's short-term solvency during the first five years of compliance. If estimated cash-flows over the five years are negative, the plant is cited as potentially insolvent and in danger of closure. Both tests require the estimation of plant revenues in future years in order to determine income and cash flows for those years. This income is taken to be the average of income between 1978–82, a period which spanned a complete business cycle. Average product price over the period was used in conjunction with the average capacity utilization rate over the period to arrive at an estimate of total sales for each plant in a "normal" year. This figure was then used as the basis for the determination of average income which, minus compliance costs, served as the estimate of cash flow for the specific plant.

Structurally, the approach is identical to that used in the Nonferrous Metals Phase I analysis. The only substantive difference involves the estimation of plant specific compliance costs. The Agency's estimation of costs for plants in the Phase II study was based on effluent data gathered in 1982, when production and wastewater flows were abnormally low as a result of the recession. Since compliance costs are related to production and flow, and 1982 production was severely depressed, it was felt that costs based on 1982 production would not be an accurate estimate of costs that would be actually incurred at the time of compliance. The Agency assumes the industry will recover to "normal" production levels as implied by the average capacity utilization rate from 1978–82. Most plants operated well below this average in 1982; hence we project their output at the time of compliance will be substantially higher. Consequently, compliance costs which reflect 1982 production levels are understated. For purposes of the economic impact analysis, the Agency's initial compliance cost estimates were adjusted upwards for most plants. The adjustment factors reflect the expanded production expected for the compliance period (as implied by the average capacity usage rate from 1978–82), yet also account for economies of scale in the output/compliance cost relationship.

Details concerning specific plants are available in the record of this proposed rulemaking. See also the Economic Impact Analysis document (EPA 440/2–84–009) for subcategory discussions.

BPT: New BPT limitations are proposed for 14 subcategories, with 27 plants incurring compliance costs. Investment costs are estimated to be $3.7 million and total annualized costs are $3.0 million. Significant economic impacts are projected only for the tin subcategory, with 1 plant and 1 production line projected to close as a result of this regulation. The impacts on the other subcategories are small, with price changes ranging from less than one-tenth to two percent. No balance of trade effects are expected. Potential production losses are expected only for tin (less than 10 percent of 1982 industry capacity) and secondary precious metals (less than 1 percent).

BAT: New BAT limitations are proposed for 14 subcategories. Total investment costs for these regulations are estimated to be $4.2 million and total annualized costs are $3.2 million. The incremental costs over BPT are estimated to be $0.5 million in investment costs and $0.2 million in annual costs. No additional closures or production loss beyond those expected at BPT are expected to result from these limitations. The price increases associated with these costs are small, ranging from less than one-tenth to 2.4 percent and the limitations are economically achievable.

PSES: PSES is proposed for 8 subcategories. The costs for this regulation are expected to be $2.8 million investment and $1.2 million total annualized costs. Closures projected to result from these costs include a secondary gold production process line in a secondary precious metals plant and two tin plants. The precious metals plant also produces secondary silver and therefore is integrated with the secondary silver subcategory in the Nonferrous Metals Phase I regulation. It was projected that compliance costs associated with the Phase I regulation will result in the closure of the secondary silver process line as well. The combined effects of the two regulations therefore is the closure of the entire facility and the associated loss of approximately 19 jobs. However, the loss of secondary gold/silver production capacity is minimal. The plant represents less than one-half of one percent of industry capacity for both metals. The effect on tin production is discussed in previous sections of this preamble. Impacts of PSES on the *entire* secondary precious metals subcategory and all other subcategories are small overall. The range of expected price increases is less than one-tenth to 2.5 percent and no further production loss is expected to occur. These standards are economically achievable for the subcategories as a whole.

NSPS/PSNS: New source standards are being proposed for 20 of the 24 subcategories. The technology basis for NSPS and PSNS is the same as for BAT for all subcategories where BAT and PSES are proposed except one, Secondary Indium. Three of the 21 subcategories are subject only to new source limitations because they contain no existing discharging plants. These subcategories are Primary Boron, Primary Cesium and Rubidium and Secondary Mercury. New plants in these subcategories, as well as those in Secondary Indium, will not be at a serious cost disadvantage as a result of these limitations. Total incremental investment costs are estimated to be $31 thousand, with annual costs of $11 thousand. Hence this regulation is not expected to discourage entry into the industry.

The Agency believes this regulation is economically achievable and imposes no significant impacts on any subcategory within the industry. The only possible exception is tin, where projected closures at this point threaten 12 percent of existing industry production capacity. As explained earlier, however, the Agency plans to reassess the tin industry through comment solicitation and direct contact with tin manufacturers between proposal and promulgation of this regulation.

Executive Order 12291

Executive Order 12291 requires EPA and other agencies to perform regulatory impact analysis of major regulations. Major rules impose an annual cost to the economy of $100 million or more or meet other economic impact criteria. The proposed regulation for monferrous metals manufacturing, Phase II, is not a major rule. The costs expected to be incurred by this industry will be significantly less than $100 million. Therefore a formal Regulatory Impact Analysis is not required. This rulemaking satisfies the requirements of the Executive Order for a nonmajor rule. The Agency's regulatory strategy considered both the cost and economic impacts of the regulation.

Regulatory Flexibility Analysis

Pub. L. 96–354 requires that EPA prepare a Regulatory Flexibility Analysis for regulations that have a significant impact on a substantial number of small entities. This analysis

may be conducted in conjunction with or as part of other Agency analyses. A small business analysis is included in the economic impact analysis for this regulation.

For each metal subcategory, small entities were defined on the plant level, using annual plant capacity as an indicator of size. A total of 14 plants were identified in 5 subcategories as small, representing 19 percent of all discharging plants. For these 5 subcategories, the Agency evaluated (1) annual compliance costs as a percentage of revenues for small facilities and (2) annual compliance costs as a percent of the cost of production for small entities. Based on this analysis, EPA has determined that there will not be a significant impact on small entities within this category. Therefore the Agency is not required to perform a formal Regulatory Flexibility Analysis. I hereby certify pursuant to 50 U.S.C. 605(b) that this regulation will not have a significant impact on a substantial number of small entities.

SBA Loans

The Agency is continuing to encourage small plants to use Small Business Administration (SBA) financing as needed for pollution control equipment. The three basic programs are (1) the Pollution Control Bond Program, (2) the Section 503 Program, and (3) the Regular Business Loan Program. Eligibility for SBA programs varies by industry. Generally, a company must be independently owned, not dominant in its field, the employee size ranges from 250 to 1500 employees (dependent upon industry), and annual sales revenues ranges from $275,000 to $22 million (varies by industry).

For further information and specifics on the Pollution Control Bond Program, contact: U.S. Small Business Administration, Office of Pollution Control Financing, 4040 North Fairfax Drive, Rosslyn, Virginia 22203, (703) 235–2902.

The Section 503 Program, as amended in July 1980, allows long-term loans to small and medium sized businesses. These loans are made by SBA approved local development companies. These companies are authorized to issue Government-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 and are guaranteed by SBA. This program has interest rates equivalent to market rates.

For additional information on the Regular Business Loan and Section 503 Programs, contact your district or local SBA office. The coordinator at EPA headquarters is Ms. Frances Dessell, who may be reached at (200) 382–5373.

XVIII. Nonwater Quality Aspects of Pollution Control

The elimination or reduction of one form of pollution may aggravate other environmental problems. Therefore, sections 304(b) and 306 of the Act require EPA to consider the nonwater quality environmental impacts (including energy requirements) of certain regulations. In compliance with these provisions, EPA has considered the effect of this regulation on air pollution, solid waste generation, water scarcity, and energy consumption. While it is difficult to balance pollution problems against each other and against energy utilization, EPA is proposing regulations which it believes best serve often competing national goals. This regulation has been reviewed by other offices within EPA responsible for these programs.

The following are the nonwater quality environmental impacts (including energy requirements) associated with the proposed regulations:

A. Air Pollution

Imposition of BPT will not create any substantial air pollution problems. BAT, NSPS, PSES, and PSNS will result in a slight increase in air pollution. Water vapor containing some particulate matter will be released in the drift from the cooling tower systems which are used as the technology basis for flow reduction which is a part of BAT, NSPS, PSES, and PSNS in one subcategory, primary and secondary titanium. Plants in this subcategory using lubricants for casting may have organics present in the drift from cooling towers used to cool and recylce casting contact cooling water. The Agency does not consider any of these impacts to be significant.

B. Solid Waste

EPA estimates that the proposed BPT regulation for nonferrous metals manufacturing phase II facilities will generate 8,500 kkg (9,350 tons) of solid wastes (wet basis—1982 production levels) as a result of wastewater treatment. These wastes will be comprised of treatment system sludges containing cyanide and toxic metals, including arsenic, antimony, beryllium, cadmium, chromium, copper, lead, mercury, nickel, selenium, silver, thallium, and zinc.

EPA estimates that BAT and PSES will increase wastes by approximately 2100 kkg (2310 tons) per year beyond BPT levels. These sludges will necessarily contain additional quantities (and concentrations) of toxic pollutants. NSPS and PSNS will increase the amount of solid waste by less than 5 percent of the BAT and PSES quantities.

Wastes generated by primary smelters and refiners are currently exempt from regulation by Act of Congress [Resource Conservation and Recovery Act (RCRA), section 3001(b)]. Consequently, sludges generated from treating primary industries' wastewater are not presently subject to regulation as hazardous wastes.

Wastes generated by secondary metal industries can be regulated as hazardous. However, the Agency examined the solid wastes that would be generated at secondary nonferrous metals manufacturing plans by the suggested treatment technologies and believes they are not hazardous wastes under the Agency's regulations implementing section 3001 of the Resource Conservation and Recovery Act. None of these wastes are listed specifically as hazardous. Nor are they likely to exhibit a characteristic of hazardous waste. This judgment is made based on the recommended technology of lime precipitation and filtration. By the addition of a small excess of lime during treatment, similar sludges, specifically toxic metal bearing sludges, generated by other industries such as the iron and steel industry passed the Extraction Procedure (EP) toxicity test. See 40 CFR 261.24. Thus, the Agency believes that the wastewater sludges will similarly not be EP toxic if the recommended technology is applied.

Although it is the Agency's view that solid wastes generated as a result of these guidelines are not expected to be hazardous, generators of these wastes must test the waste to determine if the wastes meet any of the characteristics of hazardous waste (see 40 CFR 262.11).

If these wastes identified should be or are listed 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 point of final disposition. EPA's generator standards would require generators of hazardous nonferrous metals manufacturing wastes to meet containerization, labeling, recordkeeping, and reporting requirements; if plants dispose of hazardous wastes off-site, they would have to prepare a manifest which would track the movement of the wastes from the generator's premises to a permitted 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 assure that the wastes are delivered to a permitted facility. See 40 CFR 263.20 [45 FR 33151 (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 Part 464 [46 FR 2802 (January 12, 1981), 47 FR 32274 (July 26, 1982)].

Even if these wastes are not identified as hazardous, they still must be disposed of in compliance with the Subtitle D open dumping standards, implementing 4004 of RCRA. See 44 FR 53438 (September 13, 1979). The Agency has calculated as part of the costs for wastewater treatment the cost of hauling and disposing of these wastes. For more details, see Section VIII of the General Development Document.

C. Energy Requirements

EPA estimates that the achievement of proposed BPT effluent limitations will result in electrical energy consumption of approximately 18.5 million kilowatt-hours per year. The BAT and PSES technology should not substantially increase the energy requirements of BPT because the additional pumping requirements for filtration should be offset by the reduced pumping requirements, the agitation requirements for mixing wastewater and other volume related energy requirements, as a result of reducing process wastewater discharge to treatment. To achieve the proposed BPT and BAT effluent limitations, a typical direct discharger will increase total energy consumption by less than 1 percent of the energy consumed for production purposes.

The Agency estimates that the NSPS and PSNS technology will, in general, require as much energy as the existing source limitations.

XIX. Best Management Practices (BMP)

Section 304(e) of the Clean Water Act authorizes the Administrator to prescribe "best management practices" (BMP) described under Legal Authority and Background. EPA is not proposing specific BMP for nonferrous metals manufacturing at this time.

XX. Upset and Bypass Provisions

A recurring issue of concern has been whether industry guidelines should include provisions authorizing noncompliance with effluent limitations during periods of "upset" or "bypass." An upset, sometimes called an "excursion," is an unintentional noncompliance occurring for reasons beyond the reasonable control of the permittee. It has been argued that an upset provision in EPA's effluent limitations is necessary because such upsets will inevitably occur even in properly operated control equipment. Because technology-based limitations require only what technology can achieve, it is claimed that liability for such situations is improper. When confronted with this issue, courts have disagreed on whether an explicit upset or excursion exemption is necessary, or whether upset or excursion incidents may be handled through exercise of EPA's enforcement discretion. Compare *Marathon Oil Co.* v. *EPA*, 564 F. 2d 1253 (9th Cir. 1977) with *Weyerhaeuser Co.* v. *Costle, supra*, and *Corn Refiners Association, et al.* v. *Costle*, No. 78–1069 (8th Cir., April 2, 1979). See also *American Petroleum Institute* v. *EPA*. 540 F. 2d 1023 (10th Cir. 1976); *CPC International, Inc.* v. *Train*, 540 F. 2d 1320 (8th Cir. 1976); *FMC Corp.* v. *Train*, 539 F. 2d 973 (4th Cir. 1976).

An upset is an unintentional episode during which effluent limits are exceeded; a bypass, however, is an act of intentional noncompliance during which waste treatment facilities are circumvented in emergency situations. We have, in the past, included bypass provisions in NPDES permits.

We determined that both upset and bypass provisions should be included in NPDES permits and have proposed NPDES permits that include upset and bypass permit provisions (see 40 CFR 122.41 (m) and (n), 48 FR 14146 (April 1, 1983)). The upset provision establishes an upset as an affirmative defense to prosecution for violation of technology-based effluent limitations. The bypass provision authorizes bypassing to prevent loss of life, personal injury, or severe property damage. Consequently, although permittees in the nonferrous metals manufacturing industry will be entitled to upset and bypass provisions in NPDES permits, this proposed regulation does not address these issues.

XXI. Variances and Modifications

Upon promulgation of the final regulation, the appropriate effluent limitations must be applied in all Federal and State NPDES permits therafter issued to direct dischargers in the nonferrous metals manufacturing category. In addition, on promulgation, the pretreatment limitations are directly applicable to any indirect dischargers.

For BPT effluent limitations, the only exception to the binding limitations is EPA's "fundamentally different factors" variance. See *E. I. du Pont de Nemours Co.* v. *Train*, 430 U.S. 112 (1977); *Weyerhaeuser Co.* v. *Costle, supra*. This variance recognizes factors concerning a particular discharger that are fundamentally different from the factors considered in this rulemaking. However, the economic ability of the individual operator to meet the compliance cost for BPT standards is not a consideration for granting a variance. See *National Crushed Stone Association* v. *EPA*, 449 U.S. 64 (1980). Although this variance clause was set forth in EPA's 1973 to 1976 industry regulations, it is now included in the NPDES regulations and will not be included in the nonferrous metals manufacturing category or other category regulations. See the NPDES regulations at 40 CFR Part 125 Subpart D, 45 FR 33290 et seq. (May 19, 1980) for the text and explanation of "fundamentally different factors" variance.

The BAT limitations in this regulation also are subject to EPA's "fundamentally different factors" variance. In addition, BAT limitations for nonconventional pollutants are subject to individual modifications under sections 301(c) and 301(g) of the Act. According to section 301(j)(1)(B), applications for these modifications under sections 301(c) and 301(g) must be filed within 270 days after promulgation of final effluent limitations guidelines. See 40 CFR 122.21(1)(2), 48 FR 14161 (April 1, 1983).

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 a showing that such modified requirements will (1) represent the maximum use of technology within the economic capability of the owner or operator and (2) result in reasonable further progress toward the elimination of the discharge of pollutants. The environmental modification section (301(g)) allows the Administrator, with the concurrence of the State, to modify BAT limitations for nonconventional pollutants from any point source upon a showing by the owner or operator of such point source satisfactory to the Administrator that:

(a) Such modified requirements will result at a minimum in compliance with BPT limitations or any more stringent limitations necessary to meet water quality standards,

(b) Such modified requirements will not result in any additional requirements on any other point or nonpoint source, and

(c) Such modification will not interfere with the attainment or maintenance of that water quality which shall assure

protection of public water supplies, and the protection and propagation of a balanced population of shellfish, fish, and wildlife, and allow recreational activities, in and on the water, and such modification will not result in the discharge of pollutants in quantities which may reasonably be anticipated to pose an unacceptable risk to human health or the environment because of bioaccumulation, persistency in the environment, acute toxicity, chronic toxicity (including carcinogenicity, mutagenicity, or teratogenicity), or synergistic propensities.

Section 301(j)(1)(B) of the Act requires that application for modifications under section 301 (c) or (g) must be filed within 270 days after the promulgation of an applicable effluent guideline. Initial applications must be filed with the Regional Administrator and, in those States that participate in the NPDES program, a copy must be sent to the Director of the State program. Initial applications to comply with 301(j) must include the name of the permittee, the permit and outfall number, the applicable effluent guideline, and whether the permittee is applying for a 301(c) or 301(g) modification or both.

Indirect dischargers subject to PSES and PSNS are eligible for credits for toxic pollutants removed by POTW. See 40 CFR 403.7, 48 FR 9404 (January 28, 1981). New sources subject to NSPS are not eligible for any other statutory or regulatory modifications. See, *E. I. du Pont de Nemours & Co.* v. *Train*, supra.

Indirect dischargers subject to PSES have, in the past, been eligible for the "fundamentally different factors" variance. See 40 CFR 403.13. However, on September 20, 1983, the United States Court of Appeals for the Third Circuit held that "FDF variances for toxic pollutants regulated under PSES are forbidden by the Act," and remanded § 403.13 to EPA. *NAMF et al.* v. *EPA*, Nos. 79–2256 et al. (3rd Cir., September 20, 1983).

In a few cases, information which would affect certain PSES may not have been available to EPA or affected parties in the course of this rulemaking. As a result it may be appropriate to issue specific categorical standards for such facilities, treating them as a separate subcategory with more, or less, stringent standards as appropriate. This will only be done if a different standard is appropriate because of unique aspects of the factors listed in Section 304(b)(2)(B) of the Act: the age of equipment and facilities involved, the process employed, the engineering aspects of applying control techniques, nonwater quality environmental impacts (including energy requirements) or the cost of required effluent reductions (but not of the ability to pay that cost).

After this regulation is promulgated indirect dischargers and other affected parties may petition the Administrator to examine those factors and determine whether these PSES are properly applicable in specific cases or should be revised. Such petitions must contain specific and detailed support data, documentation, and evidence indicating why the relevant factors justify a more, or less, stringent standard, and must also indicate why those factors could not have been brought to the attention of the Agency in the course of this rulemaking. Accordingly persons should submit all available information suggesting that alternate limitations should be established for specific facilities during the comment period for this regulation.

XXII. Implementation of Limitations and Standards

A. Relation to NPDES Permits

The BPT and BAT limitations and NSPS in this regulation will be applied to individual nonferrous metals manufacturing plants through NPDES permits issued by EPA or approved state agencies, under section 402 of the Act. As discussed in the preceding section of this preamble, these limitations must be applied in all Federal and State NPDES permits except to the extent that variances and modifications are expressly authorized. Other aspects of the interaction between these limitations and NPDES permits are discussed below.

One issue that warrants consideration is the effect of this regulation on the powers of NPDES permit issuing authorities. This regulation does not restrict the power of any permitting authority to act in any manner consistent with law or these or any other EPA regulations, guidelines, or policy. For example, even if this regulation does not control a particular pollutant, the permit issuer may still limit such pollutant on a case-by-case basis when limitations are necessary to carry out the purposes of the Act. In addition, to the extent that state water quality standards or other provisions of State or Federal law require limitation of pollutants not covered by this regulation (or require more stringent limitations on covered pollutants), such limitations must be applied by the permit issuing authority.

A second topic that warrants discussion is the operation of EPA's NPDES enforcement program, many aspects of which were considered in developing this regulation. We emphasize that although the Clean Water Act is a strict liability statute, the initiation of enforcement proceedings by EPA is discretionary.

We have exercised and intend to exercise that discretion in a manner that recognizes and promotes good-faith compliance efforts.

B. Indirect Dischargers

For indirect dischargers, PSES and PSNS are implemented under National Pretreatment Program procedures outlined in 40 CFR Part 403. The table below may be of assistance in resolving questions about the operation of that program. A brief explanation of some of the submissions indicated on the table follows:

A "request for category determination" is a written request, submitted by an indirect discharger or its POTW, for a determination of which categorical pretreatment standard applies to the indirect discharger. This assists the indirect discharger in knowing which PSES or PSNS limits it will be required to meet. See 40 CFR 403.6(a).

A "baseline monitoring report" is the first report an indirect discharger must file following promulgation of an applicable standard. The baseline report includes: an identification of the indirect discharger; a description of its operations; a report on the flows of regulated streams and the results of sampling analyses to determine levels of regulated pollutants in those streams; a statement of the discharger's compliance or noncompliance with the standard; and a description of any additional steps required to achieve compliance. See 40 CFR 403.12(b).

A "report on compliance" is required of each indirect discharger within 90 days following the date for compliance with an applicable categorical pretreatment standard. The report must indicate the concentration of all regulated pollutants in the facility's regulated process waste streams; the average maximum daily flows of the regulated streams; and a statement of whether compliance is consistently being achieved, and if not, what additional operation and maintenance or pretreatment is necessary to achieve compliance. See 40 CFR 403.12(d).

A "periodic compliance report" is a report on continuing compliance with all applicable categorical pretreatment standards. It is submitted twice per year (June and December) by indirect dischargers subject to the standards. The report shall provide the concentrations of the regulated pollutants in its discharge to the POTW;

the average and maximum daily flow rates of the facility; the methods used by the indirect discharger to sample and analyze data, and a certification that these methods conform to the methods outlined in the regulations. See 40 CFR 403.12(e).

INDIRECT DISCHARGERS SCHEDULE FOR SUBMITTAL AND COMPLIANCE

Item	Applicable sources	Date or time period	Measured from	Submitted to
Request for Category Determination	Existing	60 days	From effective date of standard	Director (1).
		or 60 days	From Federal Register Development Document Availability.	
	New	Prior to commencement of discharge to POTW.		
Baseline Monitoring	All	180 days	From effective date of standard or final decision on category determination.	Control Authority (2).
Report on Compliance	Existing	90 days	From date for final compliance	Control Authority (2).
	New	90 days	From commencement of discharge to POTW	
Periodic Compliance Reports	All	June and December		Control Authority (2).

(1) Director = a) Chief Administrative Officer of a state water pollution control agency with an approved pretreatment program, or b) EPA Regional Water Division Director, if state does not have an approved pretreatment program.
(2) Control Authority = a) POTW if its pretreatment program has been approved, or b) Director of state water pollution control agency with an approved pretreatment program, or c) EPA Regional Administrator, if state does not have an approved pretreatment program.

XXIII. Solicitation of Comments

EPA invites public participation in this rulemaking. We ask that any perceived deficiencies in the record be addressed specifically. We also ask that any suggested revisions or corrections be supported by data.

In addition to issues already addressed in the preamble, EPA is particularly interested in receiving additional comments and information on the following issues:

1. In our discussion of choices for BAT, PSES, NSPS, and PSNS for each subcategory, we described the range of options we considered. We formally solicit comment on whether we should adopt less or more stringent options in each subcategory, and if so, why.

2. The Agency is continuing to seek additional data to support these proposed limitations. In preparing this regulation, the agency collected allowable data on the raw wastewaters and treated wastewaters characteristics of each subcategory and compared it to other available treatment effectiveness data. The treatment effectiveness data for lime and settle and lime, settle and filter technology are based on the results of Agency sampling of the raw wastewaters and treated effluents from a broad range of plants generating similar wastewaters and (for filtration) on long-term self-monitoring, because we believe that these data most appropriately represent the treatment effectiveness of the specific technology. The Agency invites comments on the treatment effectiveness results, and the statistical analysis and underlying assumptions discussed in Section VII of the Development Document as they pertain to the nonferrous metals manufacturing plants. The Agency specifically requests long-term sampling data (especially paired raw wastewater—treated effluent data) from nonferrous metals manufacturing plants having well-operated treatment systems using the treatment technologies relied upon for this regulation, and also other equally effective treatment technologies.

3. The Agency requests long-term sampling data (especially paired raw wastewater—treated effluent data) from any plants treating antimony, arsenic, beryllium, boron, cadmium, chromium, cobalt, copper, cyanide, fluoride, germanium, indium, lead, mercury, molybdenum, nickel, radium 226, selenium, silver, thallium, tin, titanium, uranium and zinc that use chemical precipitation and settling technology (with and without a polishing filter).

4. In its cost estimates the Agency has not considered cost savings associated with water flow reduction, such as reduced charges for water use and sewerage savings. The Agency invites comments and requests that cost data be submitted to the Agency.

5. Nonferrous plants in roughly half the subcategories (primary and secondary germanium and gallium, secondary indium, secondary nickel, secondary precious metals, primary rare earth metals, primary and secondary tin, primary and secondary titanium, and primary zirconium and hafnium) discharge to POTWs. Because their wastewaters contain substantial amounts of toxic metals, the Agency invites comments and any supporting data concerning incompatibility of these wastewaters with the POTW treatment systems or sludge dispostion.

6. We request comment as to whether nonferrous plants could incur disproportionate costs as a result of treating both nonferrous wastewaters and wastewaters from a different point source category.

7. We request that commenters identify any process wastewater streams not identified by EPA which they believe should receive a discharge allowance. For any such streams, commenters should identify flow (in relation to production normalized parameter) and pollutant concentrations.

8. The Agency is proposing BAT, NSPS, PSES, and PSNS based on Options B and C, which include in-process flow reduction of many wastewater streams. We solicit comments on the ability of nonferrous metals manufacturing plants to achieve 90 percent recycle of wet scrubber liquor, and casting contact cooling water. We also solicit comments on the ability of nonferrous metals manufacturing to achieve 90 percent recycle of wet scrubber liquor, where the scrubber is used to control acid fumes emissions.

9. For several subcategories, the Agency is proposing an ammonia limitation on both direct and indirect dischargers. The Agency requests comments on the appropriateness of limiting ammonia in the effluent from indirect dischargers. Also, we request comments on the proposed treatment performance concentrations for ammonia based on stream stripping.

10. In developing the plant-by-plant economic analysis, the Agency made assumptions concerning the effect on final effluent of a poorly operated waste treatement system. For a poorly operated waste treatment system, we assumed a discharge equal to raw waste influent. The agency requests comment on the appropriateness of this assumption.

11. For the secondary precious metals subcategory, we are proposing NSPS and PSNS based, in part, on dry scrubbing of furnace emissions. We solicit comment on the feasibility of this technology in new plants.

12. For the bauxite refining subcategory, we solicit additional data

on red mud lake closure plans for currently operating and shut-down plants. We have discussed the possible limitation of three toxic organic pollutants in rainfall runoff from red mud lakes. We also solicit comments on the regulation of these pollutants.

13. We have proposed that the date for compliance with PSES be three years from the regulation's final promulgation date. We invite comments on the appropriateness of the compliance date.

14. The Agency requests comments on the appropriateness of the cyanide limitations proposed for the secondary precious metals, tin, and zirconium and hafnium subcategories.

15. The Agency is not modifying the promulgated limitations and standards for bauxite refining in this proposed regulation. As a result bauxite plants could continue to discharge equal to the net monthly precipitation falling on the red mud impoundment. EPA has data that indicated these discharges contain phenol, 2-chlorophenol and total phenols (4AAP) in treatable quantities. By using activated carbon adsorption, we project that 4800 lb/yr of phenols would be removed from the discharges of four plants. The investment cost of this removal would be $8.3 million and the annual cost would be $2.1 million.

EPA's present data base does not indicate that these phenols are being discharged in quanties that will present any acute risk to human health or aquatic life. However, under certain conditions these discharges may create taste and odor problems with drinking water supplies downstream of these discharges.

As a result, we intend to collect additional data between proposal and promulgation of this regulation. We solicit data on the presence of phenols in discharges from bauxite plants, as well as comments on the relative significance of these discharges to water quality problems in receiving waters. We also solicit comments and data on the presence of other toxic and nonconventional pollutants (such as toxic metals or iron) in these discharges. If we identify risk to human health, risk to aquatic life or aquatic taste and odor problems sufficient to justify the costs of compliance we intend to promulgate BAT and NSPS limits for phenol, 2-chlorophenol, and phenols (4AAP) based on an achievable daily maximum concentration of 0.010 mg/l for each pollutant. We also solicit comment on the achievability of this concentration using activated carbon adsorption or chemical oxidation (i.e. ozone, permanganate, or hydrogen peroxide).

16. The methodology used to estimate the economic effects of these regulations is discussed in section XVII of this preamble and in the Economic Development Document. We solicit comments on the methodology and criteria used to screen for economic impacts and on the methodology presented for financial analyses of individual plants. In this regard we solicit comment on the Agency's reliance on five year production and sales averages for certain facilities and subcategories in which the Agency believes that the available 1982 data is not representative of their future economic status because of the fact that 1982 was a particularly poor year for certain industries due to the recession and because we anticipate higher levels of production and sales due to the economy's recovery. The Agency plans to reassess a number of its estimates used in its economic analysis based on the economic recession and expected recovery. We solicit information on current production levels for the industry, prices, returns on investment, and changes in industry capacity. We solicit historical information on these same factors so we can evaluate how they change with the general economic conditions. We solicit information on structural changes in the industry that have occurred and changes in the competitive position in the international markets. We specifically solicit comment and additional data and information on the Agency's assumptions and calculations in projecting increased production levels and associated pollution removal costs in moving from 1982 levels to the higher 5 year economic average relied upon. We solicit comment both on the methodology used and its application to particular facilities and subcategories.

17. A number of firms have not responded to the economic survey mailed to them under the authority of section 308 of the Clean Water Act. The Agency asks facilities that have failed to respond to submit their responses. If the questionnaire has been misplaced there is a blank copy of a survey in the Appendix of the Economic Impact Analysis that can be used or a duplicate of the survey will be sent directly upon request to Ms. Ellen Warhit.

18. In may industries, indirect dischargers are located in urban areas, whereas direct dischargers tend to be located in more rural areas. This can sometimes place indirect dischargers at a disadvantage interms of space availability for installing wastewater treatment. However, EPA has concluded that space availability presents no greater problem for existing indirect dischargers than for existing direct dischargers in the nonferrous metals manufacturing category. We request comment on this conclusion.

19. The Agency has discussed the potential economic impacts of this regulation on the secondary tin subcategory. We solicit comment on the issues raised in these discussions.

20. When estimating the cost of meeting discharge limitations based on lime and settle technology in the cesium-rubidium subcategory the Agency used the cost of land disposal of wastewaters when the quantity of such wastewater was so small as to make the cost of land disposal less than lime and settle treatment. Comment on this costing procedure is requested.

21. The Agency is considering the promulgation of fluoride limitations and standards for the primary molybdenum subcategory. These mass limitations and standards would be based on the treatment performance observed on similar untreated fluoride concentrations in the Electrical and Electronic Products Point Source Category (Phase II). Therefore, we are requesting comment on the achievability of mass limitations and standards calculated based on a daily maximum concentration of 35.0 mg/l and a monthly average concentration of 19.9 mg/l. Further information on this subject and the actual mass limitations are available in the supplemental development document for this subcategory.

This regulation was submitted to the Office of Management and Budget for review as required by Executive Order 12291. This proposed rule does not contain any information collection requirements subject to OMB review under the Paperwork Reduction Act of 1980. 44 U.S.C. 3501 et seq.

XXIV. List of Subjects in 40 CFR Part 421

Nonferrous metals manufacturing, Water pollution control, Waste treatment and disposal.

Dated: May 15, 1984.

William Ruckelshaus,

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 4(b)(2)(B) 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 on 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 facility which discharges or may discharge pollutants into waters of the United States.

Indirect Discharger—A facility which discharges or may discharge pollutants into a publicly owned treatment works.

NPDES Permits—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 dischargers under section 307(b) of the Act.

PSNS—Pretreatment standards for new sources of indirect dischargers under sections 307 (b) and (c) of the Act.

RCRA—Resource Conservation and Recovery Act (Pub. L. 94-580) of 1976, Amendments to Solid Waste Disposal Act.

Appendix B—Pollutants Selected for Regulation by Subcategory

(a) Subpart A—Bauxite Refining Subcategory
- 24. (2-chlorophenol)
- 65. (phenol), (phenols 4AAP), (pH)

(As discussed earlier, the Agency is considering effluent limitations for discharges from bauxite red mud impoundments. To assist the public in providing comment on this issue, we are providing information in this appendix on the bauxite subcategory.)

(b) Subpart N—Primary Antimony Subcategory
- 114. antimony
- 115. arsenic
- 122. lead
- 123. mercury, total suspended solids (TSS), pH

(c) Subpart O—Primary Beryllium Subcategory
- 117. beryllium
- 119. chromium
- 120. copper, fluoride, total suspended solids (TSS), pH

(d) Subpart P—Primary Boron Subcategory
- 122. lead
- 124. nickel, boron, total suspended solids (TSS), pH

(e) Subpart Q—Primary Cesium and Rubidium Subcategory
- 122. lead
- 127. thallium
- 128. zinc, total suspended solids (TSS), pH

(f) Subpart R—Primary and Secondary Germanium and Gallium Subcategory
- 115. arsenic
- 122. lead
- 128. zinc, fluoride, germanium, total suspended solids (TSS), pH

(g) Subpart S—Secondary Indium Subcategory
- 118. cadmium
- 122. lead
- 128. zinc, indium, total suspended solids (TSS), pH

(h) Subpart T—Secondary Mercury Subcategory
- 122. lead
- 123. mercury, total suspended solids (TSS), pH

(i) Subpart U—Primary Molybdenum and Rhenium Subcategory
- 115. arsenic
- 122. lead
- 124. nickel
- 125. selenium, molybdenum, ammonia (as N), total suspended solids (TSS), pH

(j) Subpart V—Secondary Molybdenum and Vanadium Subcategory
- 114. antimony
- 122. lead
- 124. nickel, molybdenum, ammonia (as N), total suspended solids (TSS), pH

(k) Subpart W—Primary Nickel and Cobalt Subcategory
- 120. copper
- 124. nickel, cobalt, ammonia (as N), total suspended solids (TSS), pH

(l) Subpart X—Secondary Nickel Subcategory
- 119. chromium
- 120. copper
- 124. nickel, total suspended solids (TSS), pH

(m) Subpart Y—Primary Precious Metals and Mercury Subcategory
- 115. arsenic
- 122. lead
- 123. mercury
- 126. silver
- 128. zinc, oil and grease, total suspended solids (TSS), pH

(n) Subpart Z—Secondary Precious Metals Subcategory
- 120. copper
- 121. cyanide
- 128. zinc, ammonia (as N), total suspended solids (TSS), pH

(o) Subpart AA—Primary Rare Earth Metals Subcategory
- 9. hexachlorobenzene
- 119. chromium (total)
- 122. lead
- 124. nickel, total suspended solids (TSS), pH

(p) Subpart AB—Secondary Tantalum Subcategory
- 120. copper
- 122. lead
- 124. nickel
- 128. zinc, total suspended solids (TSS), pH

(q) Subpart AC—Primary and Secondary Tin Subcategory
- 114. antimony
- 121. cyanide
- 122. lead
- 124. nickel, tin, ammonia (as N), fluoride, total suspended solids (TSS), pH

(r) Subpart AD—Primary and Secondary Titanium Subcategory
- 119. chromium (total)
- 122. lead
- 124. nickel
- 127. thallium, titanium, fluoride, oil and grease, total suspended solids (TSS), pH

(s) Subpart AE—Secondary Tungsten and Cobalt Subcategory
- 120. copper
- 124. nickel, cobalt, oil and grease, ammonia (as N), total suspended solids (TSS), pH

(t) Subpart AF—Secondary Uranium Subcategory
- 119. chromium (total)
- 120. copper
- 124. nickel, uranium, ammonia, fluoride, total suspended solids (TSS), pH

(u) Subpart AG—Primary Zirconium and Hafnium Subcategory
- 119. chromium (total)
- 121. cyanide (total)
- 122. lead
- 124. nickel, radium 226, ammonia, total suspended solids (TSS), pH

Appendix C—Toxic Pollutants Not Detected

(a) Subpart A—Bauxite Refining Subcategory
- 2. acrolein
- 3. acrylonitrile
- 4. benzene
- 5. benzidene
- 7. chlorobenzene
- 8. 1,2,4-trichlorobenzene
- 9. hexachlorobenzene
- 10. 1,2-dichloroethane
- 11. 1,1,1-trichloroethane
- 12. hexachloroethane
- 13. 1,1-dichloroethane
- 14. 1,1,2-trichloroethane
- 15. 1,1,2,2-tetrachloroethane
- 16. chloroethane
- 17. Bis(2-chloromethal)ether (Deleted)
- 18. bis(2-chloroethyl)ether (Deleted)
- 19. 2-chloroethyl vinyl ether (mixed)
- 20. 2-chloronaphthalene

22. para-chloro meta-cresol
25. 1,2-dichlorobenzene
26. 1,3-dichlorobenzene
27. 1,4-dichlorobenzene
28. 3,3'-dichlorobenzidene
29. 1,1-dichloroethylene
30. 1,2-trans-dichloroethylene
32. 1,2-dichloropropane
33. 1,3-dichloropropylene (1,3-dichloropropene)
35. 2,4-dinitrotoluene
36. 2,6-dinitrotoluene
37. 1,2-diphenylhydrazine
38. ethylbenzene
40. 4-chorophenyl phenyl ether
41. 4-bromophenyl phenyl ether
42. bis(2-chloroisopropyl)ether
43. bis(2-chloroethoxy)methane
45. methyl chloride (chloromethane)
46. methyl bromide (bromomethane)
47. bromoform (tribromomethane)
49. Trichlorofluoromethane (Deleted)
50. Dichlorodifluoromethane (Deleted)
51. chlorodibromomethane
52. hexachlorobutadiene
53. hexachlorocyclopentadiene
54. isophorone
56. nitrobenzene
59. 2,4-dinitrophenol
61. N-nitrosodimethylamine
62. N-nitrosodiphenylamine
63. N-nitrosodi-n-propylamine
69. di-n-octyl phthalate
72. benzo(a)anthracene (1,2,-benzanthracene)
73. benzo(a)pyrene (3,4-benzopyrene)
74. 3,4-benzofluoranthene
75. benzo(k)fluoranthene (11,12-benzofluoranthene)
76. chrysene
78. anthracene
79. benzo(ghi)perylene (1,12-benzoperylene)
81. phenanthrene
82. dibenzo (a,h)anthracene (1,2,5,6-dibenzanthracene)
83. ideno (1,2,3-cd)pyrene (2,3,-o-phenylenepyrene)
87. trichloroethylene
88. vinyl chloride (chloroethylene)
89. aldrin
90. diedlrin
94. 4,4'-DDD (p,p'TDE)
105. g-BCH-Delta
113. toxaphene
116. asbestos (fibrous)
117. beryllium*
118. cadmium*
119. chromium (total)*
120. copper*
122. lead*
123. mercury*
124. nickel*
128. zinc*
129. 2,3,7,8-tetra chlorodibenzo-p-dioxin (TCDD)

*We did not analyze for these pollutants in samples of raw wastewater from this subcategory. These pollutants are not believed to be present based on the Agency's best engineering judgment which includes consideration of raw materials and process operations.

(b) Subpart N—Primary Antimony Subcategory

1. acenaphthene*
2. acrolein*
3. acrylonitrile*
4. benzene*
5. benzidene*
6. carbon tetrachloride (tetrachloromethane)*
7. chlorobenzene*
8. 1,2,4-trichlorobenzene*
9. hexachlorobenzene*
10. 1,2-dichloroethane*
11. 1,1,1-trichloroethane*
12. hexachloroethane*
13. 1,1-dichloroethane*
14. 1,1,2-trichloroethane*
15. 1,1,2,2-tetrachloroethane*
16. chloroethane*
17. bis(2-chloromethyl)ether (Deleted)*
18. bis(2-chloroethyl)ether*
19. 2-chloroethyl vinyl ether (mixed)*
20. 2-chloronaphthalene*
21. 2,4,6-trichlorophenol*
22. para-chloro meta-cresol*
23. chloroform (trichloromethane)*
24. 2-chlorophenol*
25. 1,2-dichlorobenzene*
26. 1,3-dichlorobenzene*
27. 1,4-dichlorobenzene*
28. 3,3'-dichlorobenzidene*
29. 1,1-dichloroethylene*
30. 1,2-trans-dichloroethylene*
31. 2,4-dichlorophenol*
32. 1,2-dichloropropane*
33. 1,3-dichloropropylene (1,3-dichloropropene)*
34. 2,4-dimethylphenol*
35. 2,4-dinitrotoluene*
36. 2,6-dinitrotoluene
37. 1,2-diphenylhydrazine*
38. ethylbenzene*
39. fluoranthene*
40. 4-chorophenyl phenyl ether*
41. 4-bromophenyl phenyl ether*
42. bis(2-chloroisopropyl)ether*
43. bis(2-chloroethoxy)methane*
44. methylene chloride (dichloromethane)*
45. methyl chloride (chloromethane)*
46. methyl bromide (bromomethane)*
47. bromoform (tribromomethane)*
48. dichlorobromomethane*
49. trichlorofluoromethane (Deleted)*
50. dichlorodifluoromethane (Deleted)*
51. chlorodibromomethane*
52. hexachlorobutadiene*
53. hexachlorocyclopentadiene*
54. isophorone*
55. naphthalene*
56. nitrobenzene*
57. 2-nitrophenol*
58. 4-nitrophenol*
59. 2,4-dinitrophenol*
60. 4,6-dinitro-o-cresol*
61. N-nitrosodimethylamine*
62. N-nitrosodiphenlamine*
63. N-nitrosodi-n-propylamine*
64. pentachlorophenol*
65. phenol*
66. bis(2-ethylhexyl) phthalate*
67. butyl benzyl phthalate*
68. di-n-butyl phthalate*
69. di-n-octyl phthalate*
70. diethyl phthalate*
71. dimethyl phthalate*
72. benzo (a) anthracene (1,2-benzanthracene)*
73. benzo (a) pyrene (3,4-benzopyrene)*
74. 3,4-benzofluoranthene*
75. benzo (k) fluoranthene (11,12-benzofluoranthene)*
76. chrysene*
77. acenaphthylene*
78. anthracene*
79. benzo (ghi) perylene (1,12-benzoperylene)*
80. fluorene*
81. phenanthrene*
82. dibenzo (a,h) anthracene (1,2,5,6-dibenzanthracene)*
83. ideno (1,2,3-cd) pyrene (2,3-o-phenylenepyrene)*
84. pyrene*
85. tetrachloroethylene*
86. toluene*
87. trichloroethylene*
88. vinyl chloride (chloroethylene)*
89. aldrin*
90. dieldrin*
91. chlordane (technical mixture and metabolites)*
92. 4,4'-DDT*
93. 4,4'-DDE (p,p'DDX)*
94. 4,4'-DDD (pp'TDE)*
95. a-endosulfan-Alpha*
96. b-endosulfan-Beta*
97. endosulfan sulfate*
98. endrin*
99. endrin aldehyde*
100. heptachlor*
101. heptachlor epoxide*
102. a-BHC-Alpha*
103. b-BHC-Beta*
104. r-BHC (lindane)-Gamma*
105. g-BHC-Delta*
106. PBC-1242 (Arochlor 1242)*
107. PBC-1254 (Arochlor 1254)*
108. PBC-1221 (Arochlor 1221)*
109. PBC-1232 (Arochlor 1232)*
110. PCB-1248 (Arochlor 1248)*
111. PCB-1260 (Arochlor 1260)*
112. PCB-1016 (Arochlor 1016)*
113. toxaphene*
116. asbestos (fibrous)
117. beryllium*

119. chromium (total)*
121. cyanide (total)*
124. nickle*
125. selenium*
126. silver*
127. thallium*
129. 2,3,7,8-tetra chlorodibenzo-p-dioxin (TCDD)

*We did not analyze for these pollutants in samples of raw wastewater from this subcategory. These pollutants are not believed to be present based on the Agency's best engineering judgement which includes consideration of raw materials and process operations.

(c) Subpart O—Primary Beryllium Subcategory

1. acenaphthene*
2. acrolein*
3. acrylonitrile*
4. benzene*
5. benzidene*
6. carbon tetrachloride (tetrachloromethane)*
7. chlorobenzene*
8. 1,2,4-trichlorobenzene*
9. hexachlorobenzene*
10. 1,2-dichloroethane*
11. 1,1,1-trichloroethane*
12. hexachloroethane*
13. 1,1-dichloroethane*
14. 1,1,2-trichloroethane*
15. 1,1,2,2-tetrachloroethane*
16. chloroethane*
17. bis (2-chloromethyl) ether (Deleted)*
18. bis(2-chloroethyl) ether*
19. 2-chloroethyl vinyl ether (mixed)*
20. 2-chloronaphthalene*
21. 2,4,6-trichlorophenol*
22. para-chloro meta-cresol*
23. chloroform (trichloromethane)*
24. 2-chlorophenol*
25. 1,2-dichlorobenzene*
26. 1,3-dichlorobenzene*
27. 1,4-dichlorobenzene*
28. 3,3'-dichlorobenzidene*
29. 1,1-dichloroethylene*
30. 1,2-trans-dichloroethylene*
31. 2,4-dichlorophenol*
32. 1,2-dichloropropane*
33. 1,3-dichloropropylene (1,3-dichloropropene)*
34. 2,4-dimethylphenol*
35. 2,4-dinitrotoluene*
36. 2,6-dinitrotoluene*
37. 1,2-diphenylhydrazine*
38. ethylbenzene*
39. fluoranthene*
40. 4-chlorophenyl phenyl ether*
41. 4-bromophenyl phenyl ether*
42. bis(2-chloroisopropyl ether)*
43. bis(2-chloroethoxy) methane*
44. methylene chloride (dichloromethane)*
45. methyl chloride (chloromethane)*
46. methyl bromide (bromomethane)*
47. bromoform (tribromomethane)*
48. dichlorobromomethane*
49. trichlorofluoromethane (Deleted)*
50. dichlorodifluoromethane (Deleted)*
51. chlorodibromomethane*
52. hexachlorobutadiene*
53. hexachlorocyclopentadiene*
54. isophorone*
55. naphthalene*
56. nitrobenzene*
57. 2-nitrophenol*
58. 4-nitrophenol*
59. 2,4-dinitrophenol*
60. 4,6-dinitro-o-cresol*
61. N-nitrosodimethylamine*
62. N-nitrosodiphenylamine*
63. N-nitrosodi-n-propylamine*
64. pentachlorophenol*
65. phenol*
66. bis(2-ethylhexyl) phthalate*
67. butyl benzyl phthalate*
68. di-n-butyl phthalate*
69. di-n-octyl phthalate*
70. diethyl phthalate*
71. dimethyl phthalate*
72. benzo (a) anthracene (1,2-benzanthracene)*
73. benzo (a) pyrene (3,4-benzopyrene)*
74. 3,4-benzofluoranthene*
75. benzo (k) fluoranthene (11,12-benzofluoranthene)*
76. chrysene*
77. acenaphthylene*
78. anthracene*
79. benzo(ghi)perylene (1,12-benzoperylene)*
80. fluorene*
81. phenanthrene*
82. dibenzo (a,h)anthracene (1,2,5,6-dibenzanthracene)*
83. ideno (1,2,3-cd)pyrene (2,3,-o-phenylenepyrene)*
84. pyrene*
85. tetrachloroethylene*
86. toluene*
87. trichloroethylene*
88. vinyl chloride (chloroethylene)*
89. aldrin*
90. dieldrin*
91. chlordane (technical mixture and metabolites)*
92. 4,4'-DDT*
93. 4,4'-DDE (p,p'DDX)*
94. 4,4'-DDD (p,p'TDE)*
95. a-endosulfan-Alpha*
96. b-endosulfan-Beta*
97. endosulfan sulfate*
98. endrin*
99. endrin aldehyde*
100. heptachlor*
101. heptachlor epoxide*
102. a-BHC-Alpha*
103. b-BHC-Beta*
104. r-BHC (lindane)-Gamma*
105. g-BHC-Delta*
106. PCB–1242 (Arochlor 1242)*
107. PCB–1254 (Arochlor 1254)*
108. PCB–1221 (Arochlor 1221)*
109. PCB–1232 (Arochlor 1232)*
110. PCB–1248 (Arochlor 1248)*
111. PCB–1260 (Arochlor 1260)*
112. PCB–1016 (Arochlor 1016)*
113. toxaphene*
116. asbestos (fibrous)
129. 2,3,7,8-tetra chlorodibenzo-p-dioxin (TCDD)

*We did not analyze for these pollutants in samples of raw wastewater from this subcategory. These pollutants are not believed to be present based on the Agency's best engineering judgement which includes consideration of raw materials and process operations.

(d) Subpart P—Primary Boron Subcategory

1. acenaphthene
2. acrolein
3. acrylonitrile
4. benzene
5. benzidene
6. carbon tetrachloride (tetrachloromethane)
7. chlorobenzene
8. 1,2,4-trichlorobenzene
9. hexachlorobenzene
10. 1,2-dichloroethane
11. 1,1,1-trichloroethane
12. hexachloroethane
13. 1,1-dichloroethane
14. 1,1,2-trichloroethane
15. 1,1,2,2-tetrachloroethane
16. chloroethane
17. bis(2-chloromethyl)ether (Deleted)
18. bis(2-chloroethyl)ether
19. 2-chloroethyl vinyl ether (mixed)
20. 2-chloronaphthalene
21. 2,4,6-trichlorophenol
22. para-chloro meta-cresol
24. 2-chlorophenol
25. 1,2-dichlorobenzene
26. 1,3-dichlorobenzene
27. 1,4-dichlorobenzene
28. 3,3'-dichlorobenzidene
29. 1,1-dichloroethylene
30. 1,2-trans-dichloroethylene
31. 2,4-dichlorophenol
32. 1,2-dichloropropane
33. 1,3-dichloropropylene (1,3-dichloropropene)
34. 2,4-dimethylphenol
35. 2,4-dinitrotoluene
36. 2,6-dinitrotoluene
37. 1,2-diphenylhydrazine
38. ethylbenzene
39. fluoranthene
40. 4-chlorophenyl phenyl ether
41. 4-bromophenyl phenyl ether
42. bis(2-chloroisopropyl)ether
43. bis(2-chloroethoxy)methane
45. methyl chloride (chloromethane)
46. methyl bromide (bromomethane)

47. bromoform (tribromomethane)
49. trichlorofluoromethane (Deleted)
50. dichlorodifluoromethane (Deleted)
52. hexachlorobutadiene
53. hexachlorocyclopentadiene
54. isophorone
55. naphthalene
56. nitrobenzene
57. 2-nitrophenol
58. 4-nitrophenol
59. 2,4-dinitrophenol
60. 4,6-dinitro-o-cresol
61. N-nitrosodimethylamine
62. N-nitrosodiphenylamine
63. N-nitrosodi-n-propylamine
64. pentachlorophenol
65. phenol
71. dimethyl phthalate
72. benzo(a)anthracene (1,2-benzanthracene)
73. benzo(a)pyrene (3,4-benzopyrene)
74. 3,4-benzofluoranthene
75. benzo(k)fluoranthene (11,12-benzofluoranthene)
76. chrysene
77. acenaphthylene
78. anthracene
79. benzo(ghi)perylene (1,12-benzoperylene)
80. fluorene
81. phenanthrene
82. dibenzo (a,h)anthracene (1,1,5,6-dibenzanthracene)
83. ideno (1,2,3-cd)pyrene (2,3,-o-phenylenepyrene)
84. pyrene
85. tetrachloroethylene
86. toluene
87. trichloroethylene
88. vinyl chloride (chloroethylene)
89. aldrin
90. dieldrin
91. chlordane (technical mixture and metabolites)
92. 4,4'-DDT
93. 4,4'-DDE (p,p'DDX)
94. 4,4'-DDD (p,p'TDE)
95. a-endosulfan-Alpha
96. b-endosulfan-Beta
97. endosulfan sulfate
98. endrin
99. endrin aldehyde
100. heptachlor
101. heptachlor epoxide
102. a-BHC-Alpha
103. b-BHC-Beta
104. r-BHC (lindane)-Gamma
105. g-BHC-Delta
106. PCB–1242 (Arochlor 1242)
107. PCB–1254 (Arochlor 1254)
108. PCB–1221 (Arochlor 1221)
109. PCB–1232 (Arochlor 1232)
110. PCB–1248 (Arochlor 1248)
111. PCB–1260 (Arochlor 1260)
112. PCB—1016 (Arochlor 1016)
113. toxaphene
116. asbestos (fibrous)
129. 2,3,7,8-tetra chlorodibenzo-p-dioxin (TCDD)

(e) Subpart Q—Primary Cesium and Rubidium Subcategory

1. acenaphthene*
2. acrolein*
3. acrylonitrile*
4. benzene*
5. benzidine*
6. carbon tetrachloride (tetrachloromethane)*
7. chlorobenzene*
8. 1,2,4–trichlorobenzene*
9. hexachlorobenzene*
10. 1,2-dichloroethane*
11. 1,1,1-trichloroethane*
12. hexachloroethane*
13. 1,1-dichloroethane*
14. 1,1,2-trichloroethane*
15. 1,1,2,2-tetrachloroethane*
16. chloroethane*
17. bis(2-chloromethyl) ether (Deleted)*
18. bis(2-chloroethyl) ether*
19. 2-chloroethyl vinyl ether (mixed)*
20. 2-chloronaphthalene*
21. 2,4,6-trichlorophenol*
22. para-chloro meta-cresol*
23. chloroform (trichloromethane)*
24. 2-chlorophenol*
25. 1,2-dichlorobenzene*
26. 1,3-dichlorobenzene*
27. 1,4-dichlorobenzene*
28. 3.3'-dichlorobenzidene*
29. 1,1-dichloroethylene*
30. 1,2-trans-dichloroethylene*
31. 2,4-dichlorophenol*
32. 1,2-dichloropropane*
33. 1,3-dichloropropylene (1,3-dichloropropene)*
34. 2,4-dimethylphenol*
35. 2,4-dinitrotoluene*
36. 2,6-dinitrotoluene*
37. 1,2-diphenylhydrazine*
38. ethylbenzene*
39. fluoranthene*
40. 4-chlorophenyl phenyl ether*
41. 4-bromophenyl phenyl ether*
42. bis(2-chloroisopropyl) ether*
43. bis(2-chloroethoxy) methane*
44. methylene chloride (dichloromethane)*
45. methyl chloride (chloromethane)*
46. methyl bromide (bromomethane)*
47. bromoform (tribromomethane)*
48. dichlorobromomehane*
49. trichlorofluoromethane (Deleted)*
50. dichlorodifluoromethane (Deleted)*
51. chlorodibromomethane*
52. hexachlorobutadiene*
53. hexachlorocyclopentadiene*
54. isophorone*
55. naphthalene*
56. nitrobenzene*
57. 2-nitrophenol*
58. 4-nitrophenol*
59. 2,4-dinitrophenol*
60. 4,6-dinitro-o-cresol*
61. N-nitrosodimethylamine*
62. N-nitrosodiphenylamine*
63. N-nitrosodi-n-propylamine*
64. pentachlorophenol*
65. phenol*
66. bis(2-ethylhexyl) phthalate*
67. butylbenzyl phthalate*
68. di-n-butyl phthalate*
69. di-n-octyl phthalate*
70. diethyl phthalate*
71. dimethyl phthalate*
72. benzo (a) anthracene (1,2-benzanthracene)*
73. benzo (a) pyrene (3,4-benzopyrene)*
74. 3,4-benzofluoranthene*
75. benzo(k)fluoranthene (11,12-benzofluoranthene)*
76. chrysene*
77. acenaphthylene*
78. anthracene*
79. benzo (ghi) perylene (1,12-benzoperylene)*
80. fluorene*
81. phenanthrene*
82. dibenzo (a,h) anthracene (1,2,5,6-dibenzanthracene)*
83. ideno (1,2,3-cd) pyrene (2,3,-o-phenylenepyrene)*
84. pyrene*
85. tetrachloroethylene*
86. toluene*
87. trichloroethylene*
88. vinyl chloride (chloroethylene)*
89. aldrin*
90. dieldrin*
91. chlordane (technical mixture and metabolites)*
92. 4,4'–DDT*
93. 4,4'–DDE (p,p'DDX)*
94. 4,4'DDD (p,p'TDE)*
95. a-endosulfan-Alpha*
96. b-endosulfan-Beta*
97. endosulfan sulfate*
98. endrin*
99. endrin aldehyde*
100. heptachlor*
101. heptachlor epoxide*
102. a-BHC–Alpha*
103. b-BHC–Beta*
104. r-BHC (lindane)-Gamma*
105. g-BHC–Delta*
106. PCB–1242 (Arochlor 1242)*
107. PCB–1254 (Arochlor 1254)*
108. PCB–1221 (Arochlor 1221)*
109. PCB–1232 (Arochlor 1232)*
110. PCB–1248 (Arochlor 1248)*
111. PCB–1260 (Arochlor 1260)*
112. PCB–1016 (Arochlor 1016)*
113. toxaphene*
116. asbestos (fibrous)
129. 2,3,7,8-tetra chlorodibenzo-p-dioxin (TCDD)

*We did not analyze for these pollutants in samples of raw wastewater from this subcategory. These pollutants are not believed to be present based on the Agency's best engineering judgement

which includes consideration of raw materials and process operations.

(f) Subpart R–Primary and Secondary Germanium and Gallium Subcategory

1. acenaphthene
2. acrolein
3. acrylonitrile
5. benzidene
6. carbon tetrachloride (tetrachloromethane)
7. chlorobenzene
8. 1,2,4-trichlorobenzene
10. 1,2-dichloroethane
11. 1,1,1-trichloroethane
12. hexachloroethane
13. 1,1-dichloroethane
14. 1,1,2-trichloroethane
15. 1,1,2,2-tetrachloroethane
16. chloroethane
17. bis (2-chloromethyl) ether (Deleted)
18. bis (2-chloroethyl) ether
19. 2-chloroethyl vinyl ether (mixed)
20. 2-chloronaphthalene
22. para-chloro meta-cresol
24. 2-chlorophenol
25. 1,2-dichlorobenzene
26. 1,3-dichlorobenzene
27. 1,4-dichlorobenzene
28. 3,3'-dichlorobenzidene
29. 1,1-dichloroethylene
30. 1,2-trans-dichloroethylene
31. 2,4-dichlorophenol
32. 1,2-dichloropropane
33. 1,3-dichloropropylene (1,3-dichloropropene)
34. 2,4-dimethylphenol
35. 2,4-dinitrotoluene
36. 2,6-dinitrotoluene
37. 1,2-diphenylhydrazine
38. ethylbenzene
39. fluoranthene
40. 4-chlorophenyl phenyl ether
41. 4-bromophenyl phenyl ether
42. bis(2-chloroisopropyl) ether
43. bis(2-chloroethoxy)methane
45. methyl chloride (chloromethane)
46. methyl bromide (bromomethane)
47. bromoform (tribromomethane)
48. dichlorobromomethane
49. trichlorofluoromethane (Deleted)
50. dichlorodifluoromethane (Deleted)
51. Chlorodibromomethane
52. hexachlorobutadiene
53. hexachlorocyclopentadiene
54. isophorone
55. naphthalene
56. nitrobenzene
57. 2-nitrophenol
58. 4-nitrophenol
59. 2,4-dinitrophenol
60. 4,6-dinitro-o-cresol
61. N-nitrosodimethylamine
62. N-nitrosodiphenylamine
63. N-nitrosodi-n-propylamine
65. phenol
67. butyl benzyl phthalate
69. di-n-octyl phthalate
70. diethyl phthalate
71. dimethyl phthalate
72. benzo(a)anthracene (1,2-benzanthracene)
73. benzo(a)pyrene (3,4-benzopyrene)
74. 3,4-benzofluoranthene
75. benzo(k)fluoranthene (11,12-benzofluoranthene)
76. chrysene
77. acenaphthylene
78. anthracene
79. benzo(ghi)perylene (1,12-benzoperylene)
80. fluorene
81. phenanthrene
82. dibenzo (a,h)anthracene (1,2,5,6-dibenzanthracene)
83. ideno (1,2,3-cd)pyrene (2,3,-o-phenylenepyrene)
84. pyrene
85. tetrachloroethylene
86. toluene
88. vinyl chloride (chloroethylene)
89. aldrin
90. dieldrin
91. chlordane (technical mixture and metabolites)
92. 4,4'-DDT
93. 4,4'-DDE (p,p'DDX)
94. 4,4'-DDD (p,p'TDE)
95. a-endosulfan-Alpha
96. b-endosulfan-Beta
97. endosulfan sulfate
98. endrin
99. endrin aldehyde
100. heptachlor
101. heptachlor epoxide
102. a-BHC-Alpha
103. b-BHC-Beta
104. r-BHC (lindane)-Gamma
105. g-BHC-Delta
106. PCB–1242 (Arochlor 1242)
107. PCB–1254 (Arochlor 1254)
108. PCB–1221 (Arochlor 1221)
109. PCB–1232 (Arochlor 1232)
110. PCB–1248 (Arochlor 1248)
111. PCB–1260 (Arochlor 1260)
112. PCB–1016 (Arochlor 1016)
113. toxaphene
116. asbestos (fibrous)
129. 2,3,7,8-tetra chlorodibenzo-p-dioxin (TCDD)

(g) Subpart S—Secondary Indium Subcategory

1. acenaphthene
2. acrolein
3. acrylonitrile
4. benzene
5. benzidene
6. carbon tetrachloride (tetrachloromethane)
7. chlorobenzene
8. 1,2,4-trichlorobenzene
9. hexachlorobenzene
10. 1,2-dichloroethane
11. 1,1,1-trichloroethane
12. hexachloroethane
13. 1,1-dichloroethane
14. 1,1,2-trichloroethane
15. 1,1,2,2-tetrachloroethane
16. chloroethane
17. bis(2-chloromethyl)ether (Deleted)
18. bis(2-chloroethyl)ether
19. 2-chloroethyl vinyl ether (mixed)
20. 2-chloronaphthalene
21. 2,4,6-trichlorophenol
22. para-chloro meta-cresol
23. chloroform (trichloromethane)
24. 2-chlorophenol
25. 1,2-dichlorobenzene
26. 1,3-dichlorobenzene
27. 1,4-dichlorobenzene
28. 3,3'-dichlorobenzidene
29. 1,1-dichloroethylene
30. 1,2-trans-dichloroethylene
31. 2,4-dichlorophenol
32. 1,2-dichloropropane
33. 1,3-dichloropropylene (1,3-dichloropropene)
34. 2,4-dimethylphenol
35. 2,4-dinitrotoluene
36. 2,6-dinitrotoluene
37. 1,2-diphenylhydrazine
38. ethylbenzene
39. fluoranthene
40. 4-chlorophenyl phenyl ether
41. 4-bromophenyl phenyl ether
42. bis(2-chloroisopropyl)ether
43. bis(2-chloroethoxy)methane
45. methyl chloride (chloromethane)
46. methyl bromide (bromomethane)
47. bromoform (tribromomethane)
48. dichlorobromomethane
49. trichlorofluoromethane (Deleted)
50. dichlorodifluoromethane (Deleted)
51. chlorodibromomethane
52. hexachlorobutadiene
53. hexachlorocyclopentadiene
54. isophorone
55. naphthalene
56. nitrobenzene
57. 2-nitrophenol
58. 4-nitrophenol
59. 2,4,-dinitrophenol
60. 4,6-dinitro-o-cresol
61. N-nitrosodimethylamine
62. N-nitrosodiphenylamine
63. N-nitrosodi-n-propylamine
66. bis(2-ethylhexyl) phthalate
67. butyl benzyl phthalate
69. di-n-octyl phthalate
72. benzo(a)anthracene (1,2-benzanthracene)
73. benzo(a)pyrene (3, 4-benzopyrene)
74. 3,4-benzofluoranthene
75. benzo(k)fluoranthene (11,12-benzofluoranthene)
76. chrysene
77. acenaphthylene
78. anthracene
79. benzo(ghi)perylene (1,12-

benzoperylene)
80. fluorene
81. phenanthrene
82. dibenzo (a,h)anthracene (1,2,5,6-dibenzanthracene)
83. indeno (1,2,3-cd)pyrene (2,3,-o-phenylenepyrene)
84. pyrene
85. tetrachloroethylene
86. toluene
87. trichloroethylene
88. vinyl chloride (chloroethylene)
89. aldrin
90. dieldrin
91. chlordane (technical mixture and metabolites)
92. 4,4'-DDT
93. 4,4'-DDE(p,p'DDX)
94. 4,4'-DDD(p,p'TDE)
95. a-endosulfan-Alpha
96. b-endosulfan-Beta
97. endosulfan sulfate
98. endrin
99. endrin aldehyde
100. heptachlor
101. heptachlor epoxide
102. a-BHC-Alpha
104. r-BHC (lindane)-Gamma
105. g-BHC-Delta
106. PCB-1242 (Arochlor 1242)
107. PCB-1254 (Arochlor 1254)
108. PCB-1221 (Arochlor 1221)
109. PCB-1232 (Arochlor 1232)
110. PCB-1248 (Arochlor 1248)
111. PCB-1260 (Arochlor 1260)
112. PCB-1016 (Arochlor 1016)
113. toxaphene
116. asbestos (fibrous)
129. 2,3,7,8-tetra chlorodibenzo-p-dioxin (TCDD)

(h) Subpart T—Secondary Mercury Subcategory
1. acenaphthene*
2. acrolein*
3. acrylonitrile*
4. benzene*
5. benzidene*
6. carbon tetrachloride (tetrachloromethane)*
7. chlorobenzene*
8. 1,2,4-trichlorobenzene*
9. hexachlorobenzene*
10. 1,2,4-dichloroethane*
11. 1,1,1-trichloroethane*
12. hexachloroethane*
13. 1,1-dichloroethane*
14. 1,1,2-trichloroethane*
15. 1,1,2,2-tetrachloroethane*
16. chloroethane*
17. bis(2-chloromethyl)ether (Deleted)*
18. bis(2-chloroethyl)ether*
19. 2-chloroethyl vinyl ether (mixed)*
20. 2-chloronaphthalene*
21. 2,4,6-trichlorophenol*
22. para-chloro meta-cresol*
23. chloroform (trichloromethane)*
24. 2-chlorophenol*
25. 1,2-dichlorobenzene*
26. 1,3-dichlorobenzene*
27. 1,4-dichlorobenzene*
28. 3,3'-dichlorobenzidene*
29. 1,1-dichloroethylene*
30. 1,2-trans-dichloroethylene*
31. 2,4-dichlorophenol*
32. 1,2-dichloropropane*
33. 1,3-dichloropropylene (1,3-dichloropropene)*
34. 2,4-dimethylphenol*
35. 2,4-dinitrotoluene*
36. 2,6-dinitrotoluene*
37. 1,2-diphenylhydrazine*
38. ethylbenzene*
39. fluoranthene*
40. 4-chlorophenyl phenyl ether*
41. 4-bromophenyl phenyl ether*
42. bis(2-chloroisopropyl)ether*
43. bis(2-chlorethoxy)methane*
44. methylene chloride (dichloromethane)*
45. methyl chloride (chloromethane)*
46. methyl bromide (bromomethane)*
47. bromoform (tribromomethane)*
48. dichlorobromomethane*
49. trichlorofluoromethane (Deleted)*
50. dichlorodifluoromethane (Deleted)*
51. chlorodibromomethane*
52. hexachlorobutadiene*
53. hexachlorocyclopentadiene*
54. isophorone*
55. naphthalene*
56. nitrobenzene*
57. 2-nitrophenol*
58. 4-nitrophenol*
59. 2,4-dinitrophenol*
60. 4,6-dinitro-o-cresol*
61. N-nitrosodimethylamine*
62. N-nitrosodiphenylamine*
63. N-nitrosodi-n-propylamine*
64. pentachlorophenol*
65. phenol*
66. bis(2-ethylhexyl) phthalate*
67. butyl benzyl phthalate*
68. di-n-butyl phthalate*
69. di-n-octyl phthalate*
70. diethyl phthalate*
71. dimethyl phthalate*
72. benzo(a)anthracene (1,2-benzanthracene)*
73. benzo(a)pyrene (3,4-benzopyrene)*
74. 3,4-benzofluoranthene*
75. benzo(k)fluoranthene (11,12-benzofluoranthene)*
76. chrysene*
77. acenaphthylene*
78. anthracene*
79. benzo(ghi)perylene (1,12-benzoperylene)*
80. fluorene*
81. phenanthrene*
82. dibenzo (a,h)anthracene (1,2,5,6-dibenzanthracene)*
83. ideno (1,2,3-cd)pyrene (2,3,-o-phenylenepyrene)*
84. pyrene*
85. tetrachloroethylene*
86. toluene*
87. trichloroethylene*
88. vinyl chloride (chloroethylene)*
89. aldrin*
90. dieldrin*
91. chlordane (technical mixture and metabolites)*
92. 4,4'-DDT*
93. 4,4'-DDE (p,p'DDX)*
94. 4,4'-DDD (p,p'TDE)*
95. a-endosulfan-Alpha*
96. b-endosulfan-Beta*
97. endosulfan-sulfate*
98. endrin*
99. endrin aldehyde*
100. heptachlor*
101. heptachlor epoxide*
102. a-BHC-Alpha*
103. b-BHC-Beta*
104. r-BHC (lindane)-Gamma*
105. g-BHC-Delta*
106. PCB–1242 (Arochlor 1242)*
107. PCB–1254 (Arochlor 1254)*
108. PCB–1221 (Arochlor 1221)*
109. PCB–1232 (Arochlor 1232)*
110. PCB–1248 (Arochlor 1248)*
111. PCB–1260 (Arochlor 1260)*
112. PCB–1016 (Arochlor 1016)*
113. toxaphene*
116. asbestos (fibrous)
121. cyanide (total)*
129. 2,3,7,8–tetra chlorodibenzo-p-dioxin (TCDD)

*We did not analyze for these pollutants in samples of raw wastewater from this subcategory. These pollutants are not believed to be present based on the Agency's best engineering judgement which includes consideration of raw materials and process operations.

(i) Subpart U—Primary Molybdenum and Rhenium Subcategory
1. acenaphthene
2. acrolein
3. acrylonitrile
4. benzene
5. benzidene
6. carbon tetrachloride (tetrachloromethane)
7. chlorobenzene
8. 1,2,4,-trichlorobenzene
9. hexachlorobenzene
10. 1,2-dichloroethane
11. 1,1,1-trichloroethane
12. hexachloroethane
13. 1,1-dichloroethane
14. 1,1,2-trichloroethane
15. 1,1,2,2-tetrachloroethane
16. chloroethane
17. bis(2-chloromethyl) ether (Deleted)
18. bis(2-chloroethyl) ether
19. 2-chloroethyl vinyl ether (mixed)
20. 2-chloronaphthalene

21. 2,4,6-trichlorophenol
22. para-chloro meta-cresol
23. chloroform (trichloromethane)
24. 2-chlorophenol
25. 1,2-dichlorobenzene
26. 1,3-dichlorobenzene
27. 1,4-dichlorobenzene
28. 3,3-dichlorobenzidene
29. 1,1-dichloroethylene
30. 1,2-trans-dichloroethylene
31. 2,4-dichlorophenol
32. 1,2-dichloropropane
33. 1,3-dichloropropylene (1,3-dichloropropene)
34. 2,4-dimethylphenol
35. 2,4-dinitrotoluene
36. 2,6-dinitrotoluene
37. 1,2-diphenylhydrazine
38. ethylbenzene
39. fluoranthene
40. 4-chlorophenyl phenyl ether
41. 4-bromophenyl phenyl ether
42. bis(2-chloroisopropyl) ether
43. bis(2-chloroethoxy) methane
45. methyl chloride (chloromethane)
46. methyl bromide (bromomethane)
47. bromoform (tribromomethane)
48. dichlorobromomethane
49. trichlorofluoromethane (Deleted)
50. dichlorodifluoromethane (Deleted)
51. chlorodibromomethane
52. hexachlorobutadiene
53. hexachlorocyclopentadiene
54. isophorone
55. naphthalene
56. nitrobenzene
57. 2-nitrophenol
58. 4-nitrophenol
59. 2,4-dinitrophenol
60. 4,6-dinitro-o-cresol
61. N-nitrosodimethylamine
62. N-nitrosodiphenylamine
63. N-nitrosodi-n-propylamine
64. pentachlorophenol
65. phenol
66. bis(2-ethylhexyl) phthalate
67. butyl benzyl phthalate
68. di-n-butyl phthalate
69. di-n-octyl phthalate
70. diethyl phthalate
71. dimethyl phthalate
72. benzo (a) anthracene (1,2-benzanthracene)
73. benzo (a) pyrene (3,4-benzopyrene)
74. 3,4-benzofluoranthene
75. benzo (k) fluoranthene (11,12-benzofluoranthene)
76. chrysene
77. acenaphthylene
78. anthracene
79. benzo (ghi) perylene (1,2-benzoperylene)
80. fluorene
81. phenanthrene
82. dibenzo (a,h) anthracene (1,2,5,6-dibenzanthracene)
83. ideno (1,2,3-cd) pyrene (2,3 -o-phenylenepyrene)
84. pyrene
85. tetrachloroethylene
86. toluene
87. trichloroethylene
88. vinyl chloride (chloroethylene)
89. aldrin
90. dieldrin
91. chlordane (technical mixture and metabolites)
92. 4,4'-DDT
93. 4,4'-DDE (p,p'DDX)
94. 4,4'-DDD (p,p'TDE)
95. a-endosulfan-Alpha
96. b-endosulfan-Beta
97. endosulfan sulfate
98. endrin
99. endrin aldehyde
100. heptachlor
101. heptachlor epoxide
102. a-BHC-Alpha
103. b-BHC-Beta
105. g-BHC-Delta
106. PCB-1242 (Arochlor 1242)
107. PCB-1254 (Arochlor 1254)
108. PCB-1221 (Arochlor 1221)
109. PCB-1232 (Arochlor 1232)
110. PCB-1248 (Arochlor 1248)
111. PCB-1260 (Arochlor 1260)
112. PCB-1016 (Arochlor 1016)
113. toxaphene
116. asbestos (fibrous)
129. 2,3,7,8-chlorodibenzo-p-dioxin (TCDD)

(j) Subpart V—Secondary Molybdenum and Vanadium Subcategory

1. acenaphthene*
2. acrolein*
3. acrylonitrile*
4. benzene*
5. benzidene*
6. carbon tetrachloride (tetrachloromethane)*
7. chlorobenzene*
8. 1,2,4-trichlorobenzene*
9. hexachlorobenzene*
10. 1,2-dichloroethane*
11. 1,1,1-trichloroethane*
12. hexachloroethane*
13. 1,1-dichloroethane*
14. 1,1,2-trichloroethane*
15. 1,1,2,2-tetrachloroethane*
16. chloroethane*
17. bis(2-chloromethyl)ether (Deleted)*
18. bis(2-chloroethyl)ether*
19. 2-chloroethyl vinyl ether (mixed)*
20. 2-chloronaphthalene*
21. 2,4,6-trichlorophenol*
22. para-chloro meta-cresol*
23. chloroform (trichloromethane)*
24. 2-chlorophenol*
25. 1,2-dichlorobenzene*
26. 1,3-dichlorobenzene*
27. 1,4-dichlorobenzene*
28. 3,3'-dichlorobenzidene*
29. 1,1-dichloroethylene*
30. 1,2-trans-dichloroethylene*
31. 2,4-dichlorophenol*
32. 1,2-dichloropropane*
33. 1,3-dichloropropylene (1,3-dichloropropene)*
34. 2,4-dimethylphenol*
35. 2,4-dinitrotoluene*
36. 2,6-dinitrotoluene*
37. 1,2-diphenylhydrozine*
38. ethylbenzene*
39. fluoranthene*
40. 4-chlorophenyl phenyl ether*
41. 4-bromophenyl phenyl ether*
42. bis(2-chloroisopropyl)ether*
43. bis(2-chloroethoxy)methane*
44. methylene chloride (dichloromethane)*
45. methyl chloride (chloromethane)*
46. methyl bromide (bromomethane)*
47. bromoform (tribromomethane)*
48. dichlorobromomethane*
49. trichlorofluoromethane (Deleted)*
50. dichlorodifluoromethane (Deleted)*
51. chlorodibromomethane*
52. hexachlorobutadiene*
53. hexachlorocyclopentadiene*
54. isophorone*
55. naphthalene*
56. nitrobenzene*
57. 2-nitrophenol*
58. 4-nitrophenol*
59. 2,4-dinitrophenol*
60. 4,6-dinitro-o-cresol*
61. N-nitrosodimethylamine*
62. N-nitrosodiphenylamine*
63. N-nitrosodi-n-propylamine*
64. pentachlorophenol*
65. phenol*
66. bis(2-ethylhexyl) phthalate*
67. butyl benzyl phthalate*
68. di-n-butyl phthalate*
69. di-n-octyl phthalate*
70. diethyl phthalate*
71. dimethyl phthalate*
72. benzo(a)anthracene (1,2-benzanthracene)*
73. benzo(a)pyrene (3,4-benzopyrene)*
74. 3,4-benzofluoranthene*
75. benzo(k)fluoranthene (11,12-benzofluoranthene)*
76. chrysene*
77. acenaphthylene*
78. anthracene*
79. benzo(ghi)perylene (1,12-benzoperylene)*
80. fluorene*
81. phenanthrene*
82. dibenzo (a,h)anthracene (1,2,5,6-debenzanthracene)*
83. ideno (1,2,3-cd)pyrene (2,3,-o-phenylenepyrene)*
84. pyrene*
85. tetrachloroethylene*
86. toluene*
87. trichloroethylene*

88. vinyl chloride (chloroethylene)*
89. aldrin*
90. dieldrin*
91. chlordane (technical mixture and metabolites)*
92. 4,4'-DDT*
93. 4,4'-DDE (p,p'DDX)*
94. 4,4'-DDD (p,p'TDE)*
95. a-endosulfan-Alpha*
96. b-endosulfan-Beta*
97. endosulfan sulfate*
98. endrin*
99. endrin aldehyde*
100. heptachlor*
101. heptachlor epoxide*
102. a-BHC-Alpha*
103. b-BHC-Beta*
104. r-BHC (lindane)-Gamma*
105. g-BHC-Delta*
106. PCB–1242 (Arochlor 1242)*
107. PCB–1254 (Arochlor 1254)*
108. PCB–1221 (Arochlor 1221)*
109. PCB–1232 (Arochlor 1232)*
110. PCB–1248 (Arochlor 1248)*
111. PCB–1260 (Arochlor 1260)*
112. PCB–1016 (Arochlor 1016)*
113. toxaphene*
116. asbestos (fibrous)
121. cyanide (total)*
125. selenium*
126. silver*
127. thallium*
129. 2,3,7,8-tetra chlorodibenzo-p-dioxin (TCDD)

*We did not analyze for these pollutants in samples of raw wastewater from this subcategory. These pollutants are not believed to be present based on the Agency's best engineering judgement which includes consideration of raw materials and process operations.

(k) Subpart W—Primary Nickel and Cobalt Subcategory

1. acenaphthene
2. acrolein
3. acrylonitrile
5. benzidene
6. carbon tetrachloride (tetrachloromethane)
7. chlorobenzene
8. 1,2,4-trichlorobenzene
9. hexachlorobenzene
10. 1,2-dichloroethane
11. 1,1,1-trichloroethane
12. hexachloroethane
13. 1,1-dichloroethane
14. 1,1,2-trichloroethane
15. 1,1,2,2-tetrachloroethane
16. chloroethane
17. bis(2-chloromethyl)ether (Deleted)
18. bis(2-chloroethyl)ether
19. 2-chloroethyl vinyl ether (mixed)
20. 2-chloronaphthalene
21. 2,4,6-trichlorophenol
22. para-chloro meta-cresol
23. chloroform (trichloromethane)
24. 2-chlorophenol
25. 1,2-dichlorobenzene
26. 1,3-dichlorobenzene
27. 1,4-dichlorobenzene
28. 3,3'-dichlorobenzene
29. 1,1-dichloroethylene
30. 1,2-trans-dichloroethylene
31. 2,4-dichlorophenol
32. 1,2-dichloropropane
33. 1,3-dichloropropylene (1,3-dichloropropene)
34. 2,4-dimethylphenol
35. 2,4-dinitrotoluene
36. 2,6-dinitrotoluene
37. 1,2-diphenylhydrazine
38. ethylbenzene
39. fluoranthene
40. 4-chlorophenyl phenyl ether
41. 4-bromophenyl phenyl ether
42. bis(2-chloroisopropyl)ether
43. bis(2-chloroethoxy)methane
44. methylene chloride (dichloromethane)
45. methyl chloride (chloromethane)
46. methyl bromide (bromomethane)
47. bromoform (tribromomethane)
48. dichlorobromomethane
49. trichlorofluoromethane (Deleted)
50. dichlorodifluoromethane (Deleted)
51. chlorodibromomethane
52. hexachlorobutadiene
53. hexachlorocyclopentadiene
54. isophorone
55. naphthalene
56. nitrobenzene
57. 2-nitrophenol
58. 4-nitrophenol
59. 2,4-dinitrophenol
60. 4,6-dinitro-o-cresol
61. N-nitrosodimethylamine
62. N-nitrosodiphenylamine
63. N-nitrosodi-n-propylamine
64. pentachlorophenol
65. phenol
67. butyl benzyl phthalate
68. di-n-butyl phthalate
69. di-n-octyl phthalate
70. diethyl phthalate
71. dimethyl phthalate
72. benzo(a)anthracene (1,2-benzanthracene)
73. benzo(a)pyrene (3,4-benzopyrene)
74. 3,4-benzofluoranthene
75. benzo(k)fluoranthene (11,12-benzofluoranthene)
76. chrysene
77. acenaphthylene
78. anthracene
79. benzo(ghi)perylene (1,12-benzoperylene)
80. fluorene
81. phenanthrene
82. dibenzo (a,h)anthracene (1,2,5,6-dibenzanthracene)
83. ideno (1,2,3-cd)pyrene (2,3-o-phenylenepyrene)
84. pyrene
85. tetrachloroethylene
87. trichloroethylene
88. vinyl chloride (chloroethylene)
89. aldrin
90. dieldrin
91. chlordane (technical mixture and metabolites)
92. 4,4'-DDT
93. 4,4'-DDE (p,p'DDX)
94. 4,4'-DDD (p,p'TDE)
95. a-endosulfan-Alpha
96. b-endosulfan-Beta
97. endosulfan sulfate
98. endrin
99. endrin aldehyde
100. heptachlor
101. heptachlor epoxide
102. a-BHC-Alpha
103. b-BHC-Beta
104. r-BHC (lindane)-Gamma
105. g-BHC-Delta
106. PCB-1242 (Arochlor 1242)
107. PCB-1254 (Arochlor 1254)
108. PCB-1221 (Arochlor 1221)
109. PCB-1232 (Arochlor 1232)
110. PCB-1248 (Arochlor 1248)
111. PCB-1260 (Arochlor 1260)
112. PCB-1016 (Arochlor 1016)
113. toxaphene
116. asbestos (fibrous)
121. cyanide*
129. 2,3,7,8-tetra chlorodibenzo-p-dioxin (TCDD)

* We did not analyze for this pollutant in samples of raw wastewater from this subcategory. These pollutants are not believed to be present based on the Agency's best engineering judgment which includes consideration of raw materials and process operations.

(l) Subpart X—Secondary Nickel Subcategory

1. acenaphthene*
2. acrolein*
3. acrylonitrile*
4. benzene*
5. benzidene*
6. carbon tetrachloride (tetrachloromethane)*
7. chlorobenzene*
8. 1,2,4-trichlorobenzene*
9. hexachlorobenzene*
10. 1,2-dichloroethane*
11. 1,1,1-trichloroethane*
12. hexachloroethane*
13. 1,1-dichloroethane*
14. 1,1,2-trichloroethane*
15. 1,1,2,2-tetrachloroethane*
16. chloroethane*
17. bis(2-chloromethyl)ether (Deleted)*
18. bis(2-chloroethyl)ether*
19. 2-chloroethyl vinyl ether (mixed)*
20. 2-chloronaphthalene*
21. 2,4,6-trichlorophenol*
22. para-chloro meta-cresol*
23. chloroform (trichloromethane)*

24. 2-chlorophenol*
25. 1,2-dichlorobenzene*
26 1,3-dichlorobenzene*
27 1,4-dichlorobenzene*
28. 3,3'-dichlorobenzidene*
29. 1,1-dichloroethylene*
30. 1,2-trans-dichloroethylene*
31. 2,4-dichlorophenol*
32. 1,2-dichloropropane*
33. 1,3-dichloropropylene (1,3-dichloropropene)*
34. 2,4-dimethylphenol*
35. 2,4-dinitrotoluene*
36. 2,6-dinitrotoluene*
37. 1,2-diphenylhydrazine*
38. ethylbenzene*
39. fluoranthene*
40. 4-chlorophenyl phenyl ether*
41. 4-bromophenyl phenyl ether*
42. bis(2-chloroisopropyl)ether*
43. bis(2-chloroethoxy)methane*
44. methylene chloride (dichloromethane)*
45. methyl chloride (chloromethane)*
46. methyl bromide (bromomethane)*
47. bromoform (tribromomethane)*
48. dichlorobromomethane*
49. trichlorofluoromethane (Deleted)*
50. dichlorodifluoromethane (Deleted)*
51. chlorodibromomethane*
52. hexachlorobutadiene*
53. hexachlorocyclopentadiene*
54. isophorone*
55. naphthalene*
56. nitrobenzene*
57. 2-nitrophenol*
58. 4-nitrophenol*
59. 2,4-dinitrophenol*
60. 4,6-dinitro-o-cresol*
61. N-nitrosodimethylamine*
62. N-nitrosodiphenylamine*
63. N-nitrosodi-n-propylamine*
64. pentachlorophenol*
65. phenol*
66. bis(2-ethylhexyl) phthalate*
67. butyl benzyl phthalate*
68. di-n-butyl phthalate*
69. di-n-octyl phthalate*
70. diethylphthalate*
71. dimethyl phthalate*
72. benzo(a)anthracene (1,2-benzanthracene)*
73. benzo(a)pyrene (3,4-benzopyrene)*
74. 3,4-benzofluoranthene*
75. benzo(k)fluoranthene (11,12-benzofluoranthene)*
76. chrysene*
77. acenaphthylene*
78. anthracene*
79. benzo(ghi)perylene (1,12-benzoperylene)*
80. fluorene*
81. phenanthrene*
82. dibenzo (a,h)anthracene (1,2,5,6-dibenzanthracene)*
83. ideno (1,2,3-cd)pyrene (2,3-o-phenylenepyrene)*
84. pyrene*
85. tetrachloroethylene*
86. toluene*
87. trichloroethylene*
88. vinyl chloride (chloroethylene)*
89. aldrin*
90. dieldrin*
91. chlordane (technical mixture and metabolites)*
92. 4,4'-DDT*
93. 4,4'-DDE (p,p'DDX)*
94. 4,4'-DDD (p,p'TDE)*
95. a-endosulfan-Alpha*
96. b-endosulfan-Beta*
97. endosulfan sulfate*
98. endrin*
99. endrin aldehyde*
100. heptachlor*
101. heptachlor epoxide*
102. a-BHC-Alpha*
103. b-BHC-Beta*
104. r-BHC (lindane)-Gamma*
105. g-BHC-Delta*
106. PCB–1242 (Arochlor 1242)*
107. PCB–1254 (Arochlor 1254)*
108. PCB–1221 (Arochlor 1221)*
109. PCB–1232 (Arochlor 1232)*
110. PCB–1248 (Arochlor 1248)*
111. PCB–1260 (Arochlor 1260)*
112. PCB–1016 (Arochlor 1016)*
113. toxaphene*
116. asbestos (fibrous)
129. 2,3,7,8-tetra chlorodibenzo-p-dioxin (TCDD)

*We did not analyze for these pollutants in samples of raw wastewater from this subcategory. These pollutants are not believed to be present based on the Agency's best engineering judgement which includes consideration of raw materials and process operations.

(m) Subpart Y—Primary Precious Metals and Mercury Subcategory

1. acenaphthene
2. acrolein
3. acrylonitrile
5. benzidene
6. carbon tetrachloride (tetrachloromethane)
7. chlorobenzene
8. 1,2,4-trichlorobenzene
9. hexachlorobenzene
10. 1,2-dichloroethane
11. 1,1,1-trichloroethane
12. hexachloroethane
13. 1,1-dichloroethane
14. 1,1,2-trichloroethane
15. 1,1,2,2-tetrachloroethane
16. chloroethane
17. bis(2-chloromethyl)ether (Deleted)
18. bis(2-chloroethyl)ether
19. 2-chloroethyl vinyl ether (mixed)
20. 2-chloronaphthalene
21. 2,4,6-trichlorophenol
22. para-chloro meta-cresol
23. chloroform
24. 2-chlorophenol
25. 1,2-dichlorobenzene
26. 1,3-dichlorobenzene
27. 1,4-dichlorobenzene
28. 3,3'-dichlorobenzidene
29. 1,1-dichloroethylene
30. 1,2-trans-dichloroethylene
31. 2,4-dichlorophenol
32. 1,2-dichloropropane
33. 1,3-dichloropropylene (1,3-dichloropropene)
34. 2,4-dimethylphenol
35. 2,4-dinitrotoluene
36. 2,6-dinitrotoluene
37. 1,2-diphenylhydrazine
38. ethylbenzene
39. fluoranthene
40. 4-chlorophenyl phenyl ether
41. 4-bromophenyl phenyl ether
42. bis(2-chloroisopropyl)ether
43. bis(2-chloroethoxy)methane
45. methyl chloride (chloromethane)
46. methyl bromide (bromomethane)
47. bromoform (tribromomethane)
48. dichlorobromomethane
49. trichlorofluoromethane (Deleted)
50. dichlorodifluoromethane (Deleted)
51. chlorodibromomethane
52. hexachlorobutadiene
53. hexachlorocyclopentadiene
54. isophorone
55. naphthalene
56. nitrobenzene
57. 2-nitrophenol
58. 4-nitrophenol
59. 2,4-dinitrophenol
60. 4,6-dinitro-o-cresol
61. N-nitrosodimethylamine
62. N-nitrosodiphenylamine
63. N-nitrosodi-n-propylamine
64. pentachlorophenol
67. butyl benzyl phthalate
69. di-n-octyl phthalate
71. dimethyl phthalate
72. benzo(a)anthracene (1,2-benzanthracene)
73. benzo(a)pyrene (3,4-benzopyrene)
74. 3,4-benzofluoranthene
75. benzo(k)fluoranthene (11,12-benzofluoranthene)
76. chrysene
77. acenaphthylene
79. benzo(ghi)perylene (1,12-benzoperylene)
80. fluorene
81. phenanthrene
82. dibenzo (a,h)anthracene (1,2,5,6-dibenzanthracene)
83. ideno (1,2,3,-cd)pyrene (2,3,-o-phenylenepyrene)
84. pyrene
85. tetrachlorethylene
87. trichloroethylene
88. vinyl chloride (chlorethylene)
89. aldrin

90. dieldrin
91. chlordane (technical mixture and metabolites)
92. 4,4'-DDT
93. 4,4'-DDE (p,p'DDX)
94. 4,4'-DDD (p,p'TDE)
95. a-endosulfan-Alpha
96. b-endosulfan-Beta
97. endosulfan sulfate
98. endrin
99. endrin aldehyde
100. heptachlor
101. heptachlor epoxide
102. a-BHC-Alpha
103. b-BHC-Beta
104. r-BHC (lindane)-Gamma
105. g-BHC-Delta
106. PCB–1242 (Arochlor 1242)
107. PCB–1254 (Arochlor 1254)
108. PCB–1221 (Arochlor 1221)
109. PCB–1232 (Arochlor 1232)
110. PCB–1248 (Arochlor 1248)
111. PCB–1260 (Arochlor 1260)
112. PCB–1016 (Arochlor 1016)
113. toxaphene
116. asbestos (fibrous)
129. 2,3,7,8-tetra chlorodibenzo-p-dioxin (TCDD)

(n) Subpart Z—Secondary Precious Metals Subcategory
1. acenaphthene
2. acrolein
3. acrylonitrile
5. benzidene
8. 1,2,4,-trichlorobenzene
9. hexachlorobenzene
12. hexachloroethane
13. 1,1-dichloroethane
14. 1,1,2-trichloroethane
15. 1,1,2,2-tetrachloroethane
16. chloroethane
17. bis(2-chloromethyl)ether (Deleted)
18. bis(2-chloroethyl)ether
19. 2-chloroethyl vinyl ether (mixed)
20. 2-chloronaphthalene
22. para-chloro meta-cresol
25. 1,2-dichlorobenzene
26. 1,3-dichlorobenzene
27. 1,4-dichlorobenzene
28. 3,3'-dichlorobenzidene
29. 1,1-dichloroethylene
30. 1,2-trans-dichloroethylene
31. 2,4-dichlorophenol
32. 1,2-dichloropropane
33. 1,3-dichloropropylene (1,3-dichloropropene)
35. 2,4-dinitrotoluene
36. 2,6-dinitrotoluene
37. 1,2-diphenylhydrazine
38. ethylbenzene
39. fluoranthene
40. 4-chlorophenyl phenyl ether
41. 4-bromophenyl phenyl ether
42. bis(2-chloroisopropyl)ether
43. bis(2-chloroethoxy)methane
45. methyl chloride (chloromethane)
46. methyl bromide (bromomethane)
49. trichlorofluoromethane (Deleted)
50. dichlorodifluoromethane (Deleted)
52. hexachlorobutadiene
53. hexachlorocyclopentadiene
55. naphthalene
56. nitrobenzene
58. 4-nitrophenol
59. 2,4-dinitrophenol
60. 4,6-dinitro-o-cresol
61. N-nitrosodimethylamine
63. N-nitrosodi-n-propylamine
64. pentachorophenol
67. butyl benzyl phthalate
72. benzo(a)anthracene (1,2-benzanthracene)
73. benzo(a)pyrene (3,4-benzopyrene)
74. 3,4-benzofluoranthene
75. benzo(k)fluoranthene (11,12-benzofluoranthene)
76. chrysene
77. acenaphthylene
78. anthracene
79. benzo(ghi)perylene (1,12-benzoperylene)
80. fluorene
81. phenanthrene
82. dibenzo (a,h)anthracene (1,2,5,6-dibenzanthracene)
83. ideno (1,2,3,-cd)pyrene (2,3,-o-phenylenepyrene)
84. pyrene
85. tetrachloroethylene
87. trichloroethylene
88. vinyl chloride (chloroethylene)
89. aldrin*
90. dieldrin*
91. chlordane (technical mixture and metabolites)*
92. 4,4'-DDT*
93. 4,4'-DDE (p,p'DDX)*
94. 4,4'-DDD (p,p'TDE)*
95. a-endosulfan-Alpha*
96. b-endosulfan-Beta*
97. endosulfan sulfate*
98. endrin*
99. endrin aldehyde*
100. heptachlor*
101. heptachlor epoxide*
102. a-BHC-Alpha*
103. b-BHC-Beta*
104. r-BHC (lindane)-Gamma*
105. g-BHC-Delta*
106. PCB–1242 (Arochlor 1242)*
107. PCB–1254 (Arochlor 1254)*
108. PCB–1221 (Arochlor 1221)*
109. PCB–1232 (Arochlor 1232)*
110. PCB–1248 (Arochlor 1248)*
111. PCB–1260 (Arochlor 1260)*
112. PCB–1016 (Arochlor 1016)*
113. toxaphene*
116. asbestos (fibrous)
129. 2,3,7,8-tetra chlorodibenzo-p-dioxin (TCDD)

*We did not analyze for these pollutants in samples of raw wastewater from this subcategory. These pollutants are not believed to be present based on the Agency's best engineering judgement which includes consideration of raw materials and process operations.

(o) Subpart AA—Primary Rare Earth Metals Subcategory
1. acenaphthene
2. acrolein
3. acrylonitrile
5. benzidene
8. 1,2,4-trichlorobenzene
10. 1,2-dichloroethane
11. 1,1,1-trichloroethane
12. hexachloroethane
13. 1,1-dichloroethane
14. 1,1,2-trichloroethane
15. 1,1,2,2,-tetrachloroethane
16. chloroethane
17. bis(2-chloromethyl)ether (Deleted)
18. bis(2-chloroethyl)ether
19. 2-chloroethyl vinyl ether (mixed)
20. 2-chloronaphthalene
22. para-chloro meta-cresol
24. 2-chlorophenol
25. 1,2-dichlorobenzene
26. 1,3-dichlorobenzene
27. 1,4-dichlorobenzene
28. 3,3'-dichlorobenzidene
29. 1,1-dichloroethylene
30. 1,2-trans-dichloroethylene
31. 2,4-dichlorophenol
32. 1,2-dichloropropane
33. 1,3-dichloropropylene (1,3-dichloropropene)
34. 2,4-dimethylphenol
35. 2,4-dinitrotoluene
36. 2,6-dinitrotoluene
37. 1,2-diphenylhydrazine
38. ethylbenzene
39. fluoranthene
40. 4-chlorophenyl phenyl ether
41. 4-bromophenyl phenyl ether
42. bis(2-chloroisopropyl)ether
43. bis(2-chloroethoxy)methane
45. methyl chloride (chloromethane)
46. methyl bromide (bromomethane)
50. dichlorodifluorthane (Deleted)
52. hexachlorobutadiene
53. hexachlorocyclopentadiene
54. isophorone
55. naphthalene
56. nitrobenzene
57. 2-nitrophenol
58. 4-nitrophenol
59. 2,4-dinitrophenol
60. 4,6-dinitro-o-cresol
61. N-nitrosodimethylamine
62. N-nitrosodiphenylamine
63. N-nitrosodi-n-propylamine
64. pentachlorophenol
67. butyl benzyl phthalate
68. di-n-butyl phthalate
69. di-n-octyl phthalate
70. diethyl phthalate
71. dimethyl phthalate
72. benzo(a)anthracene (1,2-benzanthracene)
73. benzo(a)pyrene (3,4-

benzopyrene)
74. 3,4-benzofluoranthene
75. benzo(k)fluoranthene (11,12-benzofluoranthene)
76. chrysene
77. acenaphthylene
78. anthracene
79. benzo(ghi)perylene (1,12-benzoperylene)
80. fluorene
81. phenanthrene
82. dibenzo (a,h)anthracene (1,2,5,6-dibenzanthracene)
83. ideno (1,2,3,-cd)pyrene (2,3,-o-phenylenepyrene)
84. pyrene
85. tetrachloroethylene
87. trichloroethylene
88. vinyl chloride (chloroethylene)
89. aldrin
90. dieldrin
91. chlordane (technical mixture and metabolites)
92. 4,4'-DDT
93. 4,4'-DDE (p,p'DDX)
94. 4,4'-DDD (p,p'TDE)
95. a-endosulfan-alpha
96. b-endosulfan-Beta
97. endosulfan sulfate
98. endrin
99. endrin aldehyde
100. heptachlor
101. heptachlor epoxide
102. a-BHC-Alpha
103. b-BHC-Beta
104. r-BHC (lindane)-Gamma
105. g-BHC-Delta
106. PCB-1242 (Arochlor 1242)
107. PCB-1254 (Arochlor 1254)
108. PCB-1221 (Arochlor 1221)
109. PCB-1232 (Arochlor 1232)
110. PCB-1248 (Arochlor 1248)
111. PCB-1260 (Arochlor 1260)
112. PCB-1016 (Arochlor 1016)
113. toxaphene
116. asbestos (fibrous)
129. 2,3,7,8-tetra chlorodibenzo-p-dioxin (TCDD)

(p) Subpart AB—Secondary Tantalum Subcategory
1. acenaphthene*
2. acrolein*
3. acrylonitrile*
4. benzene*
5. benzidene*
6. carbon tetrachloride (tetrachloromethane)*
7. chlorobenzene*
8. 1,2,4-trichlorobenzene*
9. hexachlorobenzene*
10. 1,2-dichloroethane*
11. 1,1,1-trichloroethane*
12. hexachloroethane*
13. 1,1-dichloroethane*
14. 1,1,2-trichloroethane*
15. 1,1,2,2-tetrachloroethane*
16. chloroethane*
17. bis(2-chloromethyl)ether (Deleted)*
18. bis(2-chloroethyl)ether*
19. 2-chloroethyl vinyl ether (mixed)*
20. 2-chloronaphthalene*
21. 2,4,6-trichlorophenol*
22. para-chloro meta-cresol*
23. chloroform (trichloromethane)*
24. 2-chlorophenol*
25. 1,2-dichlorobenzene*
26. 1,3-dichlorobenzene*
27. 1,4-dichlorobenzene*
28. 3,3'-dichlorobenzidene*
29. 1,1-dichloroethylene*
30. 1,2-trans-dichloroethylene*
31. 2,4-dichlorophenol*
32. 1,2-dichloropropane*
33. 1,3-dichloropropylene (1,3-dichloropropene)*
34. 2,4-dimethylphenol*
35. 2,4-dinitrotoluene*
36. 2,6-dinitrotoluene*
37. 1,2-diphenylhydrazine*
38. ethylbenzene*
39. fluoranthene*
40. 4-chlorophenyl phenyl ether*
41. 4-bromophenyl phenyl ether*
42. bis(2-chloroisopropyl)ether*
43. bis(2-chloroethoxy)methane*
44. methylene chloride (dichloromethane)*
45. methyl chloride (chloromethane)*
46. methyl bromide (bromomethane)*
47. bromoform (tribromomethane)*
48. dichlorobromomethane*
49. trichlorofluoromethane (Deleted)*
50. dichlorodifluoromethane (Deleted)*
51. chlorodibromomethane*
52. hexachlorobutadiene.
53. hexachlorocyclopentadiene*
54. isophorone*
55. naphthalene*
56. nitrobenzene*
57. 2-nitrophenol*
58. 4-nitrophenol*
59. 2,4-dinitrophenol*
60. 4,6-dinitro-o-cresol*
61. N-nitrosodimethylamine*
62. N-nitrosodiphenylamine*
63. N-nitrosodi-n-propylamine*
64. pentachlorophenol*
65. phenol*
66. bis(2-ethylhexyl) phthalate*
67. butyl benyl phthalate*
68. di-n-butyl phthalate*
69. di-n-octyl phthalate*
70. diethyl phthalate*
71. dimethyl phthalate*
72. benzo(a)anthracene (1,2-benzanthracene)*
73. benzo(a)pyrene (3,4-benzopyrene)*
74. 3,4-benzofluoranthene*
75. benzo(k)fluoranthene (11,12-benzofluoranthene)*
76. chrysene*
77. acenaphthylene*
78. anthracene*
79. benzo(ghi)perylene (1,12-benzoperylene)*
80. fluorene*
81. phenanthrene*
82. dibenzo (a,h)anthracene (1,2,5,6-dibenzanthracene)*
83. ideno (1,2,3-cd)pyrene (2,3,-o-phenylenepyrene)*
84. pyrene*
85. tetrachloroethylene*
86. toluene*
87. trichloroethylene*
88. vinyl chloride (chloroethylene)*
89. aldrin*
90. dieldrin*
91. chlordane (technical mixture and metabolites)*
92. 4,4'-DDT*
93. 4,4'-DDE (p,p'DDX)*
94. 4,4'-DDD (p,p'TDE)*
95. a-endosulfan-Alpha*
96. b-endosulfan-Beta*
97. endosulfan sulfate*
98. endrin*
99. endrin aldehyde*
100. heptachlor*
101. heptachlor epoxide*
102. a-BHC-Alpha*
103. b-BHC-Beta*
104. r-BHC (lindane)-Gamma*
105. g-BHC-Delta*
106. PCB–1242 (Arochlor 1242)*
107. PCB–1254 (Arochlor 1254)*
108. PCB–1221 (Arochlor 1221)*
109. PCB–1232 (Arochlor 1232)*
110. PCB–1248 (Arochlor 1248)*
111. PCB–1260 (Arochlor 1260)*
112. PCB–1016 (Arochlor 1016)*
113. toxaphene*
116. asbestos (fibrous)
121. cyanide (total)*
129. 2,3,7,8-tetra chlorodibenzo-p-dioxin (TCDD)

* We did not analyze for these pollutants in samples of raw wastewater from this subcategory. These pollutants are not believed to be present based on the Agency's best engineering judgment which includes consideration of raw materials and process operations.

(q) Subpart AC—Primary and Secondary Tin Subcategory
1. acenaphthene
2. acrolein
3. acrylonitrile
5. benzidene
6. carbon tetrachloride (tetrachloromethane)
7. chlorobenzene
8. 1,2,4-trichlorobenzene
10. 1,2-dichloroethane
12. hexachloroethane
13. 1,1-dichloroethane
14. 1,1,2-trichloroethane
15. 1,1,2,2-tetrachloroethane
16. chloroethane

17. bis(2-chloromethyl)ether (Deleted)
18. bis(2-chloroethyl)ether
19. 2-chloroethyl vinyl ether (mixed)
20. 2-chloronaphthalene
21. 2,4,6-trichlorophenol
22. para-chloro meta-cresol
24. 2-chlorophenol
25. 1,2-dichlorobenzene
26. 1,3-dichlorobenzene
27. 1,4-dichlorobenzene
28. 3,3'-dichlorobenzidene
30. 1,2-trans-dichloroethylene
31. 2,4-dichlorophenol
32. 1,2-dichloropropane
33. 1,3-dichloropropylene (1,3-dichloropropene)
35. 2,4-dinitrotoluene
36. 2,6-dinitrotoluene
40. 4-chlorophenyl phenyl ether
41. 4-bromophenyl phenyl ether
42. bis(2-chloroisopropyl)ether
43. bis(2-chloroethoxy)methane
45. methyl chloride (chloromethane)
46. methyl bromide (bromomethane)
47. bromoform (tribromomethane)
48. dichlorobromomethane
49. trichlorofluoromethane (Deleted)
50. dichlorodifluoromethane (Deleted)
51. chlorodibromomethane
52. hexachlorobutadiene
53. hexachlorocyclopentadiene
54. isophorone
56. nitorbenzene
60. 4,6-dinitro-o-cresol
61. N-nitrosocimethylamine
63. N-nitrosodi-n-propylamine
64. pentachlorophenol
69. di-n-octyl phthalate
70. diethyl phthalate
71. dimethyl phthalate
72. benzo(a)anthracene (1,2-benzanthracene)
73. benzo(a)pyrene (3,4-benzopyrene)
74. 3,4-benzofluoranthene
75. benzo(k)fluoranthene (11,12-benzofluoranthene)
76. chrysene
77. acenaphthylene
79. benzo(ghi)perylene (1,12-benzoperylene)
82. dibenzo (a,h)anthracene (1,2,5,6-dibenzanthracene)
83. ideno (1,2,3-cd)pyrene (2,3,-o-phenylenepyrene)
85. tetrachloroethylene
89. aldrin
90. dieldrin
91. chlordane (technical mixture and metabolites)
92. 4,4'-DDT
93. 4,4'-DDE (p,p'DDX)
94. 4,4'-DDD (p,p'TDE)
95. a-endosulfan-Alpha
96. b-endosulfan-Beta
97. endosulfan sulfate
98. endrin
99. endrin aldehyde
100. heptachlor
101. heptachlor epoxide
102. a-BHC-Alpha
103. b-BHC-Beta
104. r-BHC (lindane)-Gamma
105. g-BHC-Delta
106. PCB–1242 (Arochlor 1242)
107. PCB–1254 (Arochlor 1254)
108. PCB–1221 (Arochlor 1221)
109. PCB–1232 (Arochlor 1232)
110. PCB–1248 (Arochlor 1248)
111. PCB–1260 (Arochlor 1260)
112. PCB–1016 (Arochlor 1016)
113. toxaphene
116. asbestos (fibrous)
129. 2,3,7,8-tetra chlorodibenzo-p-dioxin (TCDD)

(r) Subpart AD—Primary and Secondary Titanium Subcategory

1. acenaphthene
2. acrolein
3. acrylonitrile
5. benzidene
6. carbon tetrachloride (tetrachloromethane)
7. chlorobenzene
8. 1,2,4-trichlorobenzene
9. hexachlorobenzene
10. 1,2-dichloroethane
12. hexachloroethane
14. 1,1,2-trichloroethane
15. 1,1,2,2-tetrachloroethane
16. chloroethane
17. bis(2-chloromethyl)ether (Deleted)
18. bis(2-chloroethyl)ether
19. 2-chloroethyl vinyl ether (mixed)
20. 2-chloronaphthalene
22. para-chloro meta-cresol
24. 2-chlorophenol
25. 1,2-dichlorobenzene
26. 1,3-dichlorobenzene
27. 1,4-dichlorobenzene
28. 3,3'-dichlorobenzidene
29. 1,1-dichloroethylene
30. 1,2-trans-dichloroethylene
32. 1,2-dichloropropane
33. 1,3-dichloropropylene (1,3-dichloropropene)
34. 2,4-dimethylphenol
35. 2,4-dinitrotoluene
37. 1,2-diphenylhydrazine
38. ethylbenzene
39. fluoranthene
40. 4-chlorophenyl phenyl ether
41. 4-bromophenyl phenyl ether
42. bis(2-chloroisopropyl)ether
43. bis(2-chloroethoxy)methane
45. methyl chloride (chloromethane)
46. methyl bromide (bromomethane)
47. bromoform (tribromomethane)
49. trichlorofluoromethane (Deleted)
50. dichlorodifluoromethane (Deleted)
52. hexachlorobutadiene
53. hexachlorocyclopentadiene
54. isophorone
55. naphthalene
56. nitrobenzene
58. 4-nitrophenol
59. 2,4-dinitrophenol
60. 4,6-dinitro-o-cresol
61. N-nitrosodimethylamine
62. N-nitrosodiphenylamine
63. N-nitrosodi-n-propylamine
72. benzo(a)anthracene (1,2-benzanthracene)
73. benzo(a)pyrene (3,4-benzopyrene)
74. 3,4-benzofluoranthene
76. chrysene
77. acenaphthylene
78. anthracene
79. benzo(ghi)perylene (1,12-benzoperylene)
80. fluorene
81. phenanthrene
82. dibenzo (a,h)anthracene (1,2,5,6-dibenzanthracene)
83. ideno (1,2,3-cd)pyrene (2,3-o-phenylenepyrene)
84. pyrene
85. tetrachloroethylene
89. aldrin
90. dieldrin
91. chlordane (technical mixture and metabolites)
92. 4,4'DDT
93. 4,4'DDE (p,p'DDX)
96. b-endosulfan-Beta
97. endosulfan sulfate
98. endrin
99. endrin aldehyde
100. heptachlor
101. heptachlor epoxide
104. r-BHC (lindane)-Gamma
105. g-BHC-Delta
106. PCB-1242 (Arochlor 1242)
108. PCB-1221 (Arochlor 1221)
109. PCB-1232 (Arochlor 1232)
110. PCB-1248 (Arochlor 1248)
111. PCB-1260 (Arochlor 1260)
112. PCB-1016 (Arochlor 1016)
113. toxaphene
116. asbestos (fibrous)
129. 2,3,7,8-tetra chlorodibenzo-p-dioxin (TCDD)

(s) Subpart AE—Secondary Tungsten and Cobalt Subcategory

1. acenaphthene*
2. acrolein*
3. acrylonitrile*
4. benzene*
5. benzidene*
6. carbon tetrachloride (tetrachloromethane)*
7. chlorobenzene*
8. 1,2,4-trichlorobenzene*
9. hexaschlorobenzene*
10. 1,2-dichloroethane*
11. 1,1,1-trichloroethane*
12. hexachloroethane*
13. 1,1-dichloroethane*
14. 1,1,2-trichloroethane*
15. 1,1,2,2-tetrachloroethane*
16. chloroethane*

17. bis(2-chloromethyl)ether (Deleted)*
18. bis(2-chloroethyl)ether*
19. 2-chloroethyl vinyl ether (mixed)*
20. 2-chloronaphthalene*
21. 2,4,6-trichlorophenol*
22. para-chloro meta-cresol*
23. chloroform (trichloromethane)*
24. 2-chlorophenol*
25. 1,2-dichlorobenzene*
26. 1,3'-dichlorobenzene*
27. 1,4-dichlorobenzene*
28. 3,3'-dichlorobenzidene*
29. 1,1-dichloroethylene*
30. 1,2-trans-dichloroethylene*
31. 2,4-dichlorophenol*
32. 1,2-dichloropropane*
33. 1,3-dichloropropylene (1,3-dichloropropene)*
34. 2,4-dimethylphenol*
35. 2,4-dinitrotoluene*
36. 2,6-dinitrotoluene*
37. 1,2-diphenylhydrazine*
38. ethylbenzene*
39. fluoranthene*
40. 4-chlorophenyl phenyl ether*
41. 4-bromophenyl phenyl ether*
42. bis(2-chloroisopropyl)ether*
43. bis(2-chloroethoxy)methane*
44. methylene chloride (dichloromethane)*
45. methyl chloride (chloromethane)*
46. methyl bromide (bromomethane)*
47. bromoform (tribromomethane)*
48. dichlorobromomethane*
49. trichlorofluoromethane (Deleted)*
50. dichlorodifluoromethane (Deleted)*
51. chlorodibromomethane*
52. hexachlorobutadiene*
53. hexachlorocyclopentadiene*
54. isophorone*
55. naphthalene*
56. nitrobenzene*
57. 2-nitrophenol*
58. 4-nitrophenol*
59. 2,4-dinitrophenol*
60. 4,6-dinitro-o-cresol*
61. N-nitrosodimethylamine*
62. N-nitrosodimethylamine*
63. N-nitrosodi-n-propylamine*
64. pentachlorophenol*
65. phenol*
66. bis(2-ethylhexyl) phthalate*
67. butyl benzyl phthalate*
68. di-n-butyl phthalate*
69. di-n-octyl phthalate*
70. diethyl phthalate*
71. dimethyl phthalate*
72. benzo(a)anthracene (1,2-benzanthracene)*
73. benzo(a)pyrene (3,4-benzopyrene)*
74. 3,4-benzofluoranthene*
75. benzo(k)fluoranthene (11,12-benzofluoranthene)*
76. chrysene*
77. acenaphthylene*
78. anthracene*
79. benzo(ghi)perylene (1,12-benzoperylene)*
80. fluorene*
81. phenanthrene*
82. dibenzo (a,h)anthracene (1,2,5,6-dibenzanthracene)*
83. ideno (1,2,3-cd)pyrene (2,3,-o-phenylenepyrene)*
84. pyrene*
85. tetrachloroethylene*
86. toluene*
87. trichloroethylene*
88. vinyl chloride (chloroethylene)*
89. aldrin*
90. dieldrin*
91. chlordane (technical mixture and metabolites)*
92. 4,4'-DDT*
93. 4,4'-DDE (p,p'DDX)*
94. 4,4'-DDD (p,p'TDE)*
95. a-endosulfan-Alpha*
96. b-endosulfan-Beta*
97. endosulfan sulfate*
98. endrin*
99. endrin aldehyde*
100. heptachlor*
101. heptachlor epoxide*
102. a-BHC-Alpha*
103. b-BHC-Beta*
104. r-BHC (lindane)-Gamma*
105. g-BHC-Delta*
106. PCB–1242 (Arochlor 1242)*
107. PCB–1254 (Arochlor 1254)*
108. PCB–1221 (Arochlor 1221)*
109. PCB–1232 (Arochlor 1232)*
110. PCB–1248 (Arochlor 1248)*
111. PCB–1260 (Arochlor 1260)*
112. PCB–1016 (Arochlor 1016)*
113. toxaphene*
116. asbestos (fibrous)
129. 2,3,7,8-tetra chlorodibenzo-p-dixoxin (TCDD)

*We did not analyze for these pollutants in samples of raw wastewater from this subcategory. These pollutants are not believed to be present based on the Agency's best engineering judgement which includes consideration of raw materials and process operations.

(t) Subpart AF—Secondary Uranium Subcategory

1. acenaphthene*
2. acrolein*
3. acrylonitrile*
4. benzene*
5. benzidene*
6. carbon tetrachloride (tetrachloromethane)*
7. chlorobenzene*
8. 1,2,4-trichlorobenzene*
9. hexachlorobenzene*
10. 1,2-dichloroethane*
11. 1,1,1-trichloroethane*
12. hexachloroethane*
13. 1,1-dichloroethane*
14. 1,1,2-trichloroethane*
15. 1,1,2,2-tetrachloroethane*
16. chloroethane*
17. bis(2-chloromethyl)ether (Deleted)*
18. bis(2-chloroethyl)ether*
19. 2-chloroethyl vinyl ether (mixed)*
20. 2-chloronaphtalene*
21. 2,4,6-trichlorophenol*
22. para-chloro metha-cresol*
23. chloroform (trichloromethane)*
24. 2-chlorophenol*
25. 1,2-dichlorobenzene*
26. 1,3-dichlorobenzene*
27. 1,4-dichlorobenzene*
28. 3,3'-dichlorobenzidene*
29. 1,1-dichloroethylene*
30. 1,2-trans-dichloroethylene*
31. 2,4-dichlorophenol*
32. 1,2-dichloropropane*
33. 1,3-dichloropropylene (1,3-dichloropropene)*
34. 2,4-dimethylphenol*
35. 2,4-dinitrotoluene*
36. 2,6-dinitortoluene*
37. 1,2-diphenylhydrazine*
38. ethylebenzene*
39. fluoranthene*
40. 4-chlorophenyl phenyl ether*
41. 4-bromophenyl phenyl ether*
42. bis(2-chloroisopropyl)ether*
43. bis(2-chloroethoxy)methane*
44. methylene chloride (dichloromethane)*
45. methyl chloride (chloromethane)*
46. methyl bromide (bromomethane)*
47. bromoform (tribromomethane)*
48. dichlorobromomethane*
49. trichlorofluoromethane (Deleted)*
50. dichlorodifluoromethane (Deleted)*
51. chlorodibromomethane*
52. hexachlorobutadiene*
53. hexachlorocyclopentadiene*
54. isophorone*
55. naphthalene*
56. nitrobenzene*
57. 2-nitrophenol*
58. 4-nitrophenol*
59. 2,4-dinitrophenol*
60. 4,6-dinitro-o-cresol*
61. N-nitrosodimethylamine*
62. N-nitrosodiphenylamine*
63. N-nitrosodi-n-propylamine*
64. petachlorophenol*
65. phenol*
66. bis(2-ethylhexyl)phthalate*
67. butyl benzyl phthalate*
68. di-n-butyl phthalate*
69. di-n-octyl phthalate*
70. diethyl phthalate*
71. dimethyl phthalate*
72. benzo(a)anthracene (1,2-benzanthracene)*
73. benzo(a)pyrene (3,4-

benzopyrene)*
74. 3,4-benzofluoranthene*
75. benzo(k)fluoranthene (11,12-benzofluoranthene)*
76. chrysene*
77. acenaphthylene*
78. anthracene*
79. benzo(ghi)perylene (1,12-benzoperylene)*
80. fluorene*
81. phenanthrene*
82. dibenzo (a,h) anthracene (1,2,5,6-dibenzanthracene)*
83. ideno (1,2,3-cd)pyrene (2,3,-o-phenylenepyrene)*
84. pyrene*
85. tetrachloroethylene*
86. toluene*
87. trichloroethylene*
88. vinyl chloride (chloroethylene)*
89. aldrin*
90. dieldrin*
91. chlordane (technical mixture and metabolites)*
92. 4,4'-DDT*
93. 4,4'-DDE (p,p'DDX)*
94. 4,4'-DDD (p,p'TDE)*
95. a–endosulfan-Alpha*
96. b–endosulfan-Beta*
97. endosulfan sulfate*
98. endrin*
99. endrin aldehyde*
100. heptachlor*
101. heptachlor epoxide*
102. a–BHC–Alpha*
103. b–BHC–Beta*
104. r–BHC (lindane)–Gamma*
105. g–BHC–Delta*
106. PCB–1242 (Arochlor 1242)*
107. PCB–1254 (Arochlor 1254)*
108. PCB–1221 (Arochlor 1221)*
109. PCB–1232 (Arochlor 1232)*
110. PCB–1248 (Arochlor 1248)*
111. PCB–1260 (Arochlor 1260)*
112. PCB–1016 (Arochlor 1016)*
113. toxaphene*
116. asbestos (fibrous)
121. cyanide (total)*
129. 2,3,7,8-tetra chlorodibenzo-p-dioxin (TCDD)

*We did not analyze for these pollutants in samples of raw wastewater from this subcategory. These pollutants are not believed to be present based on the Agency's best engineering judgement which includes consideration of raw materials and process operations.

(u) Subpart AG—Primary Zirconium and Hafnium Subcategory
1. acenaphthene
2. acrolein
3. acrylonitrile
4. benzene
5. benzidene
6. carbon tetrachloride (tetrachloromethane)
7. chlorobenzene
8. 1,2,4-trichlorobenzene
9. hexachlorobenzene
10. 1,2-dichloroethane
11. 1,1,1-trichloroethane
12. hexachloroethane
13. 1,1-dichloroethane
14. 1,1,2-trichloroethane
15. 1,1,2,2-tetrachloroethane
16. chloroethane
17. bis(2-chloromethyl)ether (Deleted)
18. bis(2-chloroethyl)ether
19. 2-chloroethyl vinyl ether (mixed)
20. 2-chloronaphthalene
21. 2,4,6-trichlorophenol
22. para-chloro meta-cresol
24. 2–chlorophenol
25. 1,2-dichlorobenzene
26. 1,3-dichlorobenzene
27. 1,4-dichlorobenzene
28. 3,3'-dichlorobenzidene
29. 1,1-dichloroethylene
30. 1,2-trans-dichloroethylene
31. 2,4-dichlorophenol
32. 1,2-dichloropropane
33. 1,3-dichloropropylene (1,3-dichloropropene)
34. 2,4-dimethylphenol
35. 2,4-dinitrotoluene
36. 2,6-dinitrotoluene
37. 1,2-diphenylhydrazine
38. ethylbenzene
39. fluoranthene
40. 4-chlorophenyl phenyl ether
41. 4-bromophenyl phenyl ether
42. bis(2-chloroisopropyl)ether
43. bis(2-chloroethoxy)methane
45. methyl chloride (chloromethane)
46. methyl bromide (bromomethane)
47. bromoform (tribromomethane)
49. trichlorofluoromethane (Deleted)
50. dichlorodifluoromethane (Deleted)
52. hexachlorobutadiene
53. hexachlorocyclopentadiene
54. isophorone
56. nitrobenzene
57. 2-nitrophenol
58. 4-nitrophenol
59. 2,4-dinitrophenol
60. 4,6-dinitro-o-cresol
61. N-nitrosodimethylamine
62. N-nitrosodiphenylamine
63. N-nitrosodi-n-propylamine
64. pentachlorophenol
65. phenol
71. dimethyl phthalate
72. benzo(a)anthracene(1,2-benzanthracene)
73. benzo(a)pyrene (3,4-benzopyrene)
74. 3,4-benzofluoranthene
75. benzo(k)fluoranthene (11,12-benzofluoranthene)
76. chrysene
77. acenaphthylene
78. anthracene
79. benzo(ghi)perylene (1,12-benzoperylene)
80. fluorene
81. phenanthrene
82. dibenzo (a,h)anthracene (1,2,5,6-dibenzanthracene)
83. ideno (1,2,3-cd)pyrene (2,3,-o-phenylenepyrene)
84. pyrene
85. tetrachloroethylene.
86. toluene.
87. trichloroethylene
88. vinyl chloride (chloroethylene)
89. aldrin
90. diedrin
91. chlordane technical mixture and metabolites)
92. 4,4'-DDT
93. 4,4'-DDE (p,p'DDX)
94. 4,4'-DDD (p,p'TDE)
95. a-endosulfan-Alpha
96. b-endosulfan-Beta
97. endosulfan sulfate
98. endrin
99. endrin aldehyde
100. heptachlor
101. heptachlor epoxide
102. a-BHC–Alpha
103. b-BHC–Beta
104. r-BHC (lindane)-Gamma
105. g-BHC–Delta
106. PCB–1242 (Arochlor 1242)
107. PCB–1254 (Arochlor 1254)
108. PCB–1221 (Arochlor 1221)
109. PCB–1232 (Arochlor 1232)
110. PCB–1248 (Arochlor 1248)
111. PCB–1260 (Arochlor 1260)
112. PCB–1016 (Arochlor 1016)
113. toxaphene
116. asbestos (fibrous)
129. 2,3,7,8-tetra chlorodibenzo-p-dioxin (TCDD)

Appendix D—Toxic Pollutants Detected Below the Analytical Quantification Limit

(a) Subpart A—Bauxite Refining Subcategory
1. acenaphthene
6. carbon tetrachloride (tetrachloromethane)
34. 2,4-dimethylphenol
39. fluoranthene
48. dichlorobromomethane
64. pentachlorophenol
67. butly benzyl phthalate
80. fluorene
84. Pyrene
86. toluene
91. chlordane (technical mixture and metabolites)
92. 4,4'-DDT
93. 4,4'-DDE (p,p'DDX)
95. a-endosulfan-Alpha
96. b-endosulfan-Beta
97. endosulfan sulfate
98. endrin
99. endrin aldehyde
100. heptachlor
101. heptachlor epoxide
102. a-BHC-Alpha
103. b-BHC-Beta

104. r-BHC (lindane)-Gamma
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
121. cyanide (total)
125. selenium
126. silver

(b) Subpart O—Primary Beryllium Subcategory
114. antimony
121. cyanide
125. selenium
127. thallium

(c) Subpart P—Primary Boron Subcategory
51. dichlorodibromomethane
55. naphthalene
66. bis(2-ethylhexyl)phthalate
68. di-n-butyl phthalate
69. di-n-octyl phthalate
70. diethyl phthalate
114. antimony
117. beryllium
123. mercury
126. silver

(d) Subpart Q—Primary Cesium and Rubidium Subcategory
121. cyanide (total)

(e) Subpart R—Primary and Secondary Germanium and Gallium Subcategory
21. 2,4,6-trichlorophenol
23. chloroform
64. pentachlorophenol
66. bis(2-ethylhexyl)phthalate
68. di-n-butyl phthalate
87. trichloroethylene
123. mercury

(f) Subpart S—Secondary Indium Subcategory
68. di-n-butyl phthalate
70. diethyl phthalate
71. dimethyl phthalate
103. beta-BHC
114. antimony
115. arsenic
123. mercury

(g) Subpart T—Secondary Mercury Subcategory
114. antimony
117. beryllium
119. chromium (total)
120. copper
124. nickel
125. selenium
126. silver

(h) Subpart U—Primary Molybdenum and Rhenium Subcategory
44. methylene chloride
104. gamma-BHC
114. antimony
127. thallium

(i) Subpart V—Secondary Molybdenum and Vanadium Subcategory
123. mercury

(j) Subpart W—Primary Nickel and Cobalt Subcategory
4. benzene
86. toluene
114. antimony
115. arsenic
117. beryllium
119. chromium
122. lead
126. silver
127. thallium

(k) Subpart X—Secondary Nickel Subcategory
114. antimony
117. beryllium
118. cadmium
121. cyanide
122. lead
123. mercury
125. selenium
126. silver
127. thallium

(l) Subpart Y—Primary Precious Metals and Mercury Subcategory
65. phenol
66. bis(2-ethylhexyl)phthalate
68. di-n-butyl phthalate
78. anthracene
81. phenanthrene
114. antimony

(m) Subpart Z—Secondary Precious Metals Subcategory
4. benzene
7. chlorobenzene
10. 1,2-dichloroethane
21. 2,4,6-trichlorophenol
24. 2-chlorophenyl
34. 2,4-dimethylphenol
44. methylene chloride (dichloromethane)
47. bromoform (tribromomethane)
48. dichlorobromomethane
51. chlorodibromomethane
54. isophorone
62. N-nitrosodiphenylamine
68. di-n-butyl phthalate
69. di-n-octyl phthalate
70. diethyl phthalate
71. dimethyl phthalate
86. toluene

(n) Subpart AA—Primary Rare Earth Metals Subcategory
7. chlorobenzene
21. 2,4,6-trichlorophenol
47. bromoform (tribromomethane)
65. phenol
86. toluene
114. antimony
117. beryllium

(o) Subpart AB—Secondary Tantalum Subcategory
117. beryllium
118. cadmium
119. chromium
125. selenium
127. thallium

(p) Subpart AC—Primary and Secondary Tin Subcategory
9. hexachlorobenzene
11. 1,1,1-trichloroethane
23. chloroform
29. 1,1-dichloroethylene
34. 2,4-dimethylphenol
37. 1,2-diphenylhydrazine
39. fluoranthene
55. naphthalene
62. n-nitrosodimethylamine
68. di-n-butyl phthalate
78. Anthracene
80. fluorene
81. phenanthrene
87. trichloroethylene

(q) Subpart AD—Primary and Secondary Titanium Subcategory
13. 1,1-dichloroethane
21. 2,4,6-trichlorophenol
23. chloroform (trichloromethane)
31. 2,4-dichlorophenol
36. 2,6-dinitrotoluene
48. dichlorobromomethane
51. chlorodibromomethane
57. 2-nitrophenol
70. diethyl phthalate
71. dimethyl phthalate
75. benzo(k)fluoranthene (11,12-benzofluoranthene)
88. vinyl chloride (chloroethylene)
107. PCB–1254 (Arochlor 1254)
117. beryllium

(r) Subpart AF—Secondary Uranium Subcategory
114. antimony
123. mercury
126. silver
127. thallium

(s) Subpart AG—Primary Zirconium and Hafnium Subcategory
55. naphthalene
66. bis)2-ethylhexyl)phthalate
68. di-n-butyl phthalate
69. di-n-octyl phthalate
70. diethyl phthalate
114. antimony
126. silver

Apendix E—Toxic Pollutants Detected in Amounts too Small To Be Effectively Reduced by Technologies Considered in Preparing This Guideline

(a) Subpart A—Bauxite Refining Subcategory
115. arsenic
127. thallium

(b) Subpart O—Primary Beryllium Subcategory
115. arsenic
123. mercury

(c) Subpart P—Primary Boron Subcategory
115. arsenic
120. copper
125. selenium

(d) Subpart Q—Primary Cesium and Rudibium Subcategory
123. mercury

125. selenium
(e) Subpart R—Primary and Secondary Germanium and Gallium Subcategory
117. beryllium
(f) Subpart S—Secondary Indium Subcategory
117. beryllium
120. copper
(g) Subpart T—Secondary Mercury Subcategory
115. arsenic
118. cadmium
(h) Subpart U—Primary Molybdenum and Rhenium Subcategory
117. beryllium
118. cadmium
121. cyanide
123. mercury
(i) Subpart V—Secondary Molybdenum and Vanadium Subcategory
120. copper
(j) Subpart W—Primary Nickel and Cobalt Subcategory
66. bis(2-ethylhexyl)phthalate
118. cadmium
123. mercury
125. selenium
(k) Subpart Y—Primary Precious Metals and Mercury Subcategory
117. beryllium
125. selenium
(l) Subpart Z—Secondary Precious Metals Subcategory
57. 2-nitrophenol
123. mercury
(m) Subpart AA—Primary Rare Earth Metals Subcategory
121. cyanide (total)
123. mercury
(n) Subpart AB—Secondary Tantalum Subcategory
115. arsenic
123. mercury
(o) Subpart AC—Primary and Secondary Tin Subcategory
117. beryllium
123. mercury
(p) Subpart AD—Primary and Secondary Titanium Subcategory
123. mercury
(q) Subpart AE—Secondary Tungsten and Cobalt Subcategory
117. beryllium
125. selenium
(r) Subpart AF—Secondary Uranium Subcategory
117. beryllium
(s) Subpart AG—Primary Zirconium and Hafnium Subcategory
115. arsenic
117. beryllium
120. copper
123. mercury
125. selenium

Appendix F—Toxic Pollutants Detected in the Effluent From Only a Small Number of Sources

(a) Subpart A—Bauxite Refining Subcategory
23. chloroform (trichloromethane)
44. methylene chloride
55. naphthalene
60. 2,4-dinitro-o-cresol
66. bis(2-ethylhexyl) phthalate
68. di-n-butyl phthalate
70. diethyl phthatate
71. dimethyl phthalate
77. acenaphthylene
85. tetrachloroethylene
(b) Subpart O—Primary Beryllium Subcategory
118. cadmium
122. lead
124. nickel
126. silver
128. zinc
(c) Subpart P—Primary Boron Subcategory
23. chloroform
44. methylene chloride
48. dichlorobromomethane
67. butyl benzyl phthalate
121. cyanide
(d) Subpart R—Primary and Secondary Germanium and Gallium Subcategory
4. benzene
9. hexachlorobenzene
44. methylene chloride
121. cyanide
(e) Subpart S—Secondary Indium Subcategory
44. methylene chloride
64. pentachlorophenol
65. phenol
121. cyanide
(f) Subpart U—Primary Molybdenum and Rhenium Subcategory
126. silver
(g) Subpart Y—Primary Precious Metals and Mercury Subcategory
4. benzene
44. methylene chloride
70. diethyl phthalate
86. toluene
121. cyanide
(h) Subpart Z—Secondary Precious Metals Subcategory
6. carbon tetrachloride
11. 1,1,1-trichloroethane
23. chloroform
65. phenol
66. bis (2-ethylhexyl) phthalate
117. beryllium
(i) Subpart AA—Primary Rare Earth Metals Subcategory
6. carbon tetrachloride (tetrachloromethane)
23. chloroform (trichloromethane)
44. methylene chloride (dichloromethane)
48. dichlorobromomethane
49. trichlorofluoromethane (Deleted)
51. chlorodibromomethane
66. bis (2-ethylhexyl) phthalate
(j) Subpart AC—Primary and Secondary Tin Subcategory
4. benzene
38. ethylbenzene
44. methylene chloride
57. 2-nitorophenol
58. 4-nitrophenol
59. 2,4-dinitrophenol
65. phenol
66. bis (2-ethylhexyl) phthalate
67. butyl benzyl phthalate
84. pyrene
86. toluene
88. vinyl chloride
(k) Subpart AD—Primary and Secondary Titanium Subcategory
4. benzene
11. 1,1,1-trichloroethane
44. methylene chloride
64. pentachlorophenol
65. phenol
66. bis (2-ethylhexyl) phthalate
67. butyl benzyl phthalate
68. di-n-butyl phthalate
69. di-n-octyl phthalate
86. totuene
87. trichoroethylene
94. 4,4'-DDD(p,p' TDE)
95. a-endosulfan-alpha
102. a-BHC-alpha
103. b-BHC-beta
115. arsenic
121. cyanide
125. selenium
126. silver
(l) Subpart AE—Secondary Tungsten and Cobalt Subcategory
114. antimony
121. cyanide
123. mercury
127. thallium
(m) Subpart AG—Primary Zirconium and Hafnium Subcategory
23. chloroform (trichloroethane)
44. methylene choloride (dichloromethane)
48. dichlorobromomethane
51. chlorodibromomethane
67. butyl benzyl phthalate

Appendix G—Toxic Pollutants Effectively Controlled by Technologies Which Other Effluent Limitations and Guidelines Are Based Upon

(a) Subpart N—Primary Antimony Subcategory
118. cadmium
120. copper
128. zinc
(b) Subpart P—Primary Boron Subcategory
118. cadmium
119. chromium (total)
127. thallium
128. zinc

(c) Subpart Q—Primary Cesium and Rubidium Subcategory
114. antimony
115. arsenic
117. beryllium
118. cadmium
119. chromium (total)
120. copper
124. nickel
126. silver
(d) Subpart R—Primary and Secondary Germanium and Gallium
114. antimony
118. cadmium
119. chromium
120. copper
124. nickel
125. selenium
126. silver
127. thallium
(e) Subpart S—Secondary Indium Subcategory
119. chromium
124. nickel
125. selenium
126. silver
127. thallium
(f) Subpart T—Secondary Mercury Subcategory
127. thallium
128. zinc
(g) Subpart U—Primary Molybdenum and Rhenium Subcategory
119. chromium (total)
120. copper
128. zinc
(h) Subpart V—Secondary Molybdenum and Vanadium Subcategory
115. arsenic
117. beryllium
118. cadmium
119. chromium
128. zinc
(i) Subpart W—Primary Nickel and Cobalt Subcategory
128. zinc
(j) Subpart X—Secondary Nickel Subcategory
115. arsenic
128. zinc
(k) Subpart Y—Primary Precious Metals and Mercury Subcategory
118. cadmium
119. chromium
120. copper
124. nickel
125. selenium
127. thallium
(l) Subpart Z—Secondary Precious Metals Subcategory
114. antimony
115. arsenic
118. cadmium
119. chromium
122. lead
124. nickel
125. selenium
126. silver
127. thallium
(m) Subpart AA—Primary Rare Earth Metals Subcategory
4. benzene
115. arsenic
118. cadmium
120. copper
125. selenium
126. silver
127. thallium
128. zinc
(n) Subpart AB—Secondary Tantalum Subcategory
114. antimony
126. silver
(o) Subpart AC—Primary and Secondary Tin Subcategory
115. arsenic
118. cadmium
119. chromium
120. copper
125. selenium
126. silver
127. thallium
128. zinc
(p) Subpart AD—Primary and Secondary Titanium Subcategory
114. antimony
118. cadmium
120. copper
128. zinc
(q) Subpart AG—Secondary Tungsten and Cobalt Subcategory
115. arsenic
118. cadmium
119. chromium
122. lead
126. silver
128. zinc
(r) Subpart AF—Secondary Uranium Subcategory
115. arsenic
118. cadmium
122. lead
125. selenium
128. zinc
(s) Subpart AG—Primary Zirconium and Hafnium Subcategory
118. cadmium
127. thallium
128. zinc.

For the reasons discussed above, EPA proposes to amend 40 CFR Part 421 as follows:

PART 421—NONFERROUS METALS MANUFACTURING POINT SOURCE CATEGORY

1. The authority citation for Part 421 is revised to read as follows:

Authority: Secs. 301, 304, (b), (c), (e), and (g), 306 (b) and (c), 307 (b) and (c), 308, and 501, Federal Water Pollution Control Act as amended (the Act); 33 U.S.C. 1251, 1311, 1314 (b), (c), (e), and (g), 1316 (b) and (c), 1317 (b) and (c), and 1361; 86 Stat. 816, Pub. L. 92-500; 91 Stat. 1567, Pub. L. 95-217.

§ 421.1-421.5 [Redesignated]

2. Sections 421.1 through 421.5 are redesignated as §§ 421.01 through 421.05 respectively.

3. Newly redesignated § 421.04 is revised to read as follows:

§ 421.04 Compliance date for PSES.

The PSES compliance date in subparts A through H is March 8, 1987. The PSES compliance date for plants regulated under subpart I promulgated March 8, 1984 is also March 8, 1987. The PSES compliance date for plants proposed for inclusion under subpart I by this rulemaking is posed to be three years after the date of promulgation. The PSES compliance date for plants in subpart J through subpart AG is proposed to be three years after the date of promulgation.

4. The undesignated paragraph of § 421.12 is revised to read as follows:

§ 421.12 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 through 125.32, any existing point source subject to this subpart shall achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available:

5. Section 421.13 is amended by adding an undesignated paragraph preceding paragraph (a) to read as follows:

§ 421.13 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 through 125.32, any existing point source subject to this subpart shall achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable:

Note.—The Agency is considering establishing a concentration limitation for 2-chlorophenol, phenol, and phenols (4-AAP) at a level of 0.010 mg/1. See full discussion in section XI of the preamble to this regulation.

6. Section 421.16 is revised to read as follows:

§ 421.16 Pretreatment standards for new sources.

Any new sources subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403.

Subpart I—Metallurgical Acid Plants Subcategory

§ 421.90 [Amended]

7. Section 421.90 is amended by removing the word "and" following "primary zinc facilities" and by inserting the phrase ", and primary molybdenum facilities," before the word "including."

8. Section 421.92 is revised to make technical changes required in converting kg/kkg units to mg/kg units. Also, the text of § 421.91 and §§ 421.93–421.96, which are not proposed to be amended, is set out for the convenience of the commentor. Comments are requested on how these sections apply to primary molybdenum and rhenium facilities.

§ 421.91 Specialized definitions.

(a) Except as provided below, the general definitions, abbreviations, and methods of analysis set forth in 40 CFR Part 401 apply to this subpart.

(b) The term "product" means 100 percent equivalent sulfuric acid, H_2SO_4 capacity.

§ 421.92 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 (BPT):

BPT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of 100 percent sulfuric acid capacity	
Cadmium	0.180	0.090
Copper	5.000	2.000
Lead	1.800	0.790
Zinc	3.600	0.900
Total suspended solids	305.000	152.000
pH	(1)	(1)

[1] Within the range of 6.0 to 9.0 at all times.

§ 421.93 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 shall achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable:

Subpart I—Metallurgical Acid Plant

BAT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of 100 percent sulfuric acid capacity	
Arsenic	3.550	1.456
Cadmium	.511	.204
Copper	3.269	1.558
Lead	.715	.332
Zinc	2.605	1.073

§ 421.94 Standards of performance for new sources.

Any new source subject to this subpart shall achieve the following new source performance standards:

Subpart I—Metallurgical Acid Plant

NSPS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of 100 percent sulfuric acid capacity	
Arsenic	3.550	1.456
Cadmium	.511	.204
Copper	3.269	1.558
Lead	.715	.332
Zinc	2.605	1.073
Total suspended solids	38.310	30.650
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

§ 421.95 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. The mass of wastewater pollutants in metallurgical acid plant blowdown introduced into a POTW shall not exceed the following values:

Subpart I—Metallurgical Acid Plant

PSES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of 100 percent sulfuric acid capacity	
Cadmium	.511	.204
Zinc	2.605	1.073

§ 421.96 Pretreatment standards for new sources.

Except as provided in 40 CFR 403.7, any new 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 new sources. The mass of wastewater pollutants in metallurgical acid plant blowdown introduced into a POTW shall not exceed the following values:

Subpart I—Metallurgical Acid Plant

PSNS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of 100 percent sulfuric acid capacity	
Arsenic	3.550	1.456
Cadmium	.511	.204
Copper	3.269	1.558
Lead	.715	.332
Zinc	2.605	1.073

9. Subparts N through AG are added to read as follows:

Subpart N—Primary Antimony Subcategory

Sec.

421.140 Applicability: Description of the primary antimony subcategory.
421.141 Specialized definitions.
421.142 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
421.143 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
421.144 Standards of performance for new sources.
421.145 [Reserved]
421.146 Pretreatment standards for new sources.
421.147 [Reserved]

Subpart O—Primary Beryllium Subcategory

421.150 Applicability: Description of the primary beryllium subcategory.
421.151 Specialized definitions.
421.152 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
421.153 Effluent limitations guidelines repesenting the degree of effluent reduction attainable by the application of the best available technology economically achievable.
421.154 Standards of performance for new sources.
421.155 [Reserved]
421.156 Pretreatment standards for new sources.
421.157 [Reserved]

Subpart P—Primary Boron Subcategory

421.160 Applicability: Description of the primary boron subcategory.
421.161 Specialized definitions.

Sec.
421.162–421.163 [Reserved]
421.164 Standards of performance for new sources.
421.165 [Reserved]
421.166 Pretreatment standards for new sources.
421.167 [Reserved]

Subpart Q—Primary Cesium and Rubidium Subcategory

421.170 Applicability: Description of the primary cesium and rubidium subcategory.
421.171 Specialized definitions.
421.172–421.173 [Reserved]
421.174 Standards of performance for new sources.
421.175 [Reserved]
421.176 Pretreatment standards for new sources.
421.177 [Reserved]

Subpart R—Primary and Secondary Germanium and Gallium Subcategory

421.180 Applicability: Description of the primary and secondary germanium and gallium subcategory.
421.181 Specialized definitions.
421.182 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
421.183 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
421.184 Standards of performance for new sources.
421.185 Pretreatment standards for existing sources.
421.186 Pretreatment standards for new sources.
421.187 [Reserved]

Subpart S—Secondary Indium Subcategory

421.190 Applicability: Description of the secondary indium subcategory.
421.191 Specialized definitions.
421.192–421.193 [Reserved]
421.194 Standards of performance for new sources.
421.195 Pretreatment standards for existing sources.
421.196 Pretreatment standards for new sources.
421.197 [Reserved]

Subpart T—Secondary Mercury Subcategory

421.200 Applicability: Description of the secondary mercury subcategory.
421.201 Specialized definitions.
421.202–421.203 [Reserved]
421.204 Standards of performance for new sources.
421.205 [Reserved]
421.206 Pretreatment standards for new sources.
421.207 [Reserved]

Subpart U—Primary Molybdenum and Rhenium Subcategory

421.210 Applicability: Description of the primary molybdenum and rhenium subcategory.
Sec.
421.211 Specialized definitions.
421.212 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
421.213 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
421.214 Standards of performance for new sources.
421.215 [Reserved]
421.216 Pretreatment standards for new sources.
421.217 [Reserved]

Subpart V—Secondary Molybdenum and Vanadium Subcategory

421.220 Applicability: Description of the secondary molybdenum and vanadium subcategory.
421.221 Specialized definitions.
421.222 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
421.223 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
421.224 Standard of performance for new sources.
421.225 [Reserved]
421.226 Pretreatment standards for new sources.
421.227 [Reserved]

Subpart W—Primary Nickel and Cobalt Subcategory

421.230 Applicability: Description of the primary nickel and cobalt subcategory.
421.231 Specialized definitions.
421.232 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
421.233 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
421.234 Standards of performance for new sources.
421.235 [Reserved]
421.236 Pretreatment standards for new sources.
421.237 [Reserved]

Subpart X—Secondary Nickel Subcategory

421.240 Applicability: Description of the secondary nickel subcategory.
421.241 Specilized definitions.
421.242–421.243 [Reserved]
421.244 Standards of performance for new sources.
421.245 Pretreatment standards for existing sources.
421.246 Pretreatment standards for new sources.
421.247 [Reserved]

Subpart Y—Primary Precious Metals and Mercury Subcategory

Sec.
421.250 Applicability: Description of the primary precious metals and mercury subcategory.
421.251 Specialized definitions.
421.252 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
421.253 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
421.254 Standards of performance for new sources.
421.255 [Reserved]
421.256 Pretreatment standards for new sources.
421.257 [Reserved]

Subpart Z—Secondary Precious Metals Subcategory

421.260 Applicability: Description of the secondary precious metals subcategory.
421.261 Specialized definitions.
421.262 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
421.263 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
421.264 Standards of performance for new sources.
421.265 Pretreatment standards for existing sources.
421.266 Pretreatment standards for new sources.
421.267 [Reserved]

Subpart AA—Primary Rare Earth Metals Subcategory

421.270 Applicability: Description of the primary rare earth metals subcategory.
421.271 Specialized definitions.
421.272 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
421.273 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
421.274 Standards of performance for new sources.
421.275 Pretreatment standards for existing sources
421.276 Pretreatment standards for new sources
421.277 [Reserved]

Subpart AB—Secondary Tantalum Subcategory

421.280 Applicability: Description of the secondary tentalum subcategory.
421.281 Specialized definitions.

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421.282 Effluent limitations guidelines, representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
421.283 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable
421.284 Standards of performance for new sources.
421.285 [Reserved]
421.286 Pretreatment standards for new sources.
421.287 [Reserved]

Subpart AC—Primary and Secondary Tin Subcategory

421.290 Applicability: Description of the primary and secondary tin subcategory.
421.291 Specialized definitions.
421.292 Effluent limitations guidelines, representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
421.293 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable
421.294 Standards of performance for new sources.
421.295 Pretreatment standards for existing sources.
421.296 Pretreatment standards for new sources.
421.297 [Reserved]

Subpart AD—Primary and Secondary Titanium Subcategory

421.300 Applicability: Description of the primary and secondary titanium subcategory.
421.301 Specialized definitions.
421.302 Effluent limitations guidelines, representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
421.303 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable
421.304 Standards of performance for new sources.
421.305 Pretreatment standards for existing sources.
421.306 Pretreatment standards for new sources.
421.307 [Reserved]

Subpart AE—Secondary Tungsten and Cobalt Subcategory

421.310 Applicability: Description of the secondary tungsten and cobalt subcategory.
421.311 Specialized definitions.
421.312 Effluent limitations guidelines, representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
421.313 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable
421.314 Standards of performance for new sources.
421.315 [Reserved]
421.316 Pretreatment standards for new sources.
421.317 [Reserved]

Subpart AF—Secondary Uranium Subcategory

421.320 Applicability: Description of the secondary uranium subcategory.
421.321 Specialized definitions.
421.322 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
421.323 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
421.324 Standards of performance for new sources.
421.325 [Reserved]
421.326 Pretreatment standards for new sources.
421.327 [Reserved]

Subpart AG—Primary Zirconium and Hafnium Subcategory

421.330 Applicability: Description of the primary zirconium and hafnium subcategory.
421.331 Specialized definitons.
421.332 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
421.333 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
421.334 Standards of performance for new sources.
421.335 Pretreatment standards for existing sources.
421.336 Pretreatment standards for new sources.
421.337 [Reserved]

Subpart N—Primary Antimony Subcategory

§ 421.140 Applicability: Description of the primary antimony subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of antimony at primary antimony facilities.

§ 421.141 Specialized definitions.

For the purposes of this subpart the general definitions, abbreviations, and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

§ 421.142 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 through 125.32, any existing point source subject to this subpart shall achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available:

(a) *Sodium Antimonate Autoclave Wastewater.*

BPT LIMITATIONS FOR THE PRIMARY ANTIMONY SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of antimony contained in sodium antimonate product	
Antimony	20.360	9.079
Arsenic	14.830	6.100
Lead	2.979	1.419
Mercury	1.773	0.709
Total suspended solids	290.800	138.300
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(b) *Fouled Anolyte.*

BPT LIMITATIONS FOR THE PRIMARY ANTIMONY SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of antimony metal produced by electrowinning	
Antimony	20.360	9.079
Arsenic	14.830	6.100
Lead	2.979	1.419
Mercury	1.773	0.709
Total suspended solids	290.800	138.300
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

§ 421.143 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 through 125.32, any existing point source subject to this subpart shall achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable:

(a) *Sodium Antimonate Autoclave Wastewater.*

BAT LIMITATIONS FOR THE PRIMARY ANTIMONY SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of antimony contained in sodium antimonate product	
Antimony	13.690	6.100
Arsenic	9.859	4.043
Lead	1.986	0.922
Mercury	1.064	0.426

(b) *Fouled Anolyte.*

BAT LIMITATIONS FOR THE PRIMARY ANTIMONY SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of antimony produced by electrowinning	
Antimony	13.690	6.100
Arsenic	9.859	4.043
Lead	1.986	0.922
Mercury	1.064	0.426

§ 421.144 Standards of performance for new sources.

Any new source subject to this subpart shall achieve the following new source performance standards:

(a) *Sodium Antimonate Autoclave Wastewater.*

NSPS FOR THE PRIMARY ANTIMONY SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of antimony contained in sodium antimonate product	
Antimony	13.690	6.100
Arsenic	9.859	4.043
Lead	1.986	0.922
Mercury	1.064	0.426
Total suspended solids	106.400	85.120
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(b) *Fouled Anolyte.*

NSPS FOR THE PRIMARY ANTIMONY SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of antimony metal produced by electrowinning	
Antimony	13.690	6.100
Arsenic	9.859	4.043
Lead	1.986	0.922
Mercury	1.064	0.426
Total suspended solids	106.400	85.120

NSPS FOR THE PRIMARY ANTIMONY SUBCATEGORY—Continued

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

§ 421.145 [Reserved]

§ 421.146 Pretreatment standards for new sources.

Except as provided in 40 CFR 403.7, any new 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 new sources. The mass of wastewater pollutants in primary antimony process wastewater introduced into a POTW shall not exceed the following values:

(a) *Sodium Antimonate Autoclave Wastewater.*

PSNS FOR THE PRIMARY ANTIMONY SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of antimony contained in sodium antimonate product	
Antimony	13.690	6.100
Arsenic	9.859	4.043
Lead	1.986	0.922
Mercury	1.064	0.426

(b) *Fouled Anolyte.*

PSNS FOR THE PRIMARY ANTIMONY SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of antimony metal produced by electrowinning	
Antimony	13.690	6.100
Arsenic	9.859	4.043
Lead	1.986	0.922
Mercury	1.064	0.426

§ 421.147 [Reserved]

Subpart O—Primary Beryllium Subcategory

§ 421.150 Applicability: Description of the primary beryllium subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of beryllium by primary beryllium facilities processing beryllium ore concentrates or beryllium hydroxide raw materials.

§ 421.151 Specialized definitions.

For the purpose of this subpart the general definitions, abbreviations and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

§ 421.152 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 through 125.32, any existing point source subject to this subpart shall achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable technology currently available:

(a) *Solvent Extration Raffinate-Bertrandite Ore.*

BPT LIMITATIONS FOR THE PRIMARY BERYLLIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of beryllium carbonate precipitated (as beryllium)	
Beryllium	2,762.000	1,146.000
Chromium (total)	988.200	404.300
Copper	4,267.000	2,246.000
Fluoride	78,600.000	44,920.000
Total suspended solids	92,080.000	43,790.000
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(b) *Solvent Extraction Raffinate-Beryl Ore.*

BPT LIMITATIONS FOR THE PRIMARY BERYLLIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of beryllium carbonate precipitated (as beryllium)	
Beryllium	246.000	102.000
Chromium (total)	88.000	36.000
Copper	380.000	200.000
Fluoride	7,000.000	4,000.000
Total suspended solids	8,200.000	3,900.000
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(c) *Beryllium Carbonate Filtrate.*

BPT LIMITATIONS FOR THE PRIMARY BERYLLIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of beryllium carbonate precipitated (as beryllium)	
Beryllium	263.800	109.400
Chromium (total)	94.370	38.610

BPT LIMITATIONS FOR THE PRIMARY BERYLLIUM SUBCATEGORY—Continued

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Copper	407.500	214.500
Fluoride	7,507.000	4,290.000
Total suspended solids	8,794.000	4,183.000
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(d) *Beryllium Hydroxide Filtrate.*

BPT LIMITATIONS FOR THE PRIMARY BERYLLIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum monthly average
	mg/kg (pounds per million pounds) of beryllium hydroxide precipitated (as beryllium)	
Beryllium	64.780	26.860
Chromium (total)	23.170	9.479
Copper	100.100	52.660
Fluoride	1,843.000	1,053.000
Total suspended solids	2,159.000	1,027.000
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(e) *Beryllium Oxide Calcining Furnace Wet Air Pollution Control.*

BPT LIMITATIONS FOR THE PRIMARY BERYLLIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum monthly average
	mg/kg (pounds per million pounds) of beryllium oxide produced	
Beryllium	324.400	134.500
Chromium (total)	116.100	47.470
Copper	501.100	263.700
Fluoride	9,231.000	5,275.000
Total suspended solids	10,810.000	5,143.000
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(f) *Beryllium Hydroxide Supernatant.*

BPT LIMITATIONS FOR THE PRIMARY BERYLLIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum monthly average
	mg/kg (pounds per million pounds) of beryllium hydroxide produced (as beryllium)	
Beryllium	128.300	53.210
Chromium (total)	45.900	18.780
Copper	198.200	104.300
Fluoride	3,652.000	2,087.000
Total suspended solids	4,277.000	2,035.000
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(g) *Process Condensates.*

BPT LIMITATIONS FOR THE PRIMARY BERYLLIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum monthly average
	mg/kg (pounds per million pounds) of beryllium pebbles produced	
Beryllium	0.000	0.000
Chromium (total)	0.000	0.000
Copper	0.000	0.000
Fluoride	0.000	0.000
Total suspended solids	0.000	0.000
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(h) *Fluoride Furnace Scrubber.*

BPT LIMITATIONS FOR THE PRIMARY BERYLLIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of beryllium pebbles produced	
Beryllium	2.712	1.125
Chromium (total)	0.970	0.397
Copper	4.190	2.205
Fluoride	77.180	44.100
Total suspended solids	90.410	43.000
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(i) *Chip Leaching.*

BPT LIMITATIONS FOR THE PRIMARY BERYLLIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum monthly average
	mg/kg (pounds per million pounds) of beryllium metal leached	
Beryllium	5.833	2.419
Chromium (total)	2.087	0.854
Copper	9.010	4.742
Fluoride	166.000	94.840
Total suspended solids	194.400	92.470
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

§ 421.153 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 through 125.32, any existing point source subject to this subpart shall achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable:

(a) *Solvent Extraction Raffinate-Bertrandite Ore.*

BAT LIMITATIONS FOR THE PRIMARY BERYLLIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum monthly average
	mg/kg (pounds per million pounds) of beryllium carbonate precipitated (as beryllium)	
Beryllium	1,842.000	763.600
Chromium (total)	831.000	336.900
Copper	2,875.000	1,370.000
Fluoride	78,600.000	44,920.000

(b) *Solvent Extraction Raffinate-Beryl Ore.*

BAT LIMITATIONS FOR THE PRIMARY BERYLLIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum monthly average
	mg/kg (pounds per million pounds) of beryllium carbonate precipitated (as beryllium)	
Beryllium	164.000	68.000
Chromium (total)	74.000	30.000
Copper	256.000	122.000
Fluoride	7,000.000	4,000.000

(c) *Beryllium Carbonate Filtrate.*

BAT LIMITATIONS FOR THE PRIMARY BERYLLIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of beryllium carbonate precipitated (as beryllium)	
Beryllium	175.900	72.930
Chromium (total)	79.360	32.170
Copper	274.600	130.900
Fluoride	7,507.000	4,290.000

(d) *Beryllium Hydroxide Filtrate.*

BAT LIMITATIONS FOR THE PRIMARY BERYLLIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of beryllium hydroxide precipitated (as beryllium)	
Beryllium	43.180	17.910
Chromium (total)	19.490	7.899
Copper	67.410	32.130
Fluoride	1,843.000	1,053.000

(e) *Beryllium Oxide Calcining Furnace Wet Air Pollution Control.*

BAT LIMITATIONS FOR THE PRIMARY BERYLLIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of beryllium oxide produced	
Beryllium	21.630	8.967
Chromium (total)	9.758	3.956
Copper	33.760	16.090
Fluoride	923.100	527.500

(f) *Beryllium Hydroxide Supernatant.*

BAT LIMITATIONS FOR THE PRIMARY BERYLLIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of beryllium hydroxide produced (as beryllium)	
Beryllium	85.550	35.470
Chromium (total)	38.600	15.650
Copper	133.600	63.640
Fluoride	3,652.000	2,087.000

(g) *Process Condensates.*

BAT LIMITATIONS FOR THE PRIMARY BERYLLIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of beryllium pebbles produced	
Beryllium	0.000	0.000
Chromium (total)	0.000	0.000
Copper	0.000	0.000
Fluoride	0.000	0.000

(h) *Fluoride Furnace Scrubber.*

BAT LIMITATIONS FOR THE PRIMARY BERYLLIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of beryllium pebbles produced	
Beryllium	1.808	0.750
Chromium (total)	0.816	0.331
Copper	2.823	1.345
Fluoride	77.180	44.100

(i) *Chip Leaching.*

BAT LIMITATIONS FOR THE PRIMARY BERYLLIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of beryllium metal leached	
Beryllium	3.889	1.612
Chromium (total)	1.755	0.711
Copper	6.070	2.893
Fluoride	166.000	94.840

§ 421.154 Standards of performance for new sources.

Any new source subject to this subpart shall achieve the following new source performance standards:

(a) *Solvent Extraction Raffinate-Bertrandite Ore.*

NSPS FOR THE PRIMARY BERYLLIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of beryllium carbonate precipitated (as beryllium)	
Beryllium	1,842.000	763.600
Chromium (total)	831.000	336.900
Copper	2,875.000	1,370.000
Fluoride	76,600.000	44,920.000
Total suspended solids	33,690.000	26,950.000
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(b) *Solvent Extraction Raffinate-Beryl Ore.*

NSPS FOR THE PRIMARY BERYLLIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of beryllium carbonate precipitated (as beryllium)	
Beryllium	164.000	68.000
Chromium (total)	74.000	30.000
Copper	256.000	122.000
Fluoride	7,000.000	4,000.000
Total suspended solids	3,000.000	2,400.000
pH	(1)	(1)

[1] Within range of 7.5 to 10.0 at all times.

(c) *Beryllium Carbonate Filtrate.*

NSPS FOR THE PRIMARY BERYLLIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of beryllium carbonate precipitated (as beryllium)	
Beryllium	175.900	72.930
Chromium (total)	79.360	32.170
Copper	274.600	130.900
Fluoride	7,507.000	4,290.000
Total suspended solids	3,217.000	2,574.000
pH	(1)	(1)

[1] Within range of 7.5 to 10.0 at all times.

(d) *Beryllium Hydroxide Filtrate.*

NSPS FOR THE PRIMARY BERYLLIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of beryllium hydroxide precipitated (as beryllium)	
Beryllium	43.180	17.910
Chromium (total)	19.490	7.899
Copper	67.410	32.130
Fluoride	1,843.000	1,053.000
Total suspended solids	783.900	632.000
pH	(1)	(1)

[1] Within range of 7.5 to 10.0 at all times.

(e) *Beryllium Oxide Calcining Furnance Wet Air Pollution Control.*

NSPS FOR THE PRIMARY BERYLLIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of beryllium oxide produced	
Beryllium	21.630	8.967
Chromium (total)	9.758	3.956
Copper	33.760	16.090
Fluoride	923.100	527.500
Total suspended solids	395.600	316.500
pH	(1)	(1)

[1] Within range of 7.5 to 10.0 at all times.

(f) *Beryllium Hydroxide Supernatant.*

NSPS FOR THE PRIMARY BERYLLIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of beryllium hydroxide produced (as beryllium)	
Beryllium	85.550	35.470
Chromium (total)	38.600	15.650
Copper	133.600	63.640
Fluoride	3,652.000	2,087.000
Total suspended solids	1,565.000	1,252.000
pH	(1)	(1)

[1] Within range of 7.5 to 10.0 at all times.

(g) *Process Condensates.*

NSPS FOR THE PRIMARY BERYLLIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of beryllium pebbles produced	
Beryllium	0.000	0.000
Chromium (total)	0.000	0.000
Copper	0.000	0.000
Fluoride	0.000	0.000
Total suspended solids	0.000	0.000
pH	(1)	(1)

[1] Within range of 7.5 to 10.0 at all times.

(h) *Fluoride Furnace Scrubber.*

NSPS FOR THE PRIMARY BERYLLIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of beryllium pebbles produced	
Beryllium	1.808	0.750
Chromium (total)	0.816	0.331
Copper	2.823	1.345
Fluoride	77.180	44.100
Total suspended solids	33.080	26.460
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(i) *Chip Leaching.*

NSPS FOR THE PRIMARY BERYLLIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of beryllium metal leached	
Beryllium	3.889	1.612
Chromium (total)	1.755	0.711
Copper	6.070	2.893
Fluoride	166.000	94.840
Total suspended solids	71.130	56.910
ph	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

§ 421.155 [Reserved]

§ 421.156 Pretreatment standards for new sources.

Except as provided in 40 CFR 403.7, any new 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 new sources. The mass of wastewater pollutants in primary beryllium process wastewater introduced into a POTW shall not exceed the following values:

(a) *Solvent Extraction Raffinate-Bertrandite Ore.*

PSNS FOR THE PRIMARY BERYLLIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of beryllium carbonate precipitated (as beryllium)	
Beryllium	1,842.000	763.600
Chromium (total)	831.000	336.900
Copper	2,875.000	1,370.000
Fluoride	78,600.000	44,920.000

(b) *Solvent Extraction Raffinate-Beryl Ore.*

PSNS FOR THE PRIMARY BERYLLIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of beryllium carbonate precipitated (as beryllium)	
Beryllium	164.000	68.000
Chromium (total)	74.000	30.000
Copper	256.000	122.000
Fluoride	7,000.000	4,000.000

(c) *Beryllium Carbonate Filtrate.*

PSNS FOR THE PRIMARY BERYLLIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of beryllium carbonate precipitated (as beryllium)	
Beryllium	175.900	72.930
Chromium (total)	79.360	32.170
Copper	274.600	130.900
Fluoride	7,507.000	4,290.000

(d) *Beryllium Hydroxide Filtrate.*

PSNS FOR THE PRIMARY BERYLLIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of beryllium hydroxide precipitated (as beryllium)	
Beryllium	43.180	17.910
Chromium (total)	19.490	7.899
Copper	67.410	32.130
Fluoride	1,843.000	1,053.000

(e) *Beryllium Oxide Calcining Furnace Wet Air Pollution Control.*

PSNS FOR THE PRIMARY BERYLLIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of beryllium oxide produced	
Beryllium	21.630	8.967
Chromium (total)	9.758	3.956
Copper	33.760	16.090
Fluoride	923.100	527.500

(f) *Beryllium Hydroxide Supernatant.*

PSNS FOR THE PRIMARY BERYLLIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of beryllium hydroxide produced (as beryllium)	
Beryllium	85.550	35.470
Chromium (total)	38.600	15.650
Copper	133.600	63.640
Fluoride	3,652.000	2,087.000

(g) *Process Condensates.*

PSNS FOR THE PRIMARY BERYLLIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of beryllium pebbles produced	
Beryllium	0.000	0.000
Chromium (total)	0.000	0.000
Copper	0.000	0.000
Fluoride	0.000	0.000

(h) *Fluoride Furnace Scrubber.*

PSNS FOR THE PRIMARY BERYLLIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of beryllium pebbles produced	
Beryllium	1.808	0.750
Chromium (total)	0.816	0.331
Copper	2.823	1.345
Fluoride	77.180	44.100

(i) *Chip Leaching.*

PSNS FOR THE PRIMARY BERYLLIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of beryllium metal leached	
Beryllium	3.889	1.612
Chromium (total)	1.755	0.711
Copper	6.070	2.893
Fluoride	166.000	94.840

§ 421.157 [Reserved]

Subpart P—Primary Boron Subcategory

§ 421.160 Applicability: Description of the primary boron subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of boron by primary boron facilities processing boric oxide or diborane raw materials.

§ 421.161 Specialized definitions.

For the purposes of this subpart the general definitions, abbreviations, and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

§ § 421.162–421.163 [Reserved]

§ 421.164 Standards of performance for new sources.

Any new source subject to this subpart shall achieve the following new source performance standards:

(a) *Reduction Product Acid Leachate.*

NSPS FOR THE PRIMARY BORON SUBCATEGORY

Pollutant or Pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of boron powder produced	
Lead	61.490	29.280
Nickel	281.100	185.900
Boron	162.08	66.80
Total suspended solids	6,003.000	2,855.000
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(b) *Boron Wash Water.*

NSPS FOR THE PRIMARY BORON SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of boron powder produced	
Lead	13.990	6.660
Nickel	63.940	42.290
Boron	36.880	15.200
Total suspended solids	1,366.000	649.400

NSPS FOR THE PRIMARY BORON SUBCATEGORY—Continued

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

§ 421.165 [Reserved]

§ 421.166 Pretreatment standards for new sources.

Except as provided in 40 CFR 403.7, any new 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 new sources. The mass of wastewater pollutants in primary boron process wastewater introduced into a POTW shall not exceed the following values:

(a) *Reduction Product Acid Leachate.*

PSNS FOR THE PRIMARY BORON SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of boron powder produced	
Lead	61.490	29.280
Nickel	281.100	185.900
Boron	162.08	66.80

(b) *Boron Wash Water.*

PSNS FOR THE PRIMARY BORON SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of boron powder produced	
Lead	13.990	6.660
Nickel	63.940	42.290
Boron	36.880	15.200

§ 421.167 [Reserved]

Subpart Q—Primary Cesium and Rubidium Subcategory

§ 421.170 Applicability: Description of the primary cesium and rubidium subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of cesium or rubidium by primary cesium and rubidium facilities.

§ 421.171 Specialized definitions.

For the purposes of this subpart the general definitions, abbreviations and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

§§ 421.172–421.173 [Reserved]

§ 421.174 Standards of performance for new sources.

Any new source subject to this subpart shall achieve the following new source performance standards:

(a) *Spent Acid and Crystallizer Rinse Water from Cesium Production.*

NSPS FOR THE PRIMARY CESIUM AND RUBIDIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of pollucite (Cs) ore digested	
Lead	3.705	1.720
Thallium	18.530	7.543
Zinc	13.500	5.558
Total suspended solids	198.500	158.800
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(b) *Spent Acid and Crystallizer Rinse Water from Rubidium Production.*

NSPS FOR THE PRIMARY CESIUM AND RUBIDIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of lepidolite (Rb) ore digested	
Lead	2.234	1.037
Thallium	11.170	4.548
Zinc	8.139	3.351
Total suspended solids	119.700	95.750
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

§ 421.175 [Reserved]

§ 421.176 Pretreatment standards for new sources.

Except as provided in 40 CFR 403.7, any new 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 new sources. The mass of wastewater pollutants in primary cesium and rubidium process wastewater introduced into a POTW shall not exceed the following values:

(a) *Spent Acid and Crystallizer Rinse Water from Cesium Production.*

PSNS FOR THE PRIMARY CESIUM AND RUBIDIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of pollucite (Cs) ore digested	
Lead	3.705	1.720

PSNS FOR THE PRIMARY CESIUM AND RUBIDIUM SUBCATEGORY—Continued

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Thallium	18.530	7.543
Zinc	13.500	5.558

(b) *Spent Acid and Crystallizer Rinse Water from Rubidium Production.*

PSNS FOR THE PRIMARY CESIUM AND RUBIDIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Lb/kg (pound per million pounds) of lepidolite (Rb) ore digested	
Lead	2.234	1.037
Thallium	11.170	4.548
Zinc	8.139	3.351

§ 421.177 [Reserved]

Subpart R—Primary and Secondary Germanium and Gallium Subcategory

§ 421.180 Applicability: Description of the primary and secondary germanium and gallium subcategory.

(a) The provisions of this subpart are applicable to discharges resulting from the production of germanium or gallium from primary and secondary germanium and gallium facilities.

(b) There are two levels of BPT, BAT, NSPS, PSES and PSNS provisions for this subpart. Level A provisions are applicable to facilities which only reduce germanium dioxide in a hydrogen furnace and then wash and rinse the germanium product in conjunction with zone refining. The level B provisions are applicable to all other facilities in the subcategory.

§ 421.181 Specialized definitions.

For the purpose of this subpart the general definitions, abbreviations and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

§ 421.182 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 through 125.32, any existing point source subject to this subpart shall achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable technology currently available.

(a) **Level A.**

(1) *Acid Wash and Rinse Water.*

BPT LIMITATIONS FOR THE PRIMARY AND SECONDARY GERMANIUM AND GALLIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of germanium washed	
Arsenic	325.500	133.900
Lead	65.400	31.150
Zinc	227.400	94.990
Germanium	68.520	28.030
Fluoride	5,450.000	3,115.000
Total suspended solids	6,385.000	3,037.000
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(b) **Level B.**

(1) *Still Liquor.*

BPT LIMITATIONS FOR THE PRIMARY AND SECONDARY GERMANIUM AND GALLIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of germanium chlorinated	
Arsenic	131.7000	54.180
Lead	26.460	12.600
Zinc	91.980	38.430
Germanium	27.720	11.340
Fluoride	2,205.000	1,260.000
Total suspended solids	2,583.000	1,229.000
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(2) *Chlorinator Wet Air Pollution Control.*

BPT LIMITATIONS FOR THE PRIMARY AND SECONDARY GERMANIUM AND GALLIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of germanium chlorinated	
Arsenic	27.530	11.330
Lead	5.532	2.634
Zinc	19.230	8.034
Germanium	5.795	2.371
Fluoride	461.000	263.400
Total suspended solids	540.000	256.800
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(3) *Germanium Hydrolysis Filtrate.*

BPT LIMITATIONS FOR THE PRIMARY AND SECONDARY GERMANIUM AND GALLIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of germanium hydrolyzed	
Arsenic	39.440	16.230
Lead	7.926	3.774

BPT LIMITATIONS FOR THE PRIMARY AND SECONDARY GERMANIUM AND GALLIUM SUBCATEGORY—Continued

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Zinc	27.550	11.510
Germanium	8.303	3.397
Fluoride	660.500	377.400
Total suspended solids	773.700	368.000
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(4) *Acid Wash and Rinse Water.*

BPT LIMITATIONS FOR THE PRIMARY AND SECONDARY GERMANIUM AND GALLIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of germanium washed	
Arsenic	325.500	133.900
Lead	65.400	31.150
Zinc	227.400	94.990
Germanium	68.520	28.030
Fluoride	5,450.000	3,115.00
Total suspended solids	6,385.000	3,037.000
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(5) *Gallium Hydrolysis Filtrate.*

BPT LIMITATIONS FOR THE PRIMARY AND SECONDARY GERMANIUM AND GALLIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of gallium hydrolyzed	
Arsenic	69.330	28.530
Lead	13.930	6.634
Zinc	48.430	20.240
Germanium	14.600	5.971
Fluoride	1,161.000	663.400
Total suspended solids	1,360.000	646.800
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(6) *Solvent Extraction Raffinate.*

BPT LIMITATIONS FOR THE PRIMARY AND SECONDARY GERMANIUM AND GALLIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of gallium produced by solvent extraction	
Arsenic	39.340	16.190
Lead	7.905	3.764
Zinc	27.480	11.480
Germanium	8.281	3.388
Fluoride	658.700	376.400
Total suspended solids	771.600	367.000
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

§ 421.183 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 through 125.32, any existing point source subject to this subpart shall achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable:

(a) **Level A.**

(1) *Acid Wash and Rinse Water.*

BAT LIMITATIONS FOR THE PRIMARY AND SECONDARY GERMANIUM AND GALLIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of germanium washed	
Arsenic	325.500	133.900
Lead	65.400	31.150
Zinc	227.400	94.990
Germanium	68.520	28.030
Fluoride	5,450.000	3,115.000

(b) **Level B.**

(1) *Still Liquor.*

BAT LIMITATIONS FOR THE PRIMARY AND SECONDARY GERMANIUM AND GALLIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of germanium chlorinated	
Arsenic	87.570	35.910
Lead	17.640	8.190
Zinc	64.260	26.460
Germanium	23.310	9.450
Fluoride	2,205.000	1,260.000

(2) *Chlorinator Wet Air Pollution Control.*

BAT LIMITATIONS FOR THE PRIMARY AND SECONDARY GERMANIUM AND GALLIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of germanium chlorinated	
Arsenic	18.310	7.507
Lead	3.688	1.712
Zinc	13.440	5.532
Germanium	4.873	1.976
Fluoride	461.000	263.400

(3) *Germanium Hydrolysis Filtrate.*

BAT LIMITATIONS FOR THE PRIMARY AND SECONDARY GERMANIUM AND GALLIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of germanium hydrolyzed	
Arsenic	26.230	10.760
Lead	5.284	2.453
Zinc	19.250	7.926
Germanium	6.982	2.831
Fluoride	660.500	377.400

(4) *Acid Wash and Rinse Water.*

BAT LIMITATIONS FOR THE PRIMARY AND SECONDARY GERMANIUM AND GALLIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of germanium washed	
Arsenic	216.500	88.760
Lead	43.600	20.250
Zinc	158.900	65.400
Germanium	57.620	23.360
Fluoride	5,450.000	3,115.000

(5) *Gallium Hydrolysis Filtrate.*

BAT LIMITATIONS FOR THE PRIMARY AND SECONDARY GERMANIUM AND GALLIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of gallium hydrolyzed	
Arsenic	46.110	18.910
Lead	9.228	4.312
Zinc	33.840	13.930
Germanium	12.270	4.976
Fluoride	1,161.000	663.400

(6) *Solvent Extraction Raffinate.*

BAT LIMITATIONS FOR THE PRIMARY AND SECONDARY GERMANIUM AND GALLIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of gallium produced by solvent extraction	
Arsenic	26.160	10.730
Lead	5.270	2.447
Zinc	19.200	7.905
Germanium	6.964	2.823
Fluoride	658.700	376.400

§ 421.184 Standards of performance for new sources.

Any new source subject to this subpart shall achieve the following new source performance standards:

(a) **Level A.**

(1) *Acid Wash and Rinse Water.*

NSPS FOR THE PRIMARY AND SECONDARY GERMANIUM AND GALLIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of germanium washed	
Arsenic	325.500	133.900
Lead	65.400	31.150
Zinc	227.400	94.990
Germanium	68.520	28.030
Fluoride	5,450.000	3,115.000
Total suspended solids	6,385.000	3,037.000
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(b) **Level B.**

(1) *Still Liquor.*

NSPS FOR THE PRIMARY AND SECONDARY GERMANIUM AND GALLIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of germanium chlorinated	
Arsenic	87.570	35.910
Lead	17.640	8.190
Zinc	64.260	26.460
Germanium	23.310	9.450
Fluoride	2,205.000	1,260.000
Total suspended solids	945.000	756.000
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(2) *Chlorinator Wet Air Pollution Control.*

NSPS FOR THE PRIMARY AND SECONDARY GERMANIUM AND GALLIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of germanium chlorinated	
Arsenic	18.310	7.507
Lead	3.688	1.712
Zinc	13.440	5.532
Germanium	4.873	1.976
Fluoride	461.000	263.400
Total suspended solids	197.600	158.100
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(3) *Germanium Hydrolysis Filtrate.*

NSPS FOR THE PRIMARY AND SECONDARY GERMANIUM AND GALLIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of germanium hydrolyzed	
Arsenic	26.230	10.760
Lead	5.284	2.453
Zinc	19.250	7.926
Germanium	6.982	2.831
Fluoride	660.500	377.400
Total suspended solids	283.100	226.500
pH	(1)	(1)

(1) Within the range of 7.5 to 10.0 at all times.

(4) *Acid Wash and Rinse Water.*

NSPS FOR THE PRIMARY AND SECONDARY GERMANIUM AND GALLIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of germanium washed	
Arsenic	216.500	88.760
Lead	43.600	20.250
Zinc	158.900	65.400
Germanium	57.620	23.360
Fluoride	5,450.000	3,115.000
Total suspended solids	2,336.000	1,869.000
pH	(1)	(1)

(1) Within the range of 7.5 to 10.0 at all times.

(5) *Gallium Hydrolysis Filtrate.*

NSPS FOR THE PRIMARY AND SECONDARY GERMANIUM AND GALLIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of gallium hydrolyzed	
Arsenic	46.110	18.910
Lead	9.288	4.312
Zinc	33.840	13.930
Germanium	12.270	4.976
Fluoride	1,161.000	663.400
Total suspended solids	497.600	398.100
pH	(1)	(1)

(1) Within the range of 7.5 to 10.0 at all times.

(6) *Solvent Extraction Raffinate.*

NSPS FOR THE PRIMARY AND SECONDARY GERMANIUM AND GALLIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of gallium produced by solvent extraction	
Arsenic	26.160	10.730
Lead	5.270	2.447
Zinc	19.200	7.905
Germanium	6.964	2.832
Flouride	658.700	376.400
Total suspended solids	282.300	225.900
pH	(1)	(1)

(1) Within the range of 7.5 to 10.0 at all times.

§ 421.185 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. The mass of wastewater pollutants in primary and secondary germanium and gallium process wastewater introduced into a POTW must not exceed the following values:

(a) **Level A.**

(1) *Acid Wash and Rinse Water.*

PSES FOR THE PRIMARY AND SECONDARY GERMANIUM AND GALLIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of germanium washed	
Arsenic	325.500	133.900
Lead	65.400	31.150
Zinc	227.400	94.990
Germanium	68.520	28.030
Flouride	5,450.000	3,115.000

(b) **Level B.**

(1) *Still Liquor.*

PSES FOR THE PRIMARY AND SECONDARY GERMANIUM AND GALLIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of germanium chlorinated	
Arsenic	87.570	35.910
Lead	17.640	8.190
Zinc	64.260	26.460
Germanium	23.310	9.450
Flouride	2,205.000	1,260.000

(2) *Chlorinator Wet Air Pollution Control.*

PSES FOR THE PRIMARY AND SECONDARY GERMANIUM AND GALLIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of germanium chlorinated	
Arsenic	18.310	7.507
Lead	3.688	1.712
Zinc	13.440	5.532
Germanium	4.873	1.976
Flouride	461.000	263.400

(3) *Germanium Hydrolysis Filtrate.*

PSES FOR THE PRIMARY AND SECONDARY GERMANIUM AND GALLIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of germanium hydrolyzed	
Arsenic	26.230	10.760
Lead	5.284	2.453
Zinc	19.250	7.926
Germanium	6.982	2.831
Flouride	660.500	377.400

(4) *Acid Wash and Rinse Water.*

PSES FOR THE PRIMARY AND SECONDARY GERMANIUM AND GALLIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of germanium washed	
Arsenic	216.500	88.760
Lead	43.600	20.250
Zinc	158.900	65.400
Germanium	57.620	23.360
Flouride	5,450.000	3,115.000

(5) *Gallium Hydrolysis Filtrate.*

PSES FOR THE PRIMARY AND SECONDARY GERMANIUM AND GALLIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of gallium hydrolyzed	
Arsenic	52.610	21.580
Lead	10.600	4.921
Zinc	38.610	15.900
Germanium	14.010	5.678
Flouride	1,325.000	757.000

(6) *Solvent Extraction Raffinate.*

PSES FOR THE PRIMARY AND SECONDARY GERMANIUM AND GALLIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of gallium produced by solvent extraction	
Arsenic	26.160	10.730
Lead	5.270	2.447
Zinc	19.200	7.905
Germanium	6.964	2.823
Flouride	658.700	376.400

§ 421.186 Pretreatment standards for new sources.

Except as provided in 40 CFR 403.7, any new 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 new sources. The mass of wastewater pollutants in primary and secondary germanium and gallium process wastewater introduced into a POTW shall not exceed the following values:

(a) **Level A.**

(a) *Acid Wash and Rinse Water.*

PSNS FOR THE PRIMARY AND SECONDARY GERMANIUM AND GALLIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of germanium washed	
Arsenic	325.500	133.900
Lead	65.400	31.150
Zinc	227.400	94.990
Germanium	68.520	28.030
Fluoride	5,450.000	3,115.000

(b) **Level B.**

(1) *Still Liquor.*

PSNS FOR THE PRIMARY AND SECONDARY GERMANIUM AND GALLIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of germanium chlorinated	
Arsenic	87.570	35.910
Lead	17.640	8.190
Zinc	64.260	26.460
Germanium	23.310	9.450
Fluoride	2,205.000	1,260.000

(2) *Chlorinator Wet Air Pollution Control.*

PSNS FOR THE PRIMARY AND SECONDARY GERMANIUM AND GALLIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of germanium chlorinated	
Arsenic	18.310	7.507
Lead	3.688	1.712
Zinc	13.440	5.532
Germanium	4.873	1.976
Fluoride	461.000	263.400

(3) *Germanium Hydrolysis Filtrate.*

PSNS FOR THE PRIMARY AND SECONDARY GERMANIUM AND GALLIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of germanium hydrolyzed	
Arsenic	26.230	10.760
Lead	5.284	2.453
Zinc	19.250	7.926
Germanium	6.982	2.831
Fluoride	660.500	377.400

(4) *Acid Wash and Rinse Water.*

PSNS FOR THE PRIMARY AND SECONDARY GERMANIUM AND GALLIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of germanium washed	
Arsenic	216.500	88.760
Lead	43.600	20.250
Zinc	158.900	65.400
Germanium	57.620	23.360
Fluoride	5,450.000	3,115.000

(5) *Gallium Hydrolysis Filtrate.*

PSNS FOR THE PRIMARY AND SECONDARY GERMANIUM AND GALLIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of gallium hydrolyzed	
Arsenic	46.110	18.910
Lead	9.288	4.312
Zinc	33.840	13.930
Germanium	12.270	4.976
Fluoride	1,161.000	663.400

(6) *Solvent Extraction Raffinate.*

PSNS FOR THE PRIMARY AND SECONDARY GERMANIUM AND GALLIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of gallium produced by solvent extraction	
Arsenic	26.160	10.730
Lead	5.270	2.447
Zinc	19.200	7.905
Germanium	6.964	2.823
Fluoride	658.700	376.400

§ 421.187 [Reserved]

Subpart S—Secondary Indium Subcategory

§ 421.190 Applicability: Description of the secondary indium subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of indium at secondary indium facilities processing spent electrolyte solutions and scrap indium metal raw materials.

§ 421.191 Specialized definitions.

For the purpose of this subpart the general definitions, abbreviations, and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

§ 421.192–421.193 [Reserved]

§ 421.194 Standards of performance for new sources.

Any new source subject to this subpart shall achieve the following new source performance standards:

(a) *Displacement Tank Supernatant.*

NSPS FOR THE SECONDARY INDIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of indium metal produced	
Cadmium	1.238	0.495
Lead	1.733	0.805
Zinc	6.314	2.600
Indium	2.291	0.929
Total suspended solids	92.850	74.280
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(b) *Spent Electrolyte.*

NSPS FOR THE SECONDARY INDIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of indium, metal refined	
Cadmium	7.160	2.864
Lead	10.030	4.654
Zinc	36.520	15.040
Indium	13.250	5.370
Total suspended solids	537.000	429.600
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

§ 421.195 Pretreatment standards for existing sources.

Excepts 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. The mass of wastewater pollutants in secondary indium process wastewater introduced into a POTW must not exceed the following values:

(a) *Displacement Tank Supernatant.*

PSES FOR THE SECONDARY INDIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of indium metal produced	
Cadmium	2.105	0.929
Lead	2.600	1.238
Zinc	9.038	3.776
Indium	2.724	1.114

(b) *Spent Electrolyte.*

PSES FOR THE SECONDARY INDIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of indium metal refined	
Cadmium	12.170	5.370
Lead	15.040	7.160
Zinc	52.270	21.840
Indium	15.750	6.444

§ 421.196 Pretreatment standards for new sources.

Except as provided in 40 CFR 403.7, any new 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 new sources. The mass of wastewater pollutants in secondary indium process wastewater introduced into a POTW shall not exceed the following values:

(a) *Displacement Tank Supernatant.*

PSNS FOR THE SECONDARY INDIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of indium metal produced	
Cadmium	1.238	0.495
Lead	1.733	0.805
Zinc	6.314	2.600
Indium	2.291	0.929

(a) *Spent Electrolyte.*

PSNS FOR THE SECONDARY INDIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of indium metal refined	
Cadmium	7.160	2.864
Lead	10.030	4.654
Zinc	36.520	15.040

PSNS FOR THE SECONDARY INDIUM SUBCATEGORY—Continued

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Indium	13.250	5.370

§421.197 [Reserved]

Subpart T—Secondary Mercury Subcategory

§421.200 Applicability: Description of the secondary mercury subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of mercury from secondary mercury facilities processing recycled mercuric oxide batteries and other mercury containing scrap raw materials.

§421.201 Specialized definitions.

For the purpose of this subpart the general definitions, abbreviations, and methods of analysis set forth in 40 CFR Part 4401 shall apply to this subpart.

§§ 421.202–421.203 [Reserved]

§421.204 Standards of performance for new sources.

Any new source subject to this subpart shall achieve the following new source performance standards:

(b) *Spent Battery Electrolyte.*

NSPS FOR THE SECONDARY MERCURY SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of mercury produced from batteries	
Lead	0.030	0.014
Mercury	0.016	0.006
Total suspended solids	1.590	1.272
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(b) *Acid Wash and Rinse Water.*

NSPS FOR THE SECONDARY MERCURY SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of mercury washed and rinsed	
Lead	0.00056	0.00026
Mercury	0.00030	0.00012
Total suspended solids	0.030	0.024.
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(c) *Furnace Wet Air Pollution Control.*

NSPS FOR THE SECONDARY MERCURY SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of mercury processed through furnace	
Lead	0.000	0.000
Mercury	0.000	0.000
Total suspended solids	0.000	0.000
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

§ 421.205 [Reserved]

§ 421.206 Pretreatment standards for new sources.

Except as provided in 40 CFR 403.7, any new source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieves the following pretreatment standards for new sources. The mass of wastewater pollutants in secondary mercury process wastewater introduced into a POTW shall not exceed the following values:

(a) *Spent Battery Electrolyte.*

PSNS FOR THE SECONDARY MERCURY SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of mercury produced from batteries	
Lead	0.030	0.014
Mercury	0.016	0.006

(b) *Acid Wash and Rinse Water.*

PSNS FOR THE SECONDARY MERCURY SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of mercury washed and rinsed	
Lead	0.00056	0.00026
Mercury	0.00030	0.00012

(c) *Furnace Wet Air Pollution Control.*

PSNS FOR THE SECONDARY MERCURY SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of mercury processed through furnace	
Lead	0.000	0.000

PSNS FOR THE SECONDARY MERCURY SUBCATEGORY—Continued

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Mercury	0.000	0.000

§ 421.207 [Reserved]

Subpart U—Primary Molybdenum and Rhenium Subcategory

§ 421.210 Applicability: Description of the primary molybdenum and rhenium subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of molybdenum or rhenium by primary molybdenum and rhenium facilities.

§ 421.211 Specialized definitions.

For the purpose of this subpart the general definitions, abbreviations, and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

§ 421.212 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 through 125.32, any existing point source subject to this subpart shall achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable technology currently available:

(a) *Molybdenum Sulfide Leaching.*

BPT LIMITATIONS FOR THE PRIMARY MOLYBDENUM AND RHENIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of molybdenum sulfide leached	
Arsenic	0.968	0.398
Lead	0.195	0.093
Nickel	0.889	0.588
Selenium	0.570	0.255
Molybdenum	2.680	1.100
Ammonia (as N)	61.350	26.970
Total suspended solids	18.990	9.029
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(b) *Roaster SO_2 Scrubber.*

BPT LIMITATIONS FOR THE PRIMARY MOLYBDENUM AND RHENIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of molybdenum sulfide roasted	
Arsenic	3.509	1.444
Lead	0.705	0.336
Nickel	3.224	2.133
Selenium	2.065	0.924
Molybdenum	9.705	3.996
Ammonia (as N)	223.800	98.390
Total suspended solids	68.840	32.740
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(c) *Molybdic Oxide Leachate.*

BPT LIMITATIONS FOR THE PRIMARY MOLYBDENUM AND RHENIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of ammonium molybdate produced	
Arsenic	14.850	6.108
Lead	2.983	1.421
Nickel	13.640	9.020
Selenium	8.736	3.906
Molybdenum	41.060	16.920
Ammonia (as N)	941.000	413.700
Total suspended solids	291.200	138.500
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(d) *Reduction Furnace Scrubber.*

BPT LIMITATIONS FOR THE PRIMARY MOLYBDENUM AND RHENIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of molybdenum metal produced	
Arsenic	47.860	19.690
Lead	9.617	4.580
Nickel	43.970	29.080
Selenium	28.170	12.600
Molybdenum	132.370	54.570
Ammonia (as N)	3034.000	1334.000
Total suspended solids	938.800	446.500
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(e) *Depleted Rhenium Scrubbing Solution.*

BPT LIMITATIONS FOR THE PRIMARY MOLYBDENUM AND RHENIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of molybdenum sulfide roasted	
Arsenic	1.497	0.616
Lead	0.301	0.143
Nickel	1.375	0.909
Selenium	0.881	0.394
Molybdenum	4.140	1.170
Ammonia (as N)	94.850	41.700

BPT LIMITATIONS FOR THE PRIMARY MOLYBDENUM AND RHENIUM SUBCATEGORY—Continued

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Total suspended solids	29.360	13.960
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

§ 421.213 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 through 125.32, any existing point source subject to this subpart shall achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable:

(a) *Molybdenum Sulfide Leaching.*

BAT LIMITATIONS FOR THE PRIMARY MOLYBDENUM AND RHENIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of molybdenum sulfide leached	
Arsenic	0.644	0.264
Lead	0.130	0.060
Nickel	0.255	0.171
Selenium	0.380	0.171
Molybdenum	1.790	0.730
Ammonia (as N)	61.350	26.970

(b) *Roaster SO_2 Scrubber.*

BAT LIMITATIONS FOR THE PRIMARY MOLYBDENUM AND RHENIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of molybdenum sulfide roasted	
Arsenic	2.334	0.957
Lead	0.470	0.218
Nickel	0.924	0.621
Selenium	1.377	0.621
Molybdenum	6.498	2.687
Ammonia (as N)	223.800	98.390

(c) *Molybdic Oxide Leachate.*

BAT LIMITATIONS FOR THE PRIMARY MOLYBDENUM AND RHENIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of ammonium molybdate produced	
Arsenic	9.872	4.048
Lead	1.989	0.923
Nickel	3.906	2.628

BAT LIMITATIONS FOR THE PRIMARY MOLYBDENUM AND RHENIUM SUBCATEGORY—Continued

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Selenium	5.824	2.628
Molybdenum	27.440	11.220
Ammonia (as N)	941.000	413.700

(d) *Reduction Furnace Scrubber.*

BAT LIMITATIONS FOR THE PRIMARY MOLYBDENUM AND RHENIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of molybdenum metal produced	
Arsenic	3.183	1.306
Lead	0.641	0.298
Nickel	1.260	0.847
Selenium	1.878	0.847
Molybdenum	8.850	3.620
Ammonia (as N)	303.400	133.400

(e) *Depleted Rhenium Scrubbing Solution.*

BAT LIMITATIONS FOR THE PRIMARY MOLYBDENUM AND RHENIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of molybdenum sulfide roasted	
Arsenic	0.995	0.408
Lead	0.201	0.093
Nickel	0.394	0.265
Selenium	0.587	0.265
Molybdenum	2.770	1.130
Ammonia (as N)	94.850	41.700

§ 421.214 Standards of performance for new sources.

Any new source subject to this subpart shall achieve the following new source performance standards:

(a) *Molybdenum Sulfide Leaching.*

NSPS LIMITATIONS FOR THE PRIMARY MOLYBDENUM AND RHENIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of molybdenum sulfide leached	
Arsenic	0.644	0.264
Lead	0.130	0.060
Nickel	0.255	0.171
Selenium	0.380	0.171
Molybdenum	1.790	0.730
Ammonia (as N)	61.350	26.970
Total suspended	6.945	5.556
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(b) *Roaster SO_2 Scrubber.*

NSPS FOR THE PRIMARY MOLYBDENUM AND RHENIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of molybdenum sulfide roasted	
Arsenic	2.334	0.957
Lead	0.470	0.218
Nickel	0.924	0.621
Selenium	1.377	0.621
Molybdenum	6.498	2.687
Ammonia (as N)	223.800	98.390
Total suspended solids	25.190	20.150
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(c) *Molybdic Oxide Leachate.*

NSPS FOR THE PRIMARY MOLYBDENUM AND RHENIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of ammonium molybdate produced	
Arsenic	9.872	4.048
Lead	1.989	0.923
Nickel	3.906	2.628
Selenium	5.824	2.628
Molybdenum	27.440	11.220
Ammonia (as N)	941.000	413.700
Total suspended solids	106.600	85.230
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(d) *Reduction Furnace Scrubber.*

NSPS FOR THE PRIMARY MOLYBDENUM AND RHENIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of molybdenum metal produced	
Arsenic	3.183	1.306
Lead	0.641	0.298
Nickel	1.260	0.847
Selenium	1.878	0.847
Molybdenum	8.850	3.620
Ammonia (as N)	303.400	133.400
Total suspended solids	34.350	27.480
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(e) *Depleted Rhenium Scrubbing Solution.*

NSPS FOR THE PRIMARY MOLYBDENUM AND RHENIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of molybdenum sulfide roasted	
Arsenic	0.995	0.408
Lead	0.201	0.093
Nickel	0.394	0.265
Selenium	0.587	0.265
Molybdenum	2.770	1.130
Ammonia (as N)	94.850	41.700

NSPS FOR THE PRIMARY MOLYBDENUM AND RHENIUM SUBCATEGORY—Continued

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Total suspended solids	10.740	8.592
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

§ 421.215 [Reserved]

§ 421.216 Pretreatment standards for new sources.

Except as provided in 40 CFR 403.7, any new 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 new sources. The mass of wastewater pollutants in primary molybdenum and rhenium process wastewater introduced into a POTW shall not exceed the following values:

(a) *Molybdenum Sulfide Leaching.*

PSNS FOR THE PRIMARY MOLYBDENUM AND RHENIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of molybdenum sulfide leached	
Arsenic	0.644	0.264
Lead	0.130	0.060
Nickel	0.255	0.171
Selenium	0.380	0.171
Molybdenum	1.790	0.730
Ammonia (as N)	61.350	26.970

(b) *Roaster SO_2 Scrubber.*

PSNS FOR THE PRIMARY MOLYBDENUM AND RHENIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of molybdenum sulfide roasted	
Arsenic	2.334	0.957
Lead	0.470	0.218
Nickel	0.924	0.621
Selenium	1.377	0.621
Molybdenum	6.498	2.687
Ammonia (as N)	223.800	98.390

(c) *Molybdic Oxide Leachate.*

PSNS FOR THE PRIMARY MOLYBDENUM AND RHENIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of ammonium molybdate produced	
Arsenic	9.872	4.048
Lead	1.989	0.923

PSNS FOR THE PRIMARY MOLYBDENUM AND RHENIUM SUBCATEGORY—Continued

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Nickel	3.906	2.628
Selenium	5.824	2.628
Molybdenum	27.440	11.220
Ammonia (as N)	941.000	413.700

(d) *Reduction Furnace Scrubber.*

PSNS FOR THE PRIMARY MOLYBDENUM AND RHENIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of molybdenum metal produced	
Arsenic	3.183	1.306
Lead	0.641	0.298
Nickel	1.260	0.847
Selenium	1.878	0.847
Molybdenum	8.850	3.620
Ammonia (as N)	303.400	133.400

(e) *Depleted Rhenium Scrubbing Solution.*

PSNS FOR THE PRIMARY MOLYBDENUM AND RHENIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of molybdenum sulfide roasted	
Arsenic	0.995	0.408
Lead	0.201	0.093
Nickel	0.394	0.265
Selenium	0.587	0.265
Molybdenum	2.770	1.130
Ammonia (as N)	94.850	41.700

§ 421.217 [Reserved]

Subpart V—Secondary Molybdenum and Vanadium Subcategory

§ 421.220 Applicability: Description of the secondary molybdenum and vanadium subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of molybdenum or vanadium by secondary molybdenum and vanadium facilities.

§ 421.221 Specialized definitions.

For the purpose of this subpart the general definitions, abbreviations, and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

§ 421.222 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 through 125.32, any existing point source subject to this subpart shall achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable technology currently available:

(a) *Leach Tailings.*

BPT LIMITATIONS FOR THE SECONDARY MOLYBDENUM AND VANADIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of molybdenum and vanadium produced	
Antimony	35.990	16.050
Lead	5.267	2.508
Nickel	24.080	15.930
Molybdenum	72.500	29.880
Ammonia (as N)	1661.000	730.400
Total suspended solids	514.200	244.600
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times

(b) *Molybdendum Filtrate.*

BPT LIMITATIONS FOR THE SECONDARY MOLYBDENUM AND VANADIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of molybdenum produced	
Antimony	222.700	99.330
Lead	32.590	15.520
Nickel	149.000	98.550
Molybdenum	448.660	184.990
Ammonia (as N)	10,280.000	4,519.000
Total suspended solids	3,182.000	1,513.000
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times

(c) *Vanadium Decomposition Wet Air Pollution Control.*

BPT LIMITATIONS FOR THE SECONDARY MOLYBDENUM AND VANADIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of vanadium produced by decomposition	
Antimony	0.000	0.000
Lead	0.000	0.000
Nickel	0.000	0.000
Molybdenum	0.000	0.000
Ammonia (as N)	0.000	0.000
Total suspended solids	0.000	0.000
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times

(d) *Molybdenum Drying Wet Air Pollution Control.*

BPT LIMITATIONS FOR THE SECONDARY MOLYBDENUM AND VANADIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of molybdenum produced	
Antimony	0.000	0.000
Lead	0.000	0.000
Nickel	0.000	0.000
Molybdenum	0.000	0.000
Ammonia (as N)	0.000	0.000
Total suspended solids	0.000	0.000
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times

§ 421.223 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 through 125.32, any existing point source subject to this subpart shall achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable:

(a) *Leach Tailings.*

BAT LIMITATIONS FOR THE SECONDARY MOLYBDENUM AND VANADIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of molybdenum and vanadium produced	
Antimony	24.200	10.790
Lead	3.511	1.630
Nickel	6.897	4.640
Molybdenum	48.450	19.610
Ammonia (as N)	1,661.000	730.400

(b) *Molybdenum Filtrate.*

BAT LIMITATIONS FOR THE SECONDARY MOLYBDENUM AND VANADIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of molybdenum produced	
Antimony	149.800	66.740
Lead	21.730	10.090
Nickel	42.680	28.710
Molybdenum	212.600	86.910
Ammonia (as N)	299.770	122.540

(c) *Vanadium Decomposition Wet Air Pollution Control.*

BAT LIMITATIONS FOR THE SECONDARY MOLYBDENUM AND VANADIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of vanadium produced by decomposition	
Antimony	0.000	0.000
Lead	0.000	0.000
Nickel	0.000	0.000
Molybdenum	0.000	0.000
Ammonia (as N)	0.000	0.000

(d) *Molybdenum Drying Wet Air Pullution Control.*

BAT LIMITATIONS FOR THE SECONDARY MOLYBDENUM AND VANADIUM SUBCATEGORY

Poliutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of molybdenum produced	
Antimony	0.000	0.000
Lead	0.000	0.000
Nickel	0.000	0.000
Molybdenum	0.000	0.000
Ammonia (as N)	0.000	0.000

§ 421.224 Standards of performance for new sources.

Any new source subject to this subpart shall achieve the following new source performance standards:

(a) *Leach Tailings.*

NSPS FOR THE SECONDARY MOLYBDENUM AND VANADIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of molybdenum and vanadium produced	
Antimony	24.200	10.790
Lead	3.511	1.630
Nickel	6.897	4.640
Molybdenum	48.450	19.810
Ammonia (as N)	1,661.000	730.400
Total suspended solids	188.100	150.500
pH	[1]	[1]

[1] Within the range of 7.5 to 10.0 at all times.

(b) *Molybdenum Filtrate.*

NSPS FOR THE SECONDARY MOLYBDENUM AND VANADIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of molybdenum produced	
Antimony	149.800	66.740
Lead	21.730	10.090
Nickel	42.680	28.710
Molybdenum	299.770	122.540
Ammonia (as N)	10,280.000	4,519.000
Total suspended solids	1,164.000	931.200

NSPS FOR THE SECONDARY MOLYBDENUM AND VANADIUM SUBCATEGORY—Continued

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
pH	[1]	[1]

[1] Within the range of 7.5 to 10.0 at all times.

(c) *Vanadium Decomposition Wet Air Pollution Control.*

NSPS FOR THE SECONDARY MOLYBDENUM AND VANADIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of vanadium produced by decomposition	
Antimony	0.000	0.000
Lead	0.000	0.000
Nickel	0.000	0.000
Molybdenum	0.000	0.000
Ammonia (as N)	0.000	0.000
Total suspended solids	0.000	0.000
pH	[1]	[1]

[1] Within the range of 7.5 to 10.0 at all times.

(d) *Molybdenum Drying Wet Air Pollution Control.*

NSPS FOR THE SECONDARY MOLYBDENUM AND VANADIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of molybdenum produced	
Antimony	0.000	0.000
Lead	0.000	0.000
Nickel	0.000	0.000
Molybdenum	0.000	0.000
Ammonia (as N)	0.000	0.000
Total suspended solids	0.000	0.000
pH	[1]	[1]

[1] Within the range of 7.5 to 10.0 at all times.

§ 421.225 [Reserved]

§ 421.226 Pretreatment standards for new sources.

Except as provided in 40 CFR 403.7, any new 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 new sources. The mass of wastewater pollutants in secondary molybdenum and vanadium process wastewater introduced into a POTW shall not exceed the following values:

(a) *Leach Tailings.*

PSNS FOR THE SECONDARY MOLYBDENUM AND VANADIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of molybdenum and vanadium produced	
Antimony	24.200	10.790
Lead	3.511	1.630
Nickel	6.897	4.640
Molybdenum	48.450	19.810
Ammonia (as N)	1,661.000	730.400

(b) *Molybdenum Filtrate.*

PSNS FOR THE SECONDARY MOLYBDENUM AND VANADIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of molybdenum produced	
Antimony	149.800	66.740
Lead	21.730	10.090
Nickel	42.680	28.710
Molybdenum	299.770	122.540
Ammonia (as N)	10,280.000	4,519.000

(c) *Vanadium Decomposition Wet Air Pollution Control.*

PSNS FOR THE SECONDARY MOLYBDENUM AND VANADIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of vanadium produced by decomposition	
Antimony	0.000	0.000
Lead	0.000	0.000
Nickel	0.000	0.000
Molybdenum	0.000	0.000
Ammonia (as N)	0.000	0.000

(d) *Molybdenum Drying Wet Air Pollution Control.*

PSNS FOR THE SECONDARY MOLYBDENUM AND VANADIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of molybdenum produced	
Antimony	0.000	0.000
Lead	0.000	0.000
Nickel	0.000	0.000
Molybdenum	0.000	0.000
Ammonia (as N)	0.000	0.000

§ 421.227 [Reserved].

Subpart W—Primary Nickel and Cobalt Subcategory

§ 421.230 Applicability: Description of the primary nickel and cobalt subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of nickel or cobalt by primary nickel and cobalt facilities processing ore concentrate raw materials.

§ 421.231 Specialized definitions.

For the purpose of this subpart the general definitions, abbreviations, and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

§ 421.232 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 through 125.32, any existing point source subject to this subpart shall achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable technology currently available:

(a) *Raw Material Dust Control.*

BPT Limitations for the Primary Nickel and Cobalt Subcategory

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of copper, nickel, and cobalt in the crushed raw material	
Copper	0.146	0.077
Nickel	0.148	0.098
Ammonia (as N)	10.260	4.400
Cobalt	0.016	0.007
Total suspended solids	3.157	1.502
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(b) *Nickel Wash Water.*

BPT Limitations for the Primary Nickel and Cobalt Subcategory

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of nickel powder washed	
Copper	0.064	0.034
Nickel	0.065	0.043
Ammonia (as N)	4.510	1.940
Cobalt	0.007	0.003
Total suspended solids	1.389	0.661
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(c) *Nickel Reduction Decant.*

BPT Limitations for the Primary Nickel and Cobalt Subcategory

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of nickel reduced	
Copper	24.120	12.700
Nickel	24.380	16.120
Ammonia (as N)	1,692.600	725.500
Cobalt	2.666	1.143
Total suspended solids	520.500	247.600
pH	(1)	(1)

[1] With the range of 7.5 to 10.0 at all times.

(d) *Cobalt Reduction Decant.*

BPT Limitations for the Primary Nickel and Cobalt Subcategory

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of cobalt reduced	
Copper	40.660	21.400
Nickel	41.090	27.180
Ammonia (as N)	2,851.000	1,223.000
Cobalt	4.494	1.926
Total suspended solids	877.300	417.300
pH	(1)	(1)

[1] Within the range of 7.5 to 10.00 at all times.

§ 421.233 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 through 125.32, any existing point source subject to this subpart shall achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable:

(a) *Raw Material Dust Control.*

BAT Limitations for the Primary Nickel and Cobalt Subcategory

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of copper, nickel, and cobalt in the crushed raw material	
Copper	0.099	0.047
Nickel	0.042	0.028
Ammonia (as N)	10.200	4.480
Cobalt	0.011	0.005

(b) *Nickel Wash Water.*

BAT Limitations for the Primary Nickel and Cobalt Subcategory

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of nickel powder washed	
Copper	0.043	0.021
Nickel	0.019	0.013
Ammonia (as N)	4.490	1.970
Cobalt	0.005	0.002

(c) *Nickel Reduction Decant*

BAT Limitations for the Primary Nickel and Cobalt Subcategory

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of nickel reduced	
Copper	16.250	7.744
Nickel	6.982	4.697
Ammonia (as N)	1,682.000	739.50
Cobalt	1.778	0.889

(d) *Cobalt Reduction Decant.*

BAT Limitations for the Primary Nickel and Cobalt Subcategory

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of cobalt reduced	
Copper	27.390	13.050
Nickel	11.770	7.917
Ammonia (as N)	2,832.000	1,245.000
Cobalt	2.996	1.498

§ 421.234 Standards of performance for new sources.

Any new source subject to this subpart shall achieve the following new source performance standards:

(a) *Raw Material Dust Control.*

NSPS for the Primary Nickel and Cobalt Subcategory

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of copper, nickel, and cobalt in the crushed raw material	
Copper	0.099	0.047
Nickel	0.042	0.028
Ammonia (as N)	10.200	4.480
Cobalt	0.011	0.005
Total suspended solids	1.155	0.924
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(b) *Nickel Wash Water.*

NSPS FOR THE PRIMARY NICKEL AND COBALT SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of nickel powder washed	
Copper	0.043	0.021
Nickel	0.019	0.013
Ammonia (as N)	4.490	1.970
Cobalt	0.005	0.002
Total suspended solids	0.508	0.407
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(c) *Nickel Reduction Decant.*

NSPS FOR THE PRIMARY NICKEL AND COBALT SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of nickel reduced	
Copper	16.250	7.744
Nickel	6.982	5.697
Ammonia (as N)	1,682.000	739.500
Cobalt	1.778	0.889
Total suspended solids	290.400	152.400
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(d) *Cobalt Reduction Decant.*

NSPS FOR THE PRIMARY NICKEL AND COBALT SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of cobalt reduced	
Copper	27.390	13.050
Nickel	11.770	7.917
Ammonia (as N)	2,835.000	1,179.000
Cobalt	2.996	1.498
Total suspended solids	321.000	256.800
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

§ 421.235 [Reserved]

§ 421.236 Pretreatment standards for new sources.

Except as provided in 40 CFR 403.7, any new 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 new sources. The mass of wastewater pollutants in primary nickel and cobalt process wastewater introduced into a POTW shall not exceed the following values:

(a) *Raw Material Dust Control.*

PSNS FOR THE PRIMARY NICKEL AND COBALT SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of copper, nickel, and cobalt in the crushed raw material	
Copper	0.099	0.047
Nickel	0.042	0.028
Ammonia (as N)	10.200	4.480
Cobalt	0.011	0.005

(b) *Nickel Wash Water.*

PSNS FOR THE PRIMARY NICKEL AND COBALT SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of nickel powder washed	
Copper	0.043	0.021
Nickel	0.019	0.013
Ammonia (as N)	4.490	1.970
Cobalt	0.005	0.002

(c) *Nickel Reduction Decant.*

PSNS FOR THE PRIMARY NICKEL AND COBALT SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of nickel reduced	
Copper	16.250	7.744
Nickel	6.982	4.697
Ammonia (as N)	1,682,000	739.50
Cobalt	1.778	0.889

(d) *Cobalt Reduction Decant.*

PSNS FOR THE PRIMARY NICKEL AND COBALT SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of cobalt reduced	
Copper	27.390	13.050
Nickel	11.770	7.917
Ammonia (as N)	2,835.000	1,179.000
Cobalt	2.996	1.498

§ 421.237 [Reserved]

Subpart X—Secondary Nickel Subcategory

§ 421.240 Applicability: Description of the secondary nickel subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of nickel by secondary nickel facilities processing slag, spent acids, or scrap metal raw materials.

§ 421.241 Specialized definitions.

For the purpose of this subpart the general definitions, abbreviations, and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

§§ 421.242–421.243 [Reserved]

§ 421.244 Standards of performance for new sources.

Any new source subject to this subpart shall achieve the following new source performance standards:

(a) *Slag Reclaim Tailings.*

NSPS FOR THE SECONDARY NICKEL SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of slag reclaim nickel produced	
Chromium (total)	37.670	15.410
Copper	162.700	85.600
Nickel	164.400	108.700
Total suspended solids	3,510.000	1,669.000
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(b) *Acid Reclaim Leaching Filtrate.*

NSPS FOR THE SECONDARY NICKEL SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of acid reclaim nickel produced	
Chromium (total)	1.848	0.749
Copper	6.394	3.047
Nickel	2.747	1.848
Total suspended solids	74.930	59.940
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(c) *Acid Reclaim Leaching Belt Filter Backwash.*

NSPS FOR THE SECONDARY NICKEL SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of acid reclaim nickel produced	
Chromium (total)	0.444	0.180
Copper	1.535	0.731
Nickel	0.660	0.444
Total suspended solids	17.990	14.390
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

§ 421.245 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. The mass of wastewater pollutants in secondary nickel process wastewater introduced into a POTW must not exceed the following values:

(a) *Slag Reclaim Tailings.*

PSES FOR THE SECONDARY NICKEL SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of slag reclaim nickel produced	
Chromium (total)	37.670	15.410
Copper	162.700	85.600
Nickel	164.400	108.700

(b) *Acid Reclaim Leaching Filtrate.*

PSES FOR THE SECONDARY NICKEL SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of acid reclaim nickel produced	
Chromium (total)	1.848	0.749
Copper	6.394	3.047
Nickel	2.747	1.848

(c) *Acid Reclaim Leaching Belt Filter Backwash.*

PSES FOR THE SECONDARY NICKEL SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of acid reclaim nickel produced	
Chromium (total)	0.444	0.180
Copper	1.535	0.731
Nickel	0.660	0.444

§ 421.246 Pretreatment standards for new sources.

Except as provided in 40 CFR 403.7, any new 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 new sources. The mass of wastewater pollutants in secondary nickel process wastewater introduced into a POTW shall not exceed the following values:

(a) *Slag Reclaim Tailings.*

PSNS FOR THE SECONDARY NICKEL SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of slag reclaim nickel produced	
Chromium (total)	37.670	15.410
Copper	162.700	85.600
Nickel	164.400	108.700

(b) *Acid Reclaim Leaching Filtrate.*

PSNS FOR THE SECONDARY NICKEL SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of acid reclaim nickel produced	
Chromium (total)	1.848	0.749
Copper	6.394	3.047
Nickel	2.747	1.848

(c) *Acid Reclaim Leaching Belt Filter Backwash.*

PSNS FOR THE SECONDARY NICKEL SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of acid reclaim nickel produced	
Chromium (total)	0.444	0.180
Copper	1.535	0.731
Nickel	0.660	0.444

§ 421.247 [Reserved]

Subpart Y—Primary Precious Metals and Mercury Subcategory

§ 421.250 Applicability: Description of the primary precious metals and mercury subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of gold, silver, or mercury by primary precious metals and mercury facilities.

§ 421.251 Specialized definitions.

For the purpose of this subpart the general definitions, abbreviations, and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

§ 421.252 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 through 125.32, any existing point source subject to this subpart shall achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable technolgy currently available:

(a) *Smelter Wet Air Pollution Control.*

BPT LIMITATIONS FOR THE PRIMARY PRECIOUS METALS AND MERCURY SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/troy ounce of gold and silver smelted	
Arsenic	27.590	11.350
Lead	5.544	2.640
Mercury	3.300	1.320
Silver	5.412	2.244
Zinc	19.270	8.052
Oil and Grease	264.000	158.400
Total suspended solids	541.200	257.400
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(b) *AgCl Reduction Spent Solution.*

BPT LIMITATIONS FOR THE PRIMARY PRECIOUS METALS AND MERCURY SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/troy ounce of silver produced by silver solution reduction	
Arsenic	0.836	0.344
Lead	0.168	0.080
Mercury	0.100	0.040
Silver	0.164	0.068
Zinc	0.584	0.244
Oil and Grease	8.000	4.800
Total suspended solids	16.400	7.800
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(c) *Electrolytic Cells Wet Air Pollution Control.*

BPT LIMITATIONS FOR THE PRIMARY PRECIOUS METALS AND MERCURY SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/troy ounce of gold refined electrolytically	
Arsenic	413.800	170.300
Lead	83.160	39.600
Mercury	49.500	19.800
Silver	81.180	33.660
Zinc	289.100	120.800
Oil and Grease	3,960.000	2,376.000
Total suspended solids	8,118.000	3,861.000
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(d) *AgNO3 Electrolyte Preparation Wet Air Pollution Control.*

BPT LIMITATIONS FOR THE PRIMARY PRECIOUS METALS AND MERCURY SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/troy ounce of silver in electrolyte produced	
Arsenic	0.105	0.043
Lead	0.021	0.010
Mercury	0.013	0.005
Silver	0.021	0.009
Zinc	0.073	0.031
Oil and Grease	1.000	0.600
Total suspended solids	2.050	0.975
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(e) *Ag Crystals Wash Water.*

BPT LIMITATIONS FOR THE PRIMARY PRECIOUS METALS AND MERCURY SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/troy ounce of silver crystals washed	
Arsenic	0.606	0.249
Lead	0.122	0.058
Mercury	0.073	0.029
Silver	0.119	0.049
Zinc	0.423	0.177
Oil and Grease	5.800	3.480
Total suspended solids	11.890	5.655
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(f) *Gold Slimes Acid and Water Wash.*

BPT LIMITATIONS FOR THE PRIMARY PRECIOUS METALS AND MERCURY SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/troy ounce of gold slimes washed	
Arsenic	8.360	3.440
Lead	1.680	0.800
Mercury	1.000	0.400
Silver	1.640	0.680
Zinc	5.840	2.440
Oil and Grease	80.000	48.000
Total suspended solids	164.000	78.000
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(g) *Calciner Wet Air Pollution Control.*

BPT LIMITATIONS FOR THE PRIMARY PRECIOUS METALS AND MERCURY SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of mercury condensed	
Arsenic	388.800	160.000
Lead	78.120	37.200
Mercury	46.500	18.600
Silver	76.260	31.620
Zinc	271.600	113.500
Oil and Grease	3,720.000	2,232.000
Total suspended solids	7,626,000	3,627.000

BPT LIMITATIONS FOR THE PRIMARY PRECIOUS METALS AND MERCURY SUBCATEGORY—Continued

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(h) *Calcine Quench.*

BPT LIMITATIONS FOR THE PRIMARY PRECIOUS METALS AND MERCURY SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of mercury condensed	
Arsenic	36.790	15.140
Lead	7.392	3.520
Mercury	4.400	1.760
Silver	7.216	2.992
Zinc	25.700	10.740
Oil and Grease	352.000	211.200
Total suspended solids	721.600	343.200
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(i) *Stack Gas Cooling.*

BPT LIMITATIONS FOR THE PRIMARY PRECIOUS METALS AND MERCURY SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of mercury condensed	
Arsenic	8.674	3.569
Lead	1.743	0.830
Mercury	1.038	0.415
Silver	1.702	0.706
Zinc	6.059	2.532
Oil and Grease	83.000	49.800
Total suspended solids	170.200	80.930
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(j) *Hg Calcining Condensate.*

BPT LIMITATIONS FOR THE PRIMARY PRECIOUS METALS AND MERCURY SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of mercury condensed	
Arsenic	28.840	11.870
Lead	5.796	2.760
Mercury	3.450	1.380
Silver	5.658	2.346
Zinc	20.150	8.418
Oil and Grease	276.000	165.600
Total suspended solids	565.800	269.100
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(k) *Hg Cleaning Bath.*

BPT LIMITATIONS FOR THE PRIMARY PRECIOUS METALS AND MERCURY SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of mercury condensed	
Arsenic	2.926	1.204
Lead	0.588	0.280
Mercury	0.350	0.140
Silver	0.574	0.238
Zinc	2.044	0.854
Oil and Grease	28.000	16.800
Total suspended solids	57.400	27.300
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

§ 421.253 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 through 125.32, any existing point source subject to this subpart shall achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable:

(a) *Smelter Wet Air Pollution Control.*

BAT LIMITATIONS FOR THE PRIMARY PRECIOUS METALS AND MERCURY SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/troy ounce of gold and silver smelted	
Arsenic	1.807	0.741
Lead	0.364	0.169
Mercury	0.195	0.078
Silver	0.377	0.156
Zinc	1.326	0.546

(b) *AgCl Reduction Spent Solution.*

BAT LIMITATIONS FOR THE PRIMARY PRECIOUS METALS AND MERCURY SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/troy ounce of silver produced by silver solution reduction	
Arsenic	0.556	0.228
Lead	0.112	0.052
Mercury	0.060	0.024
Silver	0.116	0.048
Zinc	0.408	0.168

(c) *Electrolytic Cells Wet Air Pollution Control.*

BAT LIMITATIONS FOR THE PRIMARY PRECIOUS METALS AND MERCURY SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/troy ounce of gold refined electrolytically	
Arsenic	27.520	11.290
Lead	5.544	2.574
Mercury	2.970	1.188
Silver	5.742	2.376
Zinc	20.200	8.316

(d) *AgNO3 Electrolyte Preparation Wet Air Pollution Control.*

BAT LIMITATIONS FOR THE PRIMARY PRECIOUS METALS AND MERCURY SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/troy ounce of silver in electrolyte produced	
Arsenic	0.070	0.029
Lead	0.014	0.007
Mercury	0.008	0.003
Silver	0.015	0.006
Zinc	0.051	0.021

(e) *Ag Crystals Wash Water.*

BAT LIMITATIONS FOR THE PRIMARY PRECIOUS METALS AND MERCURY SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/troy ounce of silver crystals washed	
Arsenic	0.403	0.165
Lead	0.081	0.038
Mercury	0.044	0.017
Silver	0.084	0.035
Zinc	0.296	0.122

(f) *Gold Slimes Acid and Water Wash.*

BAT LIMITATIONS FOR THE PRIMARY PRECIOUS METALS AND MERCURY SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/troy ounce of gold slimes washed	
Arsenic	5.560	2.280
Lead	1.120	0.520
Mercury	0.600	0.240
Silver	1.160	0.480
Zinc	4.080	1.680

(g) *Calciner Wet Air Pollution Control.*

BAT LIMITATIONS FOR THE PRIMARY PRECIOUS METALS AND MERCURY SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of mercury condensed	
Arsenic	30.580	12.540
Lead	6.160	2.860
Mercury	3.300	1.320
Silver	6.380	2.640
Zinc	22.440	9.240

(h) *Calcine Quench.*

BAT LIMITATIONS FOR THE PRIMARY PRECIOUS METALS AND MERCURY SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of mercury condensed	
Arsenic	24.470	10.030
Lead	4.928	2.288
Mercury	2.640	1.056
Silver	5.104	2.112
Zinc	17.950	7.392

(i) *Stack Gas Cooling.*

BAT LIMITATIONS FOR THE PRIMARY PRECIOUS METALS AND MERCURY SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of mercury condensed	
Arsenic	5.769	2.366
Lead	1.162	0.540
Mercury	0.623	0.249
Silver	1.204	0.498
Zinc	4.233	1.743

(j) *Hg Calcining Condensate.*

BAT LIMITATIONS FOR THE PRIMARY PRECIOUS METALS AND MERCURY SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of mercury condensed	
Arsenic	19.180	7.866
Lead	3.864	1.794
Mercury	2.070	0.828
Silver	4.002	1.656
Zinc	14.080	5.796

(k) *Hg Cleaning Bath.*

BAT LIMITATIONS FOR THE PRIMARY PRECIOUS METALS AND MERCURY SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of mercury condensed	
Arsenic	1.946	0.798
Lead	0.392	0.182
Mercury	0.210	0.084
Silver	0.406	0.168
Zinc	1.428	0.588

§ 421.254 Standards of performance for new sources.

Any new source subject to this subpart shall achieve the following new source performance standards:

(a) *Smelter Wet Air Pollution Control.*

NSPS FOR THE PRIMARY PRECIOUS METALS AND MERCURY SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/troy ounce of gold and silver smelted	
Arsenic	1.807	0.741
Lead	0.364	0.169
Mercury	0.195	0.078
Silver	0.377	0.156
Zinc	1.326	0.546
Oil and Grease	13.000	13.000
Total suspended solids	19.500	15.600
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(b) *AgCl Reduction Spent Solution.*

NSPS FOR THE PRIMARY PRECIOUS METALS AND MERCURY SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/troy ounce of silver produced by silver solution reduction	
Arsenic	0.556	0.228
Lead	0.112	0.052
Mercury	0.060	0.024
Silver	0.116	0.048
Zinc	0.408	0.168
Oil and Grease	4.000	4.000
Total suspended solids	6.000	4.800
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(c) *Electrolytic Cells Wet Air Pollution Control.*

NSPS FOR THE PRIMARY PRECIOUS METALS AND MERCURY SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/troy ounce of gold refined electrolytically	
Arsenic	27.520	11.290
Lead	5.544	2.574
Mercury	2.970	1.188
Silver	5.742	2.376

NSPS FOR THE PRIMARY PRECIOUS METALS AND MERCURY SUBCATEGORY—Continued

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Zinc	20.200	8.316
Oil and Grease	198.000	198.000
Total suspended solids	297.000	237.600
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(d) *AgNO3 Electrolyte Preparation Wet Air Pollution Control.*

NSPS FOR THE PRIMARY PRECIOUS METALS AND MERCURY SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/troy ounce of silver in electrolyte produced	
Arsenic	0.070	0.029
Lead	0.014	0.007
Mercury	0.008	0.003
Silver	0.015	0.006
Zinc	0.051	0.021
Oil and Grease	0.500	0.500
Total suspended solids	0.750	0.600
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(e) *Ag Crystals Wash Washer.*

NSPS FOR THE PRIMARY PRECIOUS METALS AND MERCURY SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/troy ounce of silver crystals washed	
Arsenic	0.403	0.165
Lead	0.081	0.038
Mercury	0.044	0.017
Silver	0.084	0.035
Zinc	0.296	0.122
Oil and Grease	2.900	2.900
Total suspended solids	4.350	3.480
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(f) *Gold Slimes Acid and Water Wash.*

NSPS FOR THE PRIMARY PRECIOUS METALS AND MERCURY SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/troy ounce of gold slimes washed	
Arsenic	5.560	2.260
Lead	1.120	0.520
Mercury	0.600	0.240
Silver	1.160	0.480
Zinc	4.080	1.680
Oil and Grease	40.000	40.000
Total suspended solids	60.000	48.000
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(g) *Calciner Wet Air Pollution Control.*

NSPS FOR THE PRIMARY PRECIOUS METALS AND MERCURY SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of mercury condensed	
Arsenic	30.580	12.540
Lead	6.160	2.860
Mercury	3.300	1.320
Silver	6.380	2.640
Zinc	22.440	9.240
Oil and Grease	220.000	220.000
Total suspended solids	330.000	264.000
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(h) *Calcine Quench.*

NSPS FOR THE PRIMARY PRECIOUS METALS AND MERCURY SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of mercury condensed	
Arsenic	24.470	10.030
Lead	4.928	2.288
Mercury	2.640	1.056
Silver	5.104	2.112
Zinc	17.950	7.392
Oil and Grease	176.000	176.000
Total suspended solids	264.000	211.200
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(i) *Stack Gas Cooling.*

NSPS FOR THE PRIMARY PRECIOUS METALS AND MERCURY SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of mercury condensed	
Arsenic	5.769	2.366
Lead	1.162	0.540
Mercury	0.623	0.249
Silver	1.204	0.498
Zinc	4.233	1.743
Oil and Grease	41.500	41.500
Total suspended solids	62.250	49.800
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(j) *Hg Calcining Condensate.*

NSPS FOR THE PRIMARY PRECIOUS METALS AND MERCURY SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of mercury condensed	
Arsenic	19.180	7.866
Lead	3.864	1.794
Mercury	2.070	0.828
Silver	4.002	1.656
Zinc	14.080	5.796
Oil and Grease	138.000	138.000
Total suspended solids	207.000	165.600
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(k) *Hg Cleaning Bath.*

NSPS FOR THE PRIMARY PRECIOUS METALS AND MERCURY SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of mercury condensed	
Arsenic	1.946	0.798
Lead	0.392	0.182
Mercury	0.210	0.084
Silver	0.406	0.168
Zinc	1.428	0.588
Oil and Grease	14.000	14.000
Total suspended solids	21.000	16.800
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

§ 421.255 [Reserved]

§ 421.256 Pretreatment standards for new sources.

Except as provided in 40 CFR 403.7, any new 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 new sources. The mass of wastewater pollutants in primary precious metals and mercury process wastewater introduced into a POTW shall not exceed the following values:

(a) *Smelter Wet Air Pollution Control.*

PSNS FOR THE PRIMARY PRECIOUS METALS AND MERCURY SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/troy ounce of gold and silver smelted	
Arsenic	1.807	0.741
Lead	0.364	0.169
Mercury	0.195	0.078
Silver	0.377	0.156
Zinc	1.326	0.546

(b) *AgCl Reduction Spent Solution.*

PSNS FOR THE PRIMARY PRECIOUS METALS AND MERCURY SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/troy ounce of silver produced by silver solution reduction	
Arsenic	0.556	0.228
Lead	0.112	0.052

PSNS FOR THE PRIMARY PRECIOUS METALS AND MERCURY SUBCATEGORY—Continued

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Mercury	0.060	0.024
Silver	0.116	0.048
Zinc	0.408	0.168

(c) *Electrolytic Cells Wet Air Pollution Control.*

PSNS FOR THE PRIMARY PRECIOUS METALS AND MERCURY SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/troy ounce of gold refined electrolytically	
Arsenic	27.520	11.290
Lead	5.544	2.574
Mercury	2.970	1.188
Silver	5.742	2.376
Zinc	20.200	8.316

(d) *AgNO3 Electrolyte Preparation Wet Air Pollution Control.*

PSNS FOR THE PRIMARY PRECIOUS METALS AND MERCURY SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/troy ounce of silver in electrolyte produced	
Arsenic	0.070	0.029
Lead	0.014	0.007
Mercury	0.008	0.003
Silver	0.015	0.006
Zinc	0.051	0.021

(e) *Ag Crystals Wash Water.*

PSNS FOR THE PRIMARY PRECIOUS METALS AND MERCURY SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/troy ounce of silver crystals washed	
Arsenic	0.403	0.165
Lead	0.081	0.038
Mercury	0.044	0.017
Silver	0.084	0.035
Zinc	0.296	0.122

(f) *Gold Slimes Acid and Water Wash.*

PSNS FOR THE PRIMARY PRECIOUS METALS AND MERCURY SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/troy ounce of gold slimes washed	
Arsenic	5.560	2.280
Lead	1.120	0.520
Mercury	0.600	0.240

PSNS FOR THE PRIMARY PRECIOUS METALS AND MERCURY SUBCATEGORY—Continued

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Silver	1.160	0.480
Zinc	4.080	1.680

(g) *Calciner Wet Air Pollution Control.*

PSNS FOR THE PRIMARY PRECIOUS METALS AND MERCURY SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of mercury condensed	
Arsenic	30.580	12.540
Lead	6.160	2.860
Mercury	3.300	1.320
Silver	6.380	2.640
Zinc	22.440	9.240

(h) *Calcine Quench.*

PSNS FOR THE PRIMARY PRECIOUS METALS AND MERCURY SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of mercury condensed	
Arsenic	24.470	10.030
Lead	4.928	2.288
Mercury	2.640	1.056
Silver	5.104	2.112
Zinc	17.950	7.392

(i) *Stack Gas Cooling.*

PSNS FOR THE PRIMARY PRECIOUS METALS AND MERCURY SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of mercury condensed	
Arsenic	5.769	2.366
Lead	1.162	0.540
Mercury	0.623	0.249
Silver	1.204	0.498
Zinc	4.233	1.743

(j) *Hg Calcining Condensate.*

PSNS FOR THE PRIMARY PRECIOUS METALS AND MERCURY SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of mercury condensed	
Arsenic	19.180	7.868
Lead	3.864	1.794
Mercury	2.070	0.828

PSNS FOR THE PRIMARY PRECIOUS METALS AND MERCURY SUBCATEGORY—Continued

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Silver	4.002	1.656
Zinc	14.060	5.796

(k) *Hg Cleaning Bath.*

PSNS FOR THE PRIMARY PRECIOUS METALS AND MERCURY SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of mercury condensed	
Arsenic	1.946	0.798
Lead	0.392	0.182
Mercury	0.210	0.084
Silver	0.406	0.168
Zinc	1.428	0.588

§ 421.257 [Reserved]

Subpart Z—Secondary Precious Metals Subcategory

§ 421.260 Applicability: description of the secondary precious metals subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of precious metals at secondary precious metals facilities.

§ 421.261 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations, and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

(b) The term "precious metals" shall mean gold, platinum, palladium, rhodium, iridium, osmium, and ruthenium.

§ 421.262 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 through 125.32, any existing point source subject to this subpart shall achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable technology currently available:

(a) *Furnace Wet Air Pollution Control.*

BPT LIMITATIONS FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/troy ounce of precious metals, including silver, routed through furnace	
Copper	136.400	71.800
Cyanide (total)	20.820	8.616
Zinc	104.800	43.800
Ammonia (as N)	9,583.000	4,205.000
Total suspended solids	2,944.000	1,400.000
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(b) *Raw Material Granulation.*

BPT LIMITATIONS FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/troy ounce of precious metal contained in the raw material which is granulated	
Copper	0.000	0.000
Cyanide (total)	0.000	0.000
Zinc	0.000	0.000
Ammonia (as N)	0.000	0.000
Total suspended solids	0.000	0.000
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(c) *Spent Plating Solutions.*

BPT LIMITATIONS FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/liter of spent plating solution used as a raw material	
Copper	1.900	1.000
Cyanide (total)	0.290	0.120
Zinc	1.460	0.610
Ammonia (as N)	133.300	58.600
Total suspended solids	41.000	19.500
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(d) *Spent Cyanide Stripping Solutions.*

BPT LIMITATIONS FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/troy ounce of precious metals produced by cyanide stripping	
Copper	2.090	1.100
Cyanide (total)	0.319	0.132
Zinc	1.606	0.671
Ammonia (as N)	146.800	64.420
Total suspended solids	45.100	21.450
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(e) *Refinery Wet Air Pollution Control.*

BPT LIMITATIONS FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/troy ounce of precious metals, including silver, produced in refinery	
Copper	39.900	21.000
Cyanide (total)	6.090	2.520
Zinc	30.660	12.810
Ammonia (as N)	2,802.000	1,230.000
Total suspended solids	861.000	409.500
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(f) *Gold Solvent Extraction Raffinate and Wash Water.*

BPT LIMITATIONS FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/troy ounce of gold produced by solvent extraction process	
Copper	1.197	0.630
Cyanide (total)	0.183	0.076
Zinc	0.920	0.384
Ammonia (as N)	84.070	36.890
Total suspended solids	25.830	12.290
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(g) *Gold Spent Electrolyte.*

BPT LIMITATIONS FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/troy ounce of gold produced by electrolytic refining	
Copper	0.017	0.009
Cyanide (total)	0.003	0.001
Zinc	0.013	0.005
Ammonia (as N)	1.160	0.510
Total suspended solids	0.357	0.170
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(h) *Gold Precipitation and Filtration.*

BPT LIMITATIONS FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/troy ounce of gold precipitated	
Copper	8.360	4.400
Cyanide (total)	1.276	0.528
Zinc	6.424	2.684
Ammonia (as N)	583.800	257.700
Total suspended solids	180.400	85.800
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(i) *Platinum Precipitation and Filtration.*

BPT LIMITATIONS FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/troy ounce of platinum precipitated	
Copper	9.880	5.200
Cyanide (total)	1.508	0.624
Zinc	7.592	3.172
Ammonia (as N)	693.800	304.500
Total suspended solids	213.200	101.400
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(j) *Palladium Precipitation and Filtration.*

BPT LIMITATIONS FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/troy ounce of palladium precipitated	
Copper	6.650	3.500
Cyanide (total)	1.015	0.420
Zinc	5.110	2.135
Ammonia (as N)	467.000	205.000
Total suspended solids	143.500	68.250
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(k) *Other Platinum Group Metals Precipitation and Filtration.*

BPT LIMITATIONS FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or Pollutant Property	Maximum for any 1 day	Maximum for monthly average
	mg/troy ounce of other platinum group metals precipitated	
Copper	9.880	5.200
Cyanide (total)	1.508	0.624
Zinc	7.592	3.172
Ammonia (as N)	693.900	304.500
Total suspended solids	213.200	101.400
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(l) *Spent Solutions from PGC Salt Production.*

BPT LIMITATIONS FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or Pollutant Property	Maximum for any 1 day	Maximum for monthly average
	mg/troy ounce of gold contained in PGC product	
Copper	1.710	0.900
Cyanide (total)	0.261	0.108
Zinc	1.314	0.549
Ammonia (as N)	120.100	52.700
Total suspended solids	36.900	17.550
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(m) *Equipment and Floor Wash.*

BPT LIMITATIONS FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or Pollutant Property	Maximum for any 1 day	Maximum for monthly average
	mg/troy ounce of other precious metals, including silver, produced in refinery	
Copper	0.000	0.000
Cyanide (total)	0.000	0.000
Zinc	0.000	0.000
Ammonia (as N)	0.000	0.000
Total suspended solids	0.000	0.000
pH	(1)	(1)

(1) Within the range of 7.5 to 10.0 at all times.

§ 421.263 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 through 125.32, any existing point source subject to this subpart shall achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable:

(a) *Furnace Wet Air Pollution Control.*

BAT LIMITATIONS FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or Pollutant Property	Maximum for any 1 day	Maximum for monthly average
	mg/troy ounce of precious metals, including silver, routed through furnace	
Copper	5.760	2.745
Cyanide (total)	0.900	0.360
Zinc	4.590	1.890
Ammonia (as N)	600.500	263.500

(b) *Raw Material Granulation.*

BAT LIMITATIONS FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or Pollutant Property	Maximum for any 1 day	Maximum for monthly average
	mg/troy ounce of precious metals contained in the raw material which is granulated	
Copper	0.000	0.000
Cyanide (total)	0.000	0.000
Zinc	0.000	0.000
Ammonia (as N)	0.000	0.000

(c) *Spent Plating Solutions.*

BAT LIMITATIONS FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or Pollutant Property	Maximum for any 1 day	Maximum for monthly average
	mg/liter of spent plating solution used as a raw material	
Copper	1.280	0.610
Cyanide (total)	0.200	0.080
Zinc	1.020	0.420
Ammonia (as N)	133.300	58.600

(d) *Spent Cyanide Stripping Solutions.*

BAT LIMITATIONS FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/troy ounce of precious metals produced by cyanide stripping	
Copper	1.408	0.671
Cyanide (total)	0.220	0.088
Zinc	1.122	0.462
Ammonia (as N)	146.800	64.420

(e) *Refinery Wet Air Pollution Control.*

BAT LIMITATIONS FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/troy ounce of precious metals, including silver, produced in refinery	
Copper	1.280	0.610
Cyanide (total)	0.200	0.080
Zinc	1.020	0.420
Ammonia (as N)	133.300	58.600

(f) *Gold Solvent Extraction Raffinate and Wash Water.*

BAT LIMITATIONS FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/troy ounce of gold produced by solvent extraction process	
Copper	0.806	0.384
Cyanide (total)	0.126	0.051
Zinc	0.643	0.265
Ammonia (as N)	84.070	36.890

(g) *Gold Spent Electrolyte.*

BAT LIMITATIONS FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/troy ounce of gold produced by electrolytic refining	
Copper	0.011	0.005
Cyanide (total)	0.002	0.001
Zinc	0.009	0.004
Ammonia (as N)	1.160	0.510

(h) *Gold Precipitation and Filtration.*

BAT LIMITATIONS FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/troy ounce of gold precipitated	
Copper	5.632	2.684
Cyanide (total)	0.880	0.352
Zinc	4.488	1.848
Ammonia (as N)	583.800	257.700

(i) *Platinum Precipitation and Filtration.*

BAT LIMITATIONS FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/troy ounce of platinum precipitated	
Copper	6.656	3.172
Cyanide (total)	1.040	0.416
Zinc	5.304	2.184
Ammonia (as N)	693.900	304.500

(j) *Palladium Precipitation and Filtration.*

BAT LIMITATIONS FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/troy ounce of palladium precipitated	
Copper	4.480	2.135
Cyanide (total)	0.700	0.280
Zinc	3.570	1.470
Ammonia (as N)	467.000	205.000

(k) *Other Platinum Group Metals Precipitation and Filtration.*

BAT LIMITATIONS FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/troy ounce of other platinum group metals precipitated	
Copper	6.656	3.172
Cyanide (total)	1.040	0.416
Zinc	5.304	2.184
Ammonia (as N)	693.900	304.500

(l) *Spent Solutions from PGC Salt Production.*

BAT LIMITATIONS FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/troy ounce of gold contained in PGC product	
Copper	1.152	0.549
Cyanide (total)	0.180	0.072
Zinc	0.918	0.378
Ammonia (as N)	120.100	52.700

(m) *Equipment and Floor Wash.*

BAT LIMITATIONS FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/troy ounce of precious metals, including silver, produced in refinery	
Copper	0.000	0.000
Cyanide (total)	0.000	0.000
Zinc	0.000	0.000
Ammonia (as N)	0.000	0.000

§ 421.264 Standards of performance for new sources.

Any new source subject to this subpart shall achieve the following new source performance standards:

(a) *Furnace Wet Air Pollution Control.*

NSPS FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/troy ounce of precious metals, including silver, routed through furnace	
Copper	0.000	0.000
Cyanide (total)	0.000	0.000
Zinc	0.000	0.000
Ammonia (as N)	0.000	.000
Total suspended solids	0.000	0.000
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(b) *Raw Material Granulation.*

NSPS FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/troy ounce of precious metals, contained in the raw material which is granulated	
Copper	0.000	0.000
Cyanide (total)	0.000	0.000
Zinc	0.000	0.000
Ammonia (as N)	0.000	0.000
Total suspended solids	0.000	0.000
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(c) *Spent Plating Solutions.*

NSPS FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/liter of spent plating solution used as a raw material	
Copper	1.280	0.610
Cyanide (total)	0.200	0.080
Zinc	1.020	0.420
Ammonia (as N)	133.300	58.600
Total suspended solids	15.000	12.000
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(d) *Spent Cyanide Stripping Solutions.*

NSPS FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/troy ounce of precious metals produced by cyanide stripping	
Copper	1.408	0.671
Cyanide (total)	0.220	0.088
Zinc	1.122	0.462
Ammonia (as N)	146.800	64.420
Total suspended solids	16.500	13.200
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(e) *Refinery Wet Air Pollution Control.*

NSPS FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/troy ounce of precious metals, including silver, produced in refinery	
Copper	1.280	0.610
Cyanide (total)	0.200	0.080
Zinc	1.020	0.420
Ammonia (as N)	133.300	58.600
Total suspended solids	15.000	12.000
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(f) *Gold Solvent Extraction Raffinate and Wash Water.*

NSPS FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/troy ounce of gold produced by solvent extraction process	
Copper	0.806	0.384
Cyanide (total)	0.126	0.051
Zinc	0.643	0.265
Ammonia (as N)	84.070	36.800
Total suspended solids	9.450	7.560
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(g) *Gold Spent Electrolyte.*

NSPS FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/troy ounce of gold produced by electrolytic refining	
Copper	0.011	0.005
Cyanide (total)	0.002	0.001
Zinc	0.009	0.004
Ammonia (as N)	1.160	0.510
Total suspended solids	0.131	0.104
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(h) *Gold Precipitation and Filtration.*

NSPS FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/troy ounce of gold precipitated	
Copper	5.632	2.684
Cyanide (total)	0.880	0.352
Zinc	4.488	1.848
Ammonia (as N)	583.800	257.700
Total suspended solids	66.000	52.800
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(i) *Platinum Precipitation and Filtration.*

NSPS FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/troy ounce of platinum precipitated	
Copper	6.656	3.172
Cyanide (total)	1.040	0.416
Zinc	5.304	2.184
Ammonia (as N)	693.900	304.500
Total suspended solids	78.000	62.400
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(j) *Palladium Precipitation and Filtration.*

NSPS FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/troy ounce of palladium precipitated	
Copper	4.480	2.135
Cyanide (total)	0.700	0.280
Zinc	3.570	1.470
Ammonia (as N)	467.000	205.000
Total suspended solids	52.500	42.000
pH	(1)	(1)

(1) Within the range of 7.5 to 10.0 at all times.

(k) *Other Platinum Group Metals Precipitation and Filtration.*

NSPS FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/troy ounce of other platinum group metals precipitated	
Copper	6.656	3.172
Cyanide (total)	1.040	0.416
Zinc	5.304	2.184
Ammonia (as N)	693.900	304.500
Total suspended solids	78.000	62.400
pH	(1)	(1)

(1) Within the range of 7.5 to 10.0 at all times.

(l) *Spent Solutions from PCG Salt Production.*

NSPS FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/troy ounce of gold contained in PGC product	
Copper	1.152	0.549
Cyanide (total)	0.180	0.072
Zinc	0.918	0.378
Ammonia (as N)	120.100	52.700
Total suspended solids	13.500	10.800
pH	(1)	(1)

(1) Within the range of 7.5 to 10.0 at all times.

(m) *Equipment and Floor Wash.*

NSPS FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/troy ounce of precious metals, including silver, produced in refinery	
Copper	0.000	0.000
Cyanide (total)	0.000	0.000
Zinc	0.000	0.000
Ammonia (as N)	0.000	0.000
Total suspended solids	0.000	0.000
pH	(1)	(1)

(1) Within the range of 7.5 to 10.0 at all times.

§ 421.265 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. The mass of wastewater pollutants in secondary precious metals process wastewater introduced into a POTW must not exceed the following values:

(a) *Furnace Wet Air Pollution Control.*

PSES FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/troy ounce of precious metals, including silver, routed through furnace	
Copper	5.760	2.745
Cyanide (total)	0.900	0.360
Zinc	4.590	1.890
Ammonia (as N)	600.500	263.500

(b) *Raw Material Granulation.*

PSES FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/troy ounce of precious metals contained in the raw material which is granulated	
Copper	0.000	0.000
Cyanide (total)	0.000	0.000
Zinc	0.000	0.000
Ammonia (as N)	0.000	0.000

(c) *Spent Plating Solutions.*

PSES FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/liter of spent plating solution used as a raw material	
Copper	1.280	0.610
Cyanide (total)	0.200	0.080
Zinc	1.020	0.420
Ammonia (as N)	133.300	58.600

(d) *Spent Cyanide Stripping Solutions.*

PSES FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/troy ounce of precious metals produced by cyanide stripping	
Copper	1.408	0.671
Cyanide (total)	0.220	0.088
Zinc	1.122	0.462
Ammonia (as N)	146.800	64.420

(e) *Refinery Wet Air Pollution Control.*

PSES FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/troy ounce of precious metals, including silver, produced in refinery	
Copper	1.280	0.610
Cyanide (total)	0.200	0.080
Zinc	1.020	0.420
Ammonia (as N)	133.300	58.600

(f) *Gold Solvent Extraction Raffinate and Wash Water.*

PSES FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/troy ounce of gold produced by solvent extraction process	
Copper	0.806	0.384
Cyanide (total)	0.126	0.051
Zinc	0.643	0.265
Ammonia (as N)	84.070	36.890

(g) *Gold Spent Electrolyte.*

PSES FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/troy ounce of gold produced by electrolytic refining	
Copper	0.011	0.005
Cyanide (total)	0.002	0.001
Zinc	0.009	0.004
Ammonia (as N)	1.160	0.510

(h) *Gold Precipitation and Filtration.*

PSES FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/troy ounce of gold precipitated	
Copper	5.632	2.684
Cyanide (total)	0.880	0.352
Zinc	4.488	1.848
Ammonia (as N)	583.800	257.700

(i) *Platinum Precipitation and Filtration.*

PSES FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/troy ounce of platinum precipitated	
Copper	6.656	3.172
Cyanide (total)	1.040	0.416
Zinc	5.304	2.184
Ammonia (as N)	693.900	304.500

(j) *Palladium Precipitation and Filtration.*

PSES FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/troy ounce of palladium precipitated	
Copper	4.480	2.135
Cyanide (total)	0.700	0.280
Zinc	3.570	1.470
Ammonia (as N)	467.000	205.000

(k) *Other Platinum Group Metals Precipitation and Filtration.*

PSES FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/troy ounce of other platinum group metals precipitated	
Copper	6.656	3.172
Cyanide (total)	1.040	0.416
Zinc	5.304	2.184
Ammonia (as N)	693.900	304.500

(l) *Spent Solutions from PGC Salt Production.*

PSES FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/troy ounce of gold contained in PGC product	
Copper	1.152	0.549
Cyanide (total)	0.180	0.072
Zinc	0.918	0.378
Ammonia (as N)	120.100	52.700

(m) *Equipment and Floor Wash.*

PSES FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/troy ounce of precious metals, including silver, produced in refinery	
Copper	0.000	0.000
Cyanide (total)	0.000	0.000
Zinc	0.000	0.000
Ammonia (as N)	0.000	0.000

§ 421.266 Pretreatment standards for new sources.

Except as provided in 40 CFR 403.7, any new 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 new sources. The mass of wastewater pollutants in secondary precious metals process wastewater introduced into a POTW shall not exceed the following values:

(a) *Furnace Wet Air Pollution Control.*

PSNS FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/troy ounce of precious metals, including silver, routed through furnace	
Copper	0.000	0.000
Cyanide (total)	0.000	0.000
Zinc	0.000	0.000
Ammonia (as N)	0.000	0.000

(b) *Raw Material Granulation.*

PSNS FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/troy ounce of precious metals contained in the raw material which is granulated	
Copper	0.000	0.000
Cyanide (total)	0.000	0.000
Zinc	0.000	0.000
Ammonia (as N)	0.000	0.000

PSNS FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY—Continued

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/liter of spent plating solution used as a raw material	
Copper	1.280	0.610
Cyanide (total)	0.200	0.080
Zinc	1.020	0.420
Ammonia (as N)	133.300	58.600

(d) *Spent Cyanide Stripping Solutions.*

PSNS FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/troy ounce of precious metals produced by cyanide stripping	
Copper	1.408	0.671
Cyanide (total)	0.220	0.088
Zinc	1.122	0.462
Ammonia (as N)	146.800	64.420

(e) *Refinery Wet Air Pollution Control.*

PSNS FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/troy ounce of precious metals, including silver, produced in refinery	
Copper	1.280	0.610
Cyanide (total)	0.200	0.080
Zinc	1.020	0.420
Ammonia (as N)	133.300	58.600

(f) *Gold Solvent Extraction Raffinate and Wash Water.*

PSNS FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/troy ounce of gold produced by solvent extraction process	
Copper	0.806	0.384
Cyanide (total)	0.126	0.051
Zinc	0.643	0.265
Ammonia (as N)	84.070	36.890

(g) *Gold Spent Electrolyte.*

PSNS FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/troy ounce of gold produced by electrolytic refining	
Copper	0.011	0.005
Cyanide (total)	0.002	0.001
Zinc	0.009	0.004
Ammonia (as N)	1.160	0.510

(h) *Gold Precipitation and Filtration.*

PSNS FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/troy ounce of gold precipitated	
Copper	5.632	2.684
Cyanide (total)	0.880	0.352
Zinc	4.488	1.848
Ammonia (as N)	583.800	257.700

(i) *Platinum Precipitation and Filtration.*

PSNS FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/troy ounce of platinum precipitated	
Copper	6.656	3.172
Cyanide (total)	1.040	0.416
Zinc	5.304	2.184
Ammonia (as N)	693.900	304.500

(j) *Palladium Precipitation and Filtration.*

PSNS FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/troy ounce of palladium precipitated	
Copper	4.480	2.135
Cyanide (total)	0.700	0.280
Zinc	3.570	1.470
Ammonia (as N)	467.000	205.000

(k) *Other Platinum Group Metals Precipitation and Filtration.*

PSNS FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/troy ounce of other platinum group metals precipitated	
Coppepr	6.656	3.172
Cyanide (total)	1.040	0.416
Zinc	5.304	2.184
Ammonia (as N)	693.900	304.500

(l) *Spent Solutions from PGC Salt Production.*

PSNS FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/troy ounce of gold contained in PGC product	
Copper	1.152	0.549
Cyanide (total)	0.180	0.072
Zinc	0.918	0.378
Ammonia (as N)	120.100	52.700

(m) *Equipment and Floor Wash.*

PSNS FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/troy ounce of precious metals, including silver, produced in refinery	
Copper	0.000	0.000
Cyanide (total)	0.000	0.000
Zinc	0.000	0.000
Ammonia (as N)	0.000	0.000

§ 421.267 [Reserved]

Subpart AA—Primary Rare Earth Metals Subcategory

§ 421.270 Applicability: Description of the primary rare earth metals subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of rare earth metals and mischmetal by primary rare earth metals facilities processing rare earth metal oxides, chlorides, and fluorides.

§ 421.271 Specialized definitions.

In addition to what is provided below:

(a) The general definitions, abbreviations, and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

(b) The term "rare earth metals" refers to the elements scandium, yttrium, and lanthanum to lutetium, inclusive.

(c) The term "mischmetal" refers to a rare earth metal alloy comprised of the natural mixture of rare earths to about 94–99 percent. The balance of the alloy includes traces of other elements and one to two percent iron.

§ 421.272 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 through 125.32, any existing point source subject to this subpart shall achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable technology currently available:

(a) *Dehydration Furnace Quench and Wet Air Pollution Control.*

BPT LIMITATIONS FOR THE PRIMARY RARE EARTH METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of mischemetal produced from wet rare earth chlorides	
Chromium (total)	6.512	2.664
Lead	6.216	2.960
1Nickel	28.420	18.800
Total suspended solids	606.800	288.600
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(b) *Electrolytic Reduction Cell Quench.*

BPT LIMITATIONS FOR THE PRIMARY RARE EARTH METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of mischmetal produced	
Chromium (total)	7.216	2.952
Lead	6.888	3.280
Nickel	31.490	20.830
Total suspended solids	672.400	319.000
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(c) *Electrolytic Reduction Cell Wet Air Pollution Control.*

BPT LIMITATIONS FOR THE PRIMARY RARE EARTH METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of mischmetal produced	
Chromium (total)	0.000	0.000
Lead	0.000	0.000
Nickel	0.000	0.000
Total suspended solids	0.000	0.000
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

§ 421.273 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 through 125.32, any existing point source subject to this subpart shall achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

(a) *Dehydration Furnace Quench and Wet Air Pollution Control.*

BAT LIMITATIONS FOR THE PRIMARY RARE EARTH METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of mischmetal produced from wet rare earth chlorides	
Hexachlorobenzene	0.015	0.015
Chromium (total)	0.548	0.222
Lead	0.414	0.192
Nickel	0.814	0.548

(b) *Electrolytic Reduction Cell Quench.*

BAT LIMITATIONS FOR THE PRIMARY RARE EARTH METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of mischmetal produced	
Hexachlorobenzene	0.016	0.016
Chromium (total)	0.607	0.246
Lead	0.459	0.213
Nickel	0.902	0.607

(c) *Electrolytic Reduction Cell Wet Air Pollution Control.*

BAT LIMITATIONS FOR THE PRIMARY RARE EARTH METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of mischmetal produced	
Hexachlorobenzene	0.000	0.000
Chromium (total)	0.000	0.000
Lead	0.000	0.000
Nickel	0.000	0.000

§ 421.274 Standards of performance for new sources.

Any new source subject to this subpart shall achieve the following new source performance standards:

(a) *Dehydration Furnace Quench and Wet Air Pollution Control.*

NSPS FOR THE PRIMARY RARE EARTH METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of mischmetal produced from wet rare earth chlorides	
Hexachlorobenzene	0.015	0.015
Chromium (total)	0.548	0.222
Lead	0.414	0.192
Nickel	0.814	0.548
Total suspended solids	22.200	17.760
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(b) *Electrolytic Reduction Cell Quench.*

NSPS FOR THE PRIMARY RARE EARTH METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of mischmetal produced	
Hexachlorobenzene	0.016	0.016
Chromium (total)	0.607	0.246
Lead	0.459	0.213
Nickel	0.902	0.607
Total suspended solids	24.600	19.680
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(c) *Electrolytic Reduction Cell Wet Air Pollution Control.*

NSPS FOR THE PRIMARY RARE EARTH METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of mischmetal produced	
Hexachlorobenzene	0.000	0.000
Chromium (total)	0.000	0.000
Lead	0.000	0.000
Nickel	0.000	0.000
Total suspended solids	0.000	0.000
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

§ 421.275 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. The mass of wastewater pollutants in primary rare earth metals process wastewater introduced into a POTW must not exceed the following values:

(a) *Dehydration Furnace Quench and Wet Air Pollution Control.*

PSES FOR THE PRIMARY RARE EARTH METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of mischmetal produced from wet rare earth chlorides	
Hexachlorobenzene	0.015	0.015
Chromium (total)	0.548	0.222
Lead	0.414	0.192
Nickel	0.814	0.548

(b) *Electrolytic Reduction Cell Quench.*

PSES FOR THE PRIMARY RARE EARTH METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of mischmetal produced	
Hexachlorobenzene	0.016	0.016
Chromium (total)	0.607	0.246
Lead	0.459	0.213
Nickel	0.902	0.607

(c) *Electrolytic Reduction Cell Wet Air Pollution Control.*

PSES FOR THE PRIMARY RARE EARTH METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of mischmetal produced	
Hexachlorobenzene	0.000	0.000
Chromium (total)	0.000	0.000
Lead	0.000	0.000
Nickel	0.000	0.000

§ 421.276 Pretreatment standards for new sources.

Except as provided in 40 CFR 403.7, any new 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 new sources. The mass of wastewater pollutants in primary rare earth metals process wastewater introduced into a POTW shall not exceed the following values:

(a) *Dehydration Furnace Quench and Wet Air Pollution Control.*

PSNS FOR THE PRIMARY RARE EARTH METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of mischmetal produced from wet rare earth chlorides	
Hexachlorobenzene	0.015	0.015
Chromium (total)	0.548	0.222
Lead	0.414	0.192
Nickel	0.814	0.548

(b) *Electrolytic Reduction Cell Quench.*

PSNS FOR THE PRIMARY RARE EARTH METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of mischmetal produced	
Hexachlorobenzene	0.016	0.016
Chromium (total)	0.607	0.246
Lead	0.459	0.213
Nickel	0.902	0.607

(c) *Electrolytic Reduction Cell Wet Air Pollution Control.*

PSNS FOR THE PRIMARY RARE EARTH METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of mischmetal produced	
Hexachlorobenzene	0.000	0.000
Chromium (total)	0.000	0.000
Lead	0.000	0.000
Nickel	0.000	0.000

§ 421.277 [Reserved]

Subpart AB—Secondary Tantalum Subcategory

§ 421.280 Applicability: Description of the secondary tantalum subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of tantalum at secondary tantalum facilities.

§ 421.281 Specialized definitions.

For the purpose of this subpart the general definitions, abbreviations, and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

§ 421.282 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 through 125.32, any existing point source subject to this subpart shall achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable technology currently available:

(a) *Tantalum Alloy Leach and Rinse.*

BPT LIMITATIONS FOR THE SECONDARY TANTALUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of tantalum powder produced	
Copper	438.200	230.600
Lead	96.850	46.120
Nickel	442.800	292.900
Zinc	336.700	140.700
Total suspended solids	9,455.000	4,497.000
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(b) *Capacitor Leach and Rinse.*

BPT LIMITATIONS FOR THE SECONDARY TANTALUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of tantalum powder produced from leaching	
Copper	38.380	20.200
Lead	8.464	4.040
Nickel	38.790	25.660
Zinc	29.490	12.320
Total suspended solids	828.200	393.900
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(c) *Tantalum Sludge Leach and Rinse.*

BPT LIMITATIONS FOR THE SECONDARY TANTALUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of tantalum powder produced	
Copper	390.100	205.300
Lead	86.230	41.060
Nickel	394.200	260.800
Zinc	299.800	125.300
Total suspended solids	8,418.000	4,004.000
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(d) *Tantalum Powder Acid Wash and Rinse.*

BPT LIMITATIONS FOR THE SECONDARY TANTALUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of tantalum powder produced	
Copper	0.665	0.350
Lead	0.147	0.070
Nickel	0.672	0.445
Zinc	0.511	0.214
Total suspended solids	14.350	6.825
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(e) *Leaching Wet Air Pollution Control.*

BPT LIMITATIONS FOR THE SECONDARY TANTALUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of equivalent pure tantalum powder produced	
Copper	9.272	4.880
Lead	2.050	0.976
Nickel	9.370	6.198
Zinc	7.125	2.977
Total suspended solids	200.100	95.160
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

§ 421.283 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 through 125.32, any existing point source subject to this subpart shall achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable:

(a) *Tantalum Alloy Leach and Rinse.*

BAT LIMITATIONS FOR THE SECONDARY TANTALUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of tantalum powder produced	
Copper	295.200	140.700
Lead	64.570	29.980
Nickel	126.900	85.320
Zinc	235.200	96.850

(b) *Capacitor Leach and Rinse.*

BAT LIMITATIONS FOR THE SECONDARY TANTALUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of tantalum powder produced from leaching	
Copper	25.860	12.320
Lead	5.656	2.626
Nickel	11.110	7.474
Zinc	20.610	8.484

(c) *Tantalum Sludge Leach and Rinse.*

BAT LIMITATIONS FOR THE SECONDARY TANTALUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of equivalent pure tantalum powder produced	
Copper	262.800	125.300
Lead	57.490	26.690
Nickel	112.900	75.960
Zinc	209.400	86.230

(d) *Tantalum Powder Acid Wash and Rinse.*

BAT LIMITATIONS FOR THE SECONDARY TANTALUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of tantalum powder produced	
Copper	0.448	0.214
Lead	0.098	0.046
Nickel	0.193	0.130
Zinc	0.357	0.147

(e) *Leaching Wet Air Pollution Control.*

BAT LIMITATIONS FOR THE SECONDARY TANTALUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of equivalent pure tantalum powder produced	
Copper	6.247	2.977
Lead	1.367	0.634
Nickel	2.684	1.806
Zinc	4.978	2.050

§ 421.284 Standards of performance for new sources.

Any new source subject to this subpart shall achieve the following new source performance standards:

(a) *Tantalum Alloy Leach and Rinse.*

NSPS FOR THE SECONDARY TANTALUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of tantalum powder produced	
Copper	295.200	140.700
Lead	64.570	29.980
Nickel	126.900	85.320
Zinc	235.200	96.850
Total suspended solids	3,459.000	2,767.000
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(b) *Capacitor Leach and Rinse.*

NSPS FOR THE SECONDARY TANTALUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of tantalum powder produced from leaching	
Copper	25.860	12.320
Lead	5.656	2.626
Nickel	11.110	7.474
Zinc	20.610	8.484
Total suspended solids	303.000	242.400
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(c) *Tantalum Sludge Leach and Rinse.*

NSPS FOR THE SECONDARY TANTALUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of equivalent pure tantalum powder produced	
Copper	262.800	125.300
Lead	57.490	26.690
Nickel	112.900	75.960
Zinc	209.400	86.230
Total suspended solids	3,080.000	2,464.000
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(d) *Tantalum Powder Acid Wash and Rinse.*

NSPS FOR THE SECONDARY TANTALUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of tantalum powder produced	
Copper	0.448	0.214
Lead	0.098	0.046
Nickel	0.193	0.130
Zinc	0.357	0.147
Total suspended solids	5.250	4.200
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(e) *Leaching Wet Air Pollution Control.*

NSPS FOR THE SECONDARY TANTALUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of equivalent pure tantalum powder produced	
Copper	6.247	2.977
Lead	1.367	0.634
Nickel	2.684	1.806
Zinc	4.978	2.050
Total suspended solids	73.200	58.560
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

§ 412.285 [Reserved]

§ 421.286 Pretreatment standards for new sources.

Except as provided in 40 CFR 403.7, any new 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 new sources. The mass of wastewater pollutants in secondary tantalum process wastewater introduced into a POTW shall not exceed the following values:

(a) *Tantalum Alloy Leach and Rinse.*

PSNS FOR THE SECONDARY TANTALUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of tantalum powder produced	
Copper	295.200	140.700
Lead	64.570	29.980
Nickel	126.900	85.320
Zinc	235.200	96.850

(b) *Capacitor Leach and Rinse.*

PSNS FOR THE SECONDARY TANTALUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of tantalum powder produced from leaching	
Copper	25.860	12.320
Lead	5.656	2.626
Nickel	11.110	7.474
Zinc	20.610	8.484

(c) *Tantalum Sludge Leach and Rinse.*

PSNS FOR THE SECONDARY TANTALUM SUBCATEGORY

Pollutant or pollutant property	Maxiumum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of equivalent pure tantalum powder produced	
Copper	262.800	125.300
Lead	57.490	26.690
Nickel	112.900	75.960
Zinc	209.400	86.230

(d) *Tantalum Powder Acid Wash and Rinse.*

PSNS FOR THE SECONDARY TANTALUM SUBCATEGORY

Pollutant or pollutant property	Maxiumum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of tantalum powder produced	
Copper	0.448	0.214
Lead	0.098	0.046
Nickel	0.193	0.130
Zinc	0.357	0.147

(e) *Leaching Wet Air Pollution Control.*

PSNS FOR THE SECONDARY TANTALUM SUBCATEGORY

Pollutant or pollutant property	Maxiumum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of equivalent pure tantalum powder produced	
Copper	6.247	2.977
Lead	1.367	0.634
Nickel	2.684	1.806
Zinc	4.978	2.050

§ 421.287 [Reserved]

Subpart AC—Primary and Secondary Tin Subcategory

§ 421.290 Applicability: Description of the primary and secondary tin subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of tin at primary and secondary tin facilities.

§ 421.291 Specialized definitions.

For the purpose of this subpart the general definitions, abbreviations, and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

§ 421.292 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 through 125.32, any existing point source subject to this subpart shall achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable technology currently available:

(a) *Smelter Scrubber.*

BPT LIMITATIONS FOR THE PRIMARY AND SECONDARY TIN SUBCATEGORY

Pollutant or pollutant property	Maxiumum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of tin metal produced	
Antimony	62.190	27.740
Lead	9.102	4.334
Nickel	41.610	27.520
Cyanide (total)	6.285	2.601
Ammonia (as N)	1,892.000	1,269.00
Fluoride	758.500	433.400
Tin	106.600	43.780
Total suspended solids	888.500	422.600
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(b) *Dealuminizing Rinse.*

BPT LIMITATIONS FOR THE PRIMARY AND SECONDARY TIN SUBCATEGORY

Pollutan or pollutant property	Maxiumum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of dealuminized scrap produced	
Antimony	0.101	0.045
Lead	0.015	0.007
Nickel	0.067	0.044
Cyanide (total)	0.010	0.004
Ammonia (as N)	4.670	2.050
Fluoride	1.225	0.700
Tin	0.172	0.071
Total suspended solids	1.435	0.683
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(c) *Tin Hydroxide Wash.*

BPT LIMITATIONS FOR THE PRIMARY AND SECONDARY TIN SUBCATEGORY

Pollutant or pollutant property	Maximum[1] for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of tin hydroxide washed	
Antimony	34.310	15.300
Lead	5.020	2.391
Nickel	22.950	15.180
Cyanide (total)	3.467	1.435
Ammonia (as N)	1,595.000	700.000
Fluoride	418.400	239.100
Tin	58.810	24.150
Total suspended solids	490.100	233.100
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(d) *Spent Electrowinning Solution from New Scrap.*

BPT LIMITATIONS FOR THE PRIMARY AND SECONDARY TIN SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of electrolytic tin produced	
Antimony	48.220	21.510
Lead	7.056	3.360
Nickel	32.260	21.340
Cyanide (total)	4.872	2.016
Ammonia (as N)	2,242.000	983.800
Fluoride	588.000	336.000
Tin	82.660	33.940
Total suspended solids	688.800	327.600
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(e) *Spent Electrowinning Solution from Municipal Solid Waste.*

BPT LIMITATIONS FOR THE PRIMARY AND SECONDARY TIN SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of dealuminized MSW scrap processed	
Antimony	0.342	0.152
Lead	0.050	0.024
Nickel	0.229	0.151
Cyanide (total)	0.035	0.014
Ammonia (as N)	15.880	6.970
Fluoride	4.165	2.380
Tin	0.586	0.240
Total suspended solids	4.879	2.321
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(f) *Tin Mud Acid Neutralization Filtrate.*

BPT LIMITATIONS FOR THE PRIMARY AND SECONDARY TIN SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of neutralized dewatered tin mud produced	
Antimony	14.490	6.460
Lead	2.120	1.010
Nickel	9.690	6.410
Cyanide (total)	1.464	0.606
Ammonia (as N)	673.500	295.600
Fluoride	176.700	101.000
Tin	24.830	10.200
Total suspended solids	206.900	98.420
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(g) *Tin Hydroxide Supernatant from Scrap.*

BPT LIMITATIONS FOR THE PRIMARY AND SECONDARY TIN SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of tin metal produced	
Antimony	159.700	71.220
Lead	23.370	11.130
Nickel	106.800	70.660
Cyanide (total)	16.140	6.677
Ammonia (as N)	7,427.000	3,259.000
Fluoride	1,948.000	1,113.000
Tin	273.800	112.400
Total suspended solids	2,281.000	1,085.000
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(h) *Tin Hydroxide Supernatant from Spent Plating Solutions.*

BPT LIMITATIONS FOR THE PRIMARY AND SECONDARY TIN SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of tin metal produced	
Antimony	109.000	48.610
Lead	15.950	7.596
Nickel	72.920	48.230
Cyanide (total)	11.020	4.558
Ammonia (as N)	5,067.000	2,223.000
Fluoride	1,329.000	759.600
Tin	186.900	76.720
Total suspended solids	1,557.000	740.600
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(i) *Tin Hydroxide Supernatant from Sludge Solids.*

BPT LIMITATIONS FOR THE PRIMARY AND SECONDARY TIN SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of tin metal produced	
Antimony	477.500	213.000
Lead	69.870	33.270
Nickel	319.400	211.300
Cyanide (total)	48.250	19.970
Ammonia (as N)	22,200.000	9,743.000
Fluoride	5,823.000	3,327.000
Tin	818.500	336.100
Total suspended solids	6,821.000	3,244.000
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(j) *Tin Hydroxide Filtrate.*

BPT LIMITATIONS FOR THE PRIMARY AND SECONDARY TIN SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of tin metal produced	
Antimony	71.880	32.060
Lead	10.520	5.009
Nickel	48.090	31.810
Cyanide (total)	7.263	3.005
Ammonia (as N)	3,342.000	1,467.000
Fluoride	876.600	500.900
Tin	123.200	50.590
Total suspended solids	1,027.000	488.400
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

§ 421.293 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 through 125.32, any existing point source subject to this subpart shall achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable:

(a) *Smelter Scrubber.*

BAT LIMITATIONS FOR THE PRIMARY AND SECONDARY TIN SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of tin metal produced	
Antimony	41.830	18.640
Lead	6.068	2.817
Nickel	11.920	8.018
Cyanide (total)	4.334	1.734
Ammonia (as N)	2,892.000	1,269.000
Fluoride	758.500	433.400
Tin	71.420	29.330

(b) *Dealuminizing Rinse.*

BAT LIMITATIONS FOR THE PRIMARY AND SECONDARY TIN SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of dealuminized scrap produced	
Antimony	0.068	0.030
Lead	0.010	0.005
Nickel	0.019	0.013
Cyanide (total)	0.007	0.003
Ammonia (as N)	4.670	2.050
Fluoride	1.225	0.700
Tin	0.120	0.050

(c) *Tin Hydroxide Wash.*

BAT LIMITATIONS FOR THE PRIMARY AND SECONDARY TIN SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of tin hydroxide washed	
Antimony	23.070	10.280
Lead	3.347	1.554
Nickel	6.574	4.423
Cyanide (total)	2.391	0.957
Ammonia (as N)	1,595.000	700.000
Fluoride	418.400	239.100
Tin	39.400	16.180

(d) *Spent Electrowinning Solution from New Scrap.*

BAT LIMITATIONS FOR THE PRIMARY AND SECONDARY TIN SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of electrolytic tin produced	
Antimony	32.430	14.450
Lead	4.704	2.164
Nickel	9.240	6.216
Cyanide (total)	3.360	1.344
Ammonia (as N)	2,242.000	983.600
Fluoride	588.000	336.000
Tin	55.380	22.740

(e) *Spent Electrowinning Solution from Municipal Solid Waste.*

BAT LIMITATIONS FOR THE PRIMARY AND SECONDARY TIN SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of dealuminized MSW scrap processed	
Antimony	0.230	0.102
Lead	0.033	0.015
Nickel	0.065	0.044
Cyanide (total)	0.024	0.009
Ammonia (as N)	15.880	6.970
Fluoride	4.165	2.380
Tin	0.390	0.160

(f) *Tin Mud Acid Neutralization Filtrate.*

BAT LIMITATIONS FOR THE PRIMARY AND SECONDARY TIN SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of neutralized dewatered tin mud produced	
Antimony	9.741	4.341
Lead	1.413	0.656
Nickel	2.776	1.868
Cyanide (total)	1.010	0.404
Ammonia (as N)	673.500	295.600
Fluoride	176.700	101.000
Tin	16.640	6.830

(g) *Tin Hydroxide Supernatant from Scrap.*

BAT LIMITATIONS FOR THE PRIMARY AND SECONDARY TIN SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of tin metal produced	
Antimony	107.400	47.850
Lead	15.580	7.233
Nickel	30.600	20.590
Cyanide (total)	11.130	4.451
Ammonia (as N)	7,427.000	3,259.000
Fluoride	1,948.000	1,113.000
Tin	183.500	75.310

(h) *Tin Hydroxide Supernatant from Spent Plating Solutions.*

BAT LIMITATIONS FOR THE PRIMARY AND SECONDARY TIN SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of tin metal produced	
Antimony	73.300	32.660
Lead	10.640	4.937
Nickel	20.890	14.050
Cyanide (total)	7.600	3.039
Ammonia (as N)	5,067.000	2,223.000
Fluoride	1,329.000	759.600
Tin	125.200	51.400

(i) *Tin Hydroxide Supernatant from Sludge Solids.*

BAT LIMITATIONS FOR THE PRIMARY AND SECONDARY TIN SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of tin metal produced	
Antimony	321.100	143.100
Lead	46.580	21.630
Nickel	91.500	61.560
Cyanide (total)	33.280	13.310
Ammonia (as N)	22,200.000	9,743.000
Fluoride	5,823.000	3,327.000
Tin	548.400	225.190

(j) *Tin Hydroxide Filtrate.*

BAT LIMITATIONS FOR THE PRIMARY AND SECONDARY TIN SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of tin metal produced	
Antimony	48.340	21.540
Lead	7.013	3.256
Nickel	13.780	9.266
Cyanide (total)	5.009	2.003
Ammonia (as N)	3,342.000	1,467.000
Fluoride	876.600	500.900

BAT LIMITATIONS FOR THE PRIMARY AND SECONDARY TIN SUBCATEGORY—Continued

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Tin	82.540	33.900

§ 421.294 Standards of performance for new sources.

Any new source subject to this subpart shall achieve the following new source performance standards:

(a) *Smelter Scrubber.*

NSPS FOR THE PRIMARY AND SECONDARY TIN SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of tin metal produced	
Antimony	41.830	18.640
Lead	6.068	2.817
Nickel	11.920	8.018
Cyanide (total)	4.334	1.734
Ammonia (as N)	2,892.000	1,269.000
Fluoride	758.500	433.400
Tin	71.420	29.330
Total suspended solids	325.100	260.100
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(b) *Dealuminizing Rinse.*

NSPS FOR THE PRIMARY AND SECONDARY TIN SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of dealuminized scrap produced	
Antimony	0.068	0.030
Lead	0.010	0.005
Nickel	0.019	0.013
Cyanide (total)	0.007	0.003
Ammonia (as N)	4.670	2.050
Fluoride	1.225	0.700
Tin	0.120	0.050
Total suspended solids	0.525	0.420
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(c) *Tin Hydroxide Wash.*

NSPS FOR THE PRIMARY AND SECONDARY TIN SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of tin hydroxide washed	
Antimony	23.070	10.280
Lead	3.347	1.554
Nickel	6.574	4.423
Cyanide (total)	2.391	0.957
Ammonia (as N)	1,595.000	700.000
Fluoride	418.400	239.100
Tin	39.400	16.180
Total suspended solids	179.300	143.500

NSPS FOR THE PRIMARY AND SECONDARY TIN SUBCATEGORY—Continued

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(d) *Spent Electrowinning Solution from New Scrap.*

NSPS FOR THE PRIMARY AND SECONDARY TIN SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of electrolytic tin produced	
Antimony	32.430	14.450
Lead	4.704	2.184
Nickel	9.240	6.216
Cyanide (total)	3.360	1.344
Ammonia (as N)	2,242.000	983.800
Fluoride	588.000	336.000
Tin	55.380	22.740
Total suspended solids	252.000	201.600
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(e) *Spent Electrowinning Solution from Municipal Solid Waste.*

NSPS FOR THE PRIMARY AND SECONDARY TIN SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of dealuminized MSW scrap processed	
Antimony	0.230	0.102
Lead	0.033	0.015
Nickel	0.065	0.044
Cyanide (total)	0.024	0.009
Ammonia (as N)	15.880	6.970
Fluoride	4.165	2.380
Tin	0.390	0.160
Total suspended solids	1.785	1.428
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(f) *Tin Mud Acid Neutralization Filtrate.*

NSPS FOR THE PRIMARY AND SECONDARY TIN SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of neutralized dewatered tin mud produced	
Antimony	9.741	4.341
Lead	1.413	0.656
Nickel	2.776	1.868
Cyanide (total)	1.010	0.404
Ammonia (as N)	673.500	295.600
Fluoride	176.700	101.000
Tin	16.640	6.830
Total suspended solids	75.710	60.570
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(g) *Tin Hydroxide Supernatant from Scrap.*

NSPS FOR THE PRIMARY AND SECONDARY TIN SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of tin metal produced	
Antimony	107.400	47.850
Lead	15.580	7.233
Nickel	30.600	20.590
Cyanide (total)	11.130	4.451
Ammonia (as N)	7,427.000	3,259.000
Fluoride	1,948.000	1,113.000
Tin	183.500	75.810
Total suspended solids	834.600	667.700
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(h) *Tin Hydroxide Supernatant from Spent Plating Solutions.*

NSPS FOR THE PRIMARY AND SECONDARY TIN SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of tin metal produced	
Antimony	73.300	32.660
Lead	10.640	4.937
Nickel	20.890	14.050
Cyanide (total)	7.600	3.039
Ammonia (as N)	5,067.000	2,223.000
Fluoride	1,329.000	759.600
Tin	125.200	51.400
Total suspended solids	569.700	455.800
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(i) *Tin Hydroxide Supernatant from Sludge Solids.*

NSPS FOR THE PRIMARY AND SECONDARY TIN SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of tin metal produced	
Antimony	321.100	143.100
Lead	46.580	21.630
Nickel	91.500	61.560
Cyanide (total)	33.280	13.310
Ammonia (as N)	22,200.000	9,743.000
Fluoride	5,823.000	3,327.000
Tin	548.400	225.190
Total suspended solids	2,496.000	1,997.000
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(j) *Tin Hydroxide Filtrate.*

NSPS FOR THE PRIMARY AND SECONDARY TIN SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of tin metal produced	
Antimony	48.340	21.540
Lead	7.013	3.256
Nickel	13.780	9.266
Cyanide (total)	5.009	2.003
Ammonia (as N)	3,342.000	1,467.000
Fluoride	876.600	500.900
Tin	82.540	33.900
Total suspended solids	375.700	309.500
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

§ 421.295 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. The mass of wastewater pollutants in primary and secondary tin process wastewater introduced into a POTW must not exceed the following values:

(a) *Smelter Scrubber.*

PSES FOR THE PRIMARY AND SECONDARY TIN SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of tin metal produced	
Antimony	41.830	178.640
Lead	6.068	2.817
Nickel	11.920	8.018
Cyanide (total)	4.334	1.734
Ammonia (as N)	2,892.000	1,269.000
Fluoride	758.500	433.400
Tin	71.420	29.330

(b) *Dealuminizing Rinse.*

PSES FOR THE PRIMARY AND SECONDARY TIN SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of dealuminized scrap produced	
Antimony	0.068	0.030
Lead	0.010	0.005
Nickel	0.019	0.013
Cyanide (total)	0.007	0.003
Ammonia (as N)	4.670	2.050
Fluoride	1.225	0.700
Tin	0.120	0.050

(c) *Tin Hydroxide Wash.*

PSES FOR THE PRIMARY AND SECONDARY TIN SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of tin hydroxide washed	
Antimony	23.070	10.280
Lead	3.347	1.554
Nickel	6.574	4.423
Cyanide (total)	2.391	0.957
Ammonia (as N)	1,595.000	700.000
Fluoride	418.400	239.100
Tin	39.400	16.180

(d) *Spent Electrowinning Solution from New Scrap.*

PSES FOR THE PRIMARY AND SECONDARY TIN SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of electrolytic tin produced	
Antimony	32.430	14.450
Lead	4.704	2.184
Nickel	9.240	6.216
Cyanide (total)	3.360	1.344
Ammonia (as N)	2,242.000	983.800
Fluoride	588.000	336.000
Tin	55.380	22.740

(e) *Spent Electrowinning Solution from Municipal Solid Waste.*

PSES FOR THE PRIMARY AND SECONDARY TIN SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of dealuminized MSW scrap processed	
Antimony	0.230	0.102
Lead	0.033	0.015
Nickel	0.065	0.044
Cyanide (total)	0.024	0.009
Ammonia (as N)	15.880	6.970
Fluoride	4.165	2.380
Tin	0.390	0.160

(f) *Tin Mud Acid Neutralization Filtrate*

PSES FOR THE PRIMARY AND SECONDARY TIN SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of neutralized dewatered tin mud produced	
Antimony	9.741	4.341
Lead	1.413	0.656
Nickel	2.776	1.868
Cyanide (total)	1.010	0.404
Ammonia (as N)	673.500	295.600
Fluoride	176.700	101.000
Tin	16.640	6.830

(g) *Tin Hydroxide Supernatant from Scrap.*

PSES FOR THE PRIMARY AND SECONDARY TIN SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of tin metal produced	
Antimony	107.400	47.850
Lead	15.580	7.233
Nickel	30.600	20.590
Cyanide (total)	11.130	4.451
Ammonia (as N)	7,427.000	3,259.000
Fluoride	1,948.000	1,113.000
Tin	183.500	75.310

(h) *Tin Hydroxide Supernatant from Spent Plating Solutions.*

PSES FOR THE PRIMARY AND SECONDARY TIN SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of tin metal produced	
Antimony	73.300	32.660
Lead	10.640	4.937
Nickel	20.890	14.050
Cyanide (total)	7.600	3.039
Ammonia (as N)	5,067.000	2,223.000
Fluoride	1,329.000	759.600
Tin	125.200	51.400

(i) *Tin Hydroxide Supernatant from Sludge Solids.*

PSES FOR THE PRIMARY AND SECONDARY TIN SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of tin metal produced	
Antimony	321.100	143.100
Lead	46.580	21.630
Nickel	91.500	61.560
Cyanide (total)	33.280	13.310
Ammonia (as N)	22,200.000	9,743.000
Fluoride	5,823.000	3,327.000
Tin	548.400	225.190

(j) *Tin Hydroxide Filtrate.*

PSES FOR THE PRIMARY AND SECONDARY TIN SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of tin metal produced	
Antimony	48.340	21.540
Lead	7.013	3.256
Nickel	13.780	9.266
Cyanide (total)	5.009	2.003
Ammonia (as N)	3,342.000	1,467.000
Fluoride	876.600	500.900

PSES FOR THE PRIMARY AND SECONDARY TIN SUBCATEGORY—Continued

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Tin	82.540	33.900

§ 421.296 Pretreatment standards for new sources.

Except as provided in 40 CFR 403.7, any new 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 new sources. The mass of wastewater pollutants in primary and secondary tin process wastewater introduced into a POTW shall not exceed the following values:

(a) *Smelter Scrubber.*

PSNS FOR THE PRIMARY AND SECONDARY TIN SUBCATEGORY

Pollutant or pollutant property	Maximum of any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of tin metal produced	
Antimony	41.830	18.640
Lead	6.068	2.817
Nickel	11.920	8.018
Cyanide (total)	4.334	1.734
Ammonia (as N)	2,892.000	1,269.000
Fluoride	758.500	433.400
Tin	71.420	29.330

(b) *Dealuminizing Rinse.*

PSNS FOR THE PRIMARY AND SECONDARY TIN SUBCATEGORY

Pollutant or pollutant property	Maximum of any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of dealuminized scrap produced	
Antimony	0.068	0.030
Lead	0.010	0.005
Nickel	0.019	0.013
Cyanide (total)	0.007	0.003
Ammonia (as N)	4.670	2.050
Fluoride	1.225	0.700
Tin	0.120	0.050

(c) *Tin Hydroxide Wash.*

PSNS FOR THE PRIMARY AND SECONDARY TIN SUBCATEGORY

Pollutant or pollutant property	Maximum of any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of tin hydroxide washed	
Antimony	23.070	10.280
Lead	3.347	1.554
Nickel	6.574	4.423
Cyanide (total)	2.391	0.957

PSNS FOR THE PRIMARY AND SECONDARY TIN SUBCATEGORY—Continued

Pollutant or pollutant property	Maximum of any 1 day	Maximum for monthly average
Ammonia (as N)	1,595.000	700.000
Fluoride	418.400	239.100
Tin	39.400	16.180

(d) *Spent Electrowinning Solution From New Scrap.*

PSNS FOR THE PRIMARY AND SECONDARY TIN SUBCATEGORY

Pollutant or pollutant property	Maximum of any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of electrolytic tin produced	
Antimony	32.430	14.450
Lead	4.704	2.184
Nickel	9.240	6.216
Cyanide (total)	3.360	1.344
Ammonia (as N)	2,242.000	983.800
Fluoride	588.000	336.000
Tin	55.380	22.740

(e) *Spent Electrowinning Solution From Municipal Solid Waste.*

PSNS FOR THE PRIMARY AND SECONDARY TIN SUBCATEGORY

Pollutant or pollutant property	Maximum of any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of dealuminized MSW scrap processed	
Antimony	0.230	0.102
Lead	0.033	0.015
Nickel	0.065	0.044
Cyanide (total)	0.024	0.009
Ammonia (as N)	15.880	6.970
Fluoride	4.165	2.380
Tin	0.390	0.160

(f) *Tin Mud Acid Neutralization Filtrate.*

PSNS FOR THE PRIMARY AND SECONDARY TIN SUBCATEGORY

Pollutant or pollutant property	Maximum of any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of neutralized dewatered tin mud produced	
Antimony	9.741	4.341
Lead	1.413	0.656
Nickel	2.776	1.868
Cyanide (total)	1.010	0.404
Ammonia (as N)	673.500	295.600
Fluoride	176.700	101.000
Tin	16.640	6.830

(g) *Tin Hydroxide Supernatant From Scrap.*

PSNS FOR THE PRIMARY AND SECONDARY TIN SUBCATEGORY

Pollutant or pollutant property	Maximum of any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of tin metal produced	
Antimony	107.400	47.850
Lead	15.580	7.233
Nickel	30.600	20.590
Cyanide (total)	11.130	4.451
Ammonia (as N)	7,427.000	3,259.000
Fluoride	1,948.000	1,113.000
Tin	183.500	75.310

(h) *Tin Hydroxide Supernatant From Spent Plating Solutions.*

PSNS FOR THE PRIMARY AND SECONDARY TIN SUBCATEGORY

Pollutant or pollutant property	Maximum of any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of tin metal produced	
Antimony	73.300	32.660
Lead	10.640	4.937
Nickel	20.890	14.050
Cyanide (total)	7.600	3.039
Ammonia (as N)	5,067.000	2,223.000
Fluoride	1,329.000	759.600
Tin	125.200	51.400

(i) *Tin Hydroxide Supernatant From Sludge Solids.*

PSNS FOR THE PRIMARY AND SECONDARY TIN SUBCATEGORY

Pollutant or pollutant property	Maximum of any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of tin metal produced	
Antimony	321.100	143.100
Lead	46.580	21.630
Nickel	91.500	61.560
Cyanide (total)	33.280	13.310
Ammonia (as N)	22,200.000	9,743.000
Fluoride	5,823.000	3,327.000
Tin	548.400	225.190

(j) *Tin Hydroxide Filtrate.*

PSNS FOR THE PRIMARY AND SECONDARY TIN SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of tin metal produced	
Antimony	48.340	21.540
Lead	7.013	3.256
Nickel	13.780	9.266
Cyanide (total)	5.009	2.003
Ammonia (as N)	3,342.000	1,467.000
Fluoride	876.600	500.900
Tin	82.540	33.900

§ 421.297 [Reserved]

Subpart AD—Primary and Secondary Titanium Subcategory

§ 421.300 Applicability: description of the primary and secondary titanium subcategory.

(a) The provisions of this subpart are applicable to discharges resulting from the production of titanium at primary and secondary titanium facilities.

(b) There are two levels of BPT, BAT, NSPS, PSES, and PSNS provisions for this subpart. Level A is applicable to facilities which practice vacuum distillation for sponge purification and which do not practice electrolytic recovery of magnesium. Level B is applicable to all other primary and secondary titanium facilities.

§ 421.301 Specialized definitions.

For the purpose of this subpart the general definitions, abbreviations, and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

§ 421.302 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 through 125.32, any existing point source subject to this subpart shall achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable technology currently available:

(a) **Level A.**

(1) *Chlorination Off-Gas Wet Air Pollution Control.*

BPT LIMITATIONS FOR THE PRIMARY AND SECONDARY TITANIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of $TiCl_4$ produced	
Chromium (total)	0.412	0.169
Lead	0.393	0.187
Nickel	1.797	1.189
Thallium	1.919	0.786
Fluoride	32.760	18.720
Titanium	0.412	0.169
Oil and Grease	18.720	11.230
Total suspended solids	38.380	18.250
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(2) *Chlorination Area—Vent Wet Air Pollution Control.*

BPT LIMITATIONS FOR THE PRIMARY AND SECONDARY TITANIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of $TiCl_4$ produced	
Chromium (total)	0.458	0.187
Lead	0.437	0.208
Nickel	1.997	1.321
Thallium	2.132	0.874
Fluoride	36.400	20.800
Titanium	0.458	0.187
Oil and Grease	20.800	12.480
Total suspended solids	42.640	20.280
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(3) *$TiCl_4$ Handling Wet Air Pollution Control.*

BPT LIMITATIONS FOR THE PRIMARY AND SECONDARY TITANIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of $TiCl_4$ produced	
Chromium (total)	0.082	0.034
Lead	0.079	0.037
Nickel	0.359	0.238
Thallium	0.383	0.157
Fluoride	6.545	3.740
Titanium	0.082	0.034
Oil and Grease	3.740	2.244
Total suspended solids	7.667	3.647
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(4) *Sponge Crushing and Screening Wet Air Pollution Control.*

BPT LIMITATIONS FOR THE PRIMARY AND SECONDARY TITANIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of titanium produced	
Chromium	2.847	1.165
Lead	2.718	1.294
Nickel	12.420	8.217
Thallium	13.270	5.435
Fluoride	226.500	129.400
Titanium	2.847	1.165
Oil and Grease	129.400	77.640
Total suspended solids	265.300	126.200
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(b) **Level B.**

(1) *Chlorination Off-Gas Wet Air Pollution Control.*

BPT LIMITATIONS FOR THE PRIMARY AND SECONDARY TITANIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of $TiCl_4$ produced	
Chromium (total)	0.412	0.169
Lead	0.393	0.187

BPT LIMITATIONS FOR THE PRIMARY AND SECONDARY TITANIUM SUBCATEGORY—Continued

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Nickel	1.797	1.189
Thallium	1.919	0.786
Fluoride	32.760	18.720
Titanium	0.412	0.169
Oil and grease	16.720	11.230
Total suspended solids	38.380	18.250
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(2) *Chlorination Area-Vent Wet Air Pollution Control.*

BPT LIMITATIONS FOR THE PRIMARY AND SECONDARY TITANIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of $TiCl_4$ produced	
Chromium (total)	0.458	0.187
Lead	0.437	0.208
Nickel	1.997	1.321
Thallium	2.132	0.874
Fluoride	36.400	20.800
Titanium	0.458	0.187
Oil and grease	20.800	12.480
Total suspended solids	42.640	20.280
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(3) *$TiCl_4$ Handling Wet Air Pollution Control.*

BPT LIMITATIONS FOR THE PRIMARY AND SECONDARY TITANIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of $TiCl_4$ produced	
Chromium (total)	0.082	0.034
Lead	0.079	0.037
Nickel	0.359	0.238
Thallium	0.383	0.157
Fluoride	6.545	3.740
Titanium	0.082	0.034
Oil and grease	3.740	2.244
Total suspended solids	7.667	3.647
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(4) *Reduction Area Wet Air Pollution Control.*

BPT LIMITATIONS FOR THE PRIMARY AND SECONDARY TITANIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of titanium produced	
Chromium (total)	18.180	7.435
Lead	17.350	8.261
Nickel	79.300	52.460
Thallium	84.670	34.700
Fluoride	1,446.000	826.100
Titanium	18.180	7.435
Oil and grease	826.100	495.700

BPT LIMITATIONS FOR THE PRIMARY AND SECONDARY TITANIUM SUBCATEGORY—Continued

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Total suspended solids	1,694.000	805.400
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(5) *Melt Cell Wet Air Pollution Control.*

BPT LIMITATIONS FOR THE PRIMARY AND SECONDARY TITANIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of titanium produced	
Chromium (total)	9.352	3.826
Lead	8.927	4.251
Nickel	40.810	26.990
Thallium	9.352	3.826
Fluoride	743.900	425.100
Titanium	87.140	35.920
Oil and grease	425.100	255.100
Total suspended solids	871.400	414.500
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(6) *Cathode Gas Wet Air Pollution Control.*

BPT LIMITATIONS FOR THE PRIMARY AND SECONDARY TITANIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of titanium produced	
Chromium (total)	2.705	1.107
Lead	2.582	1.230
Nickel	11.800	7.807
Thallium	12.600	5.164
Fluoride	215.200	123.000
Titanium	2.705	1.107
Oil and grease	123.000	73.770
Total suspended solids	252.000	119.900
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(7) *Chlorine Liquefaction Wet Air Pollution Control.*

BPT LIMITATIONS FOR THE PRIMARY AND SECONDARY TITANIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of titanium produced	
Chromium (total)	130.900	53.560
Lead	125.000	59.510
Nickel	571.300	377.900
Thallium	610.000	250.000
Fluoride	10,420.000	5,951.000
Titanium	130.900	53.560
Oil and Grease	5,951.000	3,571.000
Total suspended solids	12,200.000	5,803.000
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(8) *Sodium Reduction Container Reconditioning Wash.*

BPT LIMITATIONS FOR THE PRIMARY AND SECONDARY TITANIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of titanium produced	
Chromium (total)	0.564	0.231
Lead	0.539	0.256
Nickel	2.462	1.628
Thallium	2.628	1.077
Fluoride	44.870	25.640
Titanium	0.564	0.231
Oil and Grease	25.640	15.390
Total suspended solids	52.560	25.600
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(9) *Chip Crushing Wet Air Pollution Control.*

BPT LIMITATIONS FOR THE PRIMARY AND SECONDARY TITANIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of titanium produced	
Chromium (total)	10.090	4.126
Lead	9.627	4.584
Nickel	44.010	29.110
Thallium	46.990	19.250
Fluoride	802.300	458.400
Titanium	10.090	4.126
Oil and Grease	458.400	275.100
Total suspended solids	939.800	447.000
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(10) *Acid Leachate and Rinse Water.*

BPT LIMITATIONS FOR THE PRIMARY AND SECONDARY TITANIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of titanium produced	
Chromium (total)	5.210	2.131
Lead	4.973	2.368
Nickel	22.730	15.040
Thallium	24.270	9.946
Fluoride	414.400	236.800
Titanium	5.210	2.131
Oil and Grease	236.800	142.100
Total suspended solids	485.500	230.900
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(11) *Sponge Crushing and Screening Wet Air Pollution Control.*

BPT LIMITATIONS FOR THE PRIMARY AND SECONDARY TITANIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of titanium produced	
Chromium (total)	2.847	1.165
Lead	2.718	1.294
Nickel	12.420	8.217
Thallium	13.270	5.435
Fluoride	226.500	129.400
Titanium	2.847	1.165
Oil and Grease	129.400	77.640
Total suspended solids	265.300	126.200
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(12) *Acid Pickle and Wash Water.*

BPT LIMITATIONS FOR THE PRIMARY AND SECONDARY TITANIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of titanium pickled	
Chromium (total)	0.027	0.011
Lead	0.026	0.012
Nickel	0.117	0.077
Thallium	0.125	0.051
Fluoride	2.135	1.220
Titanium	0.027	0.011
Oil and Grease	1.220	0.732
Total suspended solids	2.501	1.190
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(13) *Scrap Milling Wet Air Pollution Control.*

BPT LIMITATIONS FOR THE PRIMARY AND SECONDARY TITANIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of scrap milled	
Chromium (total)	0.995	0.407
Lead	0.950	0.452
Nickel	4.341	2.871
Thallium	4.635	1.899
Fluoride	79.140	45.220
Titanium	0.995	0.407
Oil and Grease	45.220	27.130
Total suspended solids	92.700	44.090
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(14) *Scrap Detergent Wash Water.*

BPT LIMITATIONS FOR THE PRIMARY AND SECONDARY TITANIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of scrap washed	
Chromium (total)	7.948	3.252
Lead	7.587	3.613
Nickel	34.680	22.940
Thallium	37.030	15.180
Fluoride	632.300	361.300
Titanium	74.060	32.520

BPT LIMITATIONS FOR THE PRIMARY AND SECONDARY TITANIUM SUBCATEGORY—Continued

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Oil and Grease	361.300	216.800
Total suspended solids	740.600	352.300
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(15) *Casting Crucible Wash Water.*

BPT LIMITATIONS FOR THE PRIMARY AND SECONDARY TITANIUM SUBCATEGORY

Pollutant of pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of titanium cast	
Chromium (total)	0.210	0.086
Lead	0.200	0.095
Nickel	0.916	0.606
Thallium	0.978	0.401
Fluoride	16.700	9.540
Titanium	0.210	0.086
Oil and Grease	9.540	5.724
Total suspended solids	19.560	9.302
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(16) *Casting Contact Cooling Water.*

BPT LIMITATIONS FOR THE PRIMARY AND SECONDARY TITANIUM SUBCATEGORY

Pollutant of pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of titanium cast	
Chromium (total)	321.100	131.400
Lead	306.500	146.000
Nickel	1,401.000	926.800
Thallium	1,496.000	613.000
Fluoride	25,540.000	14,600.000
Titanium	321.100	131.400
Oil and Grease	14,600.000	8,757.000
Total suspended solids	29,920.000	14,230.000
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

§ 421.303 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 through 125.32, any existing point source subject to this subpart shall achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable:

(a) **Level A.**

(1) *Chlorination Off-Gas Wet Air Pollution Control.*

BAT LIMITATIONS FOR THE PRIMARY AND SECONDARY TITANIUM SUBCATEGORY

Pollutant of pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of $TiCl_4$ produced	
Chromium (total)	0.412	0.169
Lead	0.393	0.187
Nickel	1.797	1.189
Thallium	1.919	0.786
Fluoride	32.760	18.720
Titanium	0.412	0.169

(2) *Chlorination Area-Vent Wet Air Pollution Control.*

BAT LIMITATIONS FOR THE PRIMARY AND SECONDARY TITANIUM SUBCATEGORY

Pollutant of pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of $TiCl_4$ produced	
Chromium (total)	0.458	0.187
Lead	0.437	0.208
Nickel	1.997	1.321
Thallium	2.132	0.874
Fluoride	36.400	20.800
Titanium	0.458	0.187

(3) *$TiCl_4$ Handling Wet Air Pollution Control.*

BAT LIMITATIONS FOR THE PRIMARY AND SECONDARY TITANIUM SUBCATEGORY

Pollutant of pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of $TiCl_4$ produced	
Chromium (total)	0.082	0.034
Lead	0.079	0.037
Nickel	0.359	0.238
Thallium	0.383	0.157
Fluoride	6.545	3.740
Titanium	0.082	0.034

(4) *Sponge Crushing and Screening Wet Air Pollution Control.*

BAT LIMITATIONS FOR THE PRIMARY AND SECONDARY TITANIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of titanium produced	
Chromium (total)	0.285	0.117
Lead	0.272	0.129
Nickel	1.242	0.822
Thallium	1.327	0.544
Fluoride	22.650	12.940
Titanium	0.285	0.117

(b) **Level B.**

(1) *Chlorination Off-Gas Wet Air Pollution Control*

BAT LIMITATIONS FOR THE PRIMARY AND SECONDARY TITANIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of $TiCl_4$ produced	
Chromium (total)	0.346	0.140
Lead	0.262	0.122
Nickel	0.515	0.346
Thallium	1.311	0.534
Fluoride	32.760	18.720
Titanium	0.346	0.140

(2) *Chlorination Area-Vent Wet Air Pollution Control*

BAT LIMITATIONS FOR THE PRIMARY AND SECONDARY TITANIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of $TiCl_4$ produced	
Chromium (total)	0.385	0.156
Lead	0.291	0.135
Nickel	0.572	0.385
Thallium	1.456	0.593
Fluoride	36.400	20.800
Titanium	0.385	0.156

(3) *$TiCl_4$ Handling Wet Air Pollution Control.*

BAT LIMITATIONS FOR THE PRIMARY AND SECONDARY TITANIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of $TiCl_4$ produced	
Chromium (total)	0.069	0.028
Lead	0.052	0.024
Nickel	0.103	0.069
Thallium	0.262	0.107
Fluoride	6.545	3.740
Titanium	0.069	0.028

(4) *Reduction Area Wet Air Pollution Control.*

BAT LIMITATIONS FOR THE PRIMARY AND SECONDARY TITANIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of titanium produced	
Chromium (total)	1.528	0.620
Lead	1.157	0.537
Nickel	2.272	1.528
Thallium	5.782	2.354
Fluoride	144.600	82.600
Titanium	1.528	0.620

(5) *Melt Cell Wet Air Pollution Control.*

BAT LIMITATIONS FOR THE PRIMARY AND SECONDARY TITANIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of titanium produced	
Chromium (total)	0.787	0.319
Lead	0.595	0.276
Nickel	1.170	0.787
Thallium	2.977	1.212
Fluoride	74.410	42.520
Titanium	0.787	0.319

(6) *Cathode Gas Wet Air Pollution Control.*

BAT LIMITATIONS FOR THE PRIMARY AND SECONDARY TITANIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of titanium produced	
Chromium (total)	0.228	0.092
Lead	0.172	0.080
Nickel	0.338	0.228
Thallium	0.861	0.351
Fluoride	21.530	12.300
Titanium	0.228	0.092

(7) *Chlorine Liquefaction Wet Air Pollution Control.*

BAT LIMITATIONS FOR THE PRIMARY AND SECONDARY TITANIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of titanium produced	
Chromium (total)	11.010	4.464
Lead	8.332	3.868
Nickel	16.370	11.010
Thallium	41.660	16.960
Fluoride	1,042.000	595.100
Titanium	11.010	4.464

(8) *Sodium Reduction Container Reconditioning Wash.*

BAT LIMITATIONS FOR THE PRIMARY AND SECONDARY TITANIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of titanium produced	
Chromium (total)	0.474	0.192
Lead	0.359	0.167
Nickel	0.705	0.474
Thallium	1.795	0.731
Fluoride	44.870	25.640
Titanium	0.474	0.192

(9) *Chip Crushing Wet Air Pollution Control.*

BAT LIMITATIONS FOR THE PRIMARY AND SECONDARY TITANIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of titanium produced	
Chromium (total)	0.848	0.344
Lead	0.642	0.298
Nickel	1.261	0.848
Thallium	3.209	1.306
Fluoride	80.220	45.840
Titanium	0.848	0.344

(10) *Acid Leachate and Rinse Water.*

BAT LIMITATIONS FOR THE PRIMARY AND SECONDARY TITANIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of titanium produced	
Chromium (total)	4.381	1.776
Lead	3.315	1.539
Nickel	6.512	4.381
Thallium	16.580	6.749
Fluoride	414.400	236.800
Titanium	4.381	1.776

(11) *Sponge Crushing and Screening Wet Air Pollution Control.*

BAT LIMITATIONS FOR THE PRIMARY AND SECONDARY TITANIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of titanium produced	
Chromium (total)	0.239	0.097
Lead	0.181	0.084
Nickel	0.356	0.239
Thallium	0.906	0.369
Fluoride	22.650	12.940
Titanium	0.239	0.097

(12) *Acid Pickle and Wash Water.*

BAT LIMITATIONS FOR THE PRIMARY AND SECONDARY TITANIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of titanium pickled	
Chromium (total)	0.023	0.009
Lead	0.017	0.008
Nickel	0.034	0.023
Thallium	0.085	0.035
Fluoride	2.135	1.220
Titanium	0.023	0.009

(13) *Scrap Milling Wet Air Pollution Control.*

BAT LIMITATIONS FOR THE PRIMARY AND SECONDARY TITANIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of scrap milled	
Chromium (total)	0.084	0.034
Lead	0.064	0.030
Nickel	0.125	0.084
Thallium	0.318	0.129
Fluoride	7.945	4.540
Titanium	0.084	0.034

(14) *Scrap Detergent Wash Water.*

BAT LIMITATIONS FOR THE PRIMARY AND SECONDARY TITANIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of scrap washed	
Chromium (total)	6.684	2.710
Lead	5.058	2.349
Nickel	9.935	6.684
Thallium	25.290	10.300
Fluoride	632.300	361.300
Titanium	6.684	2.710

(15) *Casting Crucible Wash Water.*

BAT LIMITATIONS FOR THE PRIMARY AND SECONDARY TITANIUM SUBCATEGORY

Poliutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of titanium cast	
Chromium (total)	0.177	0.072
Lead	0.134	0.062
Nickel	0.262	0.177
Thallium	0.668	0.272
Fluoride	16.700	9.540
Titanium	0.177	0.072

(16) *Casting Contact Cooling Water.*

BAT LIMITATIONS FOR THE PRIMARY AND SECONDARY TITANIUM SUBCATEGORY

Poliutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of titanium cast	
Chromium (total)	27.000	10.950
Lead	20.430	9.487
Nickel	40.140	27.000
Thallium	102.200	41.600
Fluoride	2,554.000	1,460.000
Titanium	27.000	10.950

§ 421.304 Standards of performance for new sources.

Any new source subject to this subpart shall achieve the following new source performance standards:

(a) **Level A.**

(1) *Chlorination Off-Gas Wet Air Pollution Control.*

NSPS FOR THE PRIMARY AND SECONDARY TITANIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of $TiCl_4$ produced	
Chromium (total)	0.412	0.169
Lead	0.393	0.187
Nickel	1.797	1.189
Thallium	1.919	0.786
Fluoride	32.760	18.720
Titanium	0.412	0.169
Total suspended solids	38.380	18.250
Oil and Grease	18.720	11.230
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(2) *Chlorination Area-Vent Wet Air Pollution Control.*

NSPS FOR THE PRIMARY AND SECONDARY TITANIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of $TiCl_4$ produced	
Chromium (total)	0.458	0.187
Lead	0.437	0.208
Nickel	1.997	1.321
Thallium	2.132	0.874
Fluoride	36.400	20.800
Titanium	0.458	0.187
Total suspended solids	42.640	20.280
Oil and Grease	20.800	12.280
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(3) *$TiCl_4$ Handling Wet Air Pollution Control.*

NSPS FOR THE PRIMARY AND SECONDARY TITANIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of $TiCl_4$ produced	
Chromium (total)	0.082	0.034
Lead	0.079	0.037
Nickel	0.359	0.238
Thallium	0.383	0.157
Fluoride	6.545	3.740
Titanium	0.082	0.034
Total suspended solids	7.667	3.647
Oil and Grease	3.740	2.244
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(4) *Sponge Crushing and Screening Wet Air Pollution Control.*

NSPS FOR THE PRIMARY AND SECONDARY TITANIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of titanium produced	
Chromium (total)	0.000	0.000
Lead	0.000	0.000
Nickel	0.000	0.000

NSPS FOR THE PRIMARY AND SECONDARY TITANIUM SUBCATEGORY—Continued

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Thallium	0.000	0.000
Fluoride	0.000	0.000
Titanium	0.000	0.000
Total suspended solids	0.000	0.000
Oil and Grease	0.000	0.000
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(b) **Level B.**

(1) *Chlorination Off-Gas Wet Air Pollution Control.*

NSPS FOR THE PRIMARY AND SECONDARY TITANIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of $TiC1_4$ produced	
Chromium (total)	0.346	0.140
Lead	0.262	0.122
Nickel	0.515	0.346
Thallium	1.311	0.534
Fluoride	32.760	18.720
Titanium	0.346	0.140
Oil and Grease	9.360	9.360
Total suspended solids	14.040	11.230
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(2) *Chlorination Area-Vent Wet Air Pollution Control.*

NSPS FOR THE PRIMARY AND SECONDARY TITANIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of $TiC1_4$ produced	
Chromium (total)	0.385	0.156
Lead	0.291	0.135
Nickel	0.572	0.385
Thallium	1.456	0.593
Fluoride	36.400	20.800
Titanium	0.385	0.156
Oil and Grease	10.400	10.400
Total suspended solids	15.600	12.480
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(3) *$TiC1_4$ Handling Wet Air Pollution Control.*

NSPS FOR THE PRIMARY AND SECONDARY TITANIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of $TiC1_4$ produced	
Chromium (total)	0.069	0.028
Lead	0.052	0.024
Nickel	0.103	0.069
Thallium	0.262	0.107
Fluoride	6.545	3.740
Titanium	0.069	0.028
Oil and Grease	1.870	1.870
Total suspended solids	2.805	2.244

NSPS FOR THE PRIMARY AND SECONDARY TITANIUM SUBCATEGORY—Continued

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(4) *Reduction Area Wet Air Pollution Control.*

NSPS FOR THE PRIMARY AND SECONDARY TITANIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of titanium produced	
Chromium (total)	1.528	0.620
Lead	1.157	0.537
Nickel	2.272	1.528
Thallium	5.782	2.354
Fluoride	144.600	82.600
Titanium	1.528	0.620
Oil and Grease	41.300	41.300
Total suspended solids	61.950	49.560
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(5) *Melt Cell Wet Air Pollution Control.*

NSPS FOR THE PRIMARY AND SECONDARY TITANIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of titanium produced	
Chromium (total)	0.787	0.319
Lead	0.595	0.276
Nickel	1.170	0.787
Thallium	2.977	1.212
Fluoride	74.410	42.520
Titanium	0.787	0.319
Oil and Grease	21.260	21.260
Total suspended solids	31.890	25.510
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(6) *Cathode Gas Wet Air Pollution Control.*

NSPS FOR THE PRIMARY AND SECONDARY TITANIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of titanium produced	
Chromium (total)	0.228	0.092
Lead	0.172	0.080
Nickel	0.338	0.228
Thallium	0.861	0.351
Fluoride	21.530	12.300
Titanium	0.228	0.092
Oil and Grease	6.150	6.150
Total suspended solids	9.225	7.380
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(7) *Chlorine Liquefaction Wet Air Pollution Control.*

NSPS FOR THE PRIMARY AND SECONDARY TITANIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of titanium produced	
Chromium (total)	0.000	0.000
Lead	0.000	0.000
Nickel	0.000	0.000
Thallium	0.000	0.000
Fluoride	0.000	0.000
Titanium	0.000	0.000
Oil and grease	0.000	0.000
Total suspended solids	0.000	0.000
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(8) *Sodium Reduction Container Reconditioning Wash.*

NSPS FOR THE PRIMARY AND SECONDARY TITANIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of titanium produced	
Chromium (total)	0.474	0.192
Lead	0.359	0.167
Nickel	0.705	0.474
Thallium	1.795	0.731
Fluoride	44.870	25.640
Titanium	0.474	0.192
Oil and grease	12.820	12.820
Total suspended solids	19.230	15.390
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(9) *Chip Crushing Wet Air Pollution Control.*

NSPS FOR THE PRIMARY AND SECONDARY TITANIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of titanium produced	
Chromium (total)	0.000	0.000
Lead	0.000	0.000
Nickel	0.000	0.000
Thallium	0.000	0.000
Fluoride	0.000	0.000
Titanium	0.000	0.000
Oil and grease	0.000	0.000
Total suspended solids	0.000	0.000
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(10) *Acid Leachate and Rinse Water.*

NSPS FOR THE PRIMARY AND SECONDARY TITANIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of titanium produced	
Chromium (total)	4.381	1.776
Lead	3.315	1.539
Nickel	6.512	4.381
Thallium	16.580	6.749
Fluoride	414.400	236.800
Titanium	4.381	1.776
Oil and grease	118.400	118.400
Total suspended solids	177.600	142.100
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(11) *Sponge Crushing and Screening Wet Air Pollution Control.*

NSPS FOR THE PRIMARY AND SECONDARY TITANIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of titanium produced	
Chromium (total)	0.000	0.000
Lead	0.000	0.000
Nickel	0.000	0.000
Thallium	0.000	0.000
Fluoride	0.000	0.000
Titanium	0.000	0.000
Oil and grease	0.000	0.000
Total suspended solids	0.000	0.000
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(12) *Acid Pickle and Wash Water.*

NSPS FOR THE PRIMARY AND SECONDARY TITANIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of titanium pickled	
Chromium (total)	0.023	0.009
Lead	0.017	0.008
Nickel	0.034	0.023
Thallium	0.085	0.035
Fluoride	2.135	1.220
Titanium	0.023	0.009
Oil and grease	0.610	0.610
Total suspended solids	0.915	0.732
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(13) *Scrap Milling Wet Air Pollution Control.*

NSPS FOR THE PRIMARY AND SECONDARY TITANIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pound per million pounds) of scrap milled	
Chromium (total)	0.000	0.000
Lead	0.000	0.000
Nickel	0.000	0.000
Thallium	0.000	0.000

NSPS FOR THE PRIMARY AND SECONDARY TITANIUM SUBCATEGORY—Continued

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Fluoride	0.000	0.000
Titanium	0.000	0.000
Oil and Grease	0.000	0.000
Total suspended solids	0.000	0.000
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(14) *Scrap Detergent Wash Water.*

NSPS FOR THE PRIMARY AND SECONDARY TITANIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pound per million pounds) of scrap washed	
Chromium (total)	6.684	2.710
Lead	5.058	2.349
Nickel	9.935	6.684
Thallium	25.290	10.300
Fluoride	632.300	361.300
Titanium	6.684	2.710
Oil and Grease	180.700	180.700
Total suspended solids	271.000	216.800
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(15) *Casting Crucible Wash Water.*

NSPS FOR THE PRIMARY AND SECONDARY TITANIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pound per million pounds) of titanium cast	
Chromium (total)	0.177	0.072
Lead	0.134	0.062
Nickel	0.262	0.177
Thallium	0.668	0.272
Fluoride	16.700	9.540
Titanium	0.177	0.072
Oil and Grease	4.770	4.770
Total suspended solids	7.155	5.724
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(16) *Casting Contact Cooling Water.*

NSPS FOR THE PRIMARY AND SECONDARY TITANIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/million (pound per million pounds) of titanium cast	
Chromium (total)	27.000	10.950
Lead	20.430	9.487
Nickel	40.140	27.000
Thallium	102.200	41.600
Fluoride	2,554.000	1,460.000
Titanium	27.000	10.950
Oil and grease	729,800	729.800
Total suspended soilds	1,095.000	875.700
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

§ 421.305 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. The mass of wastewater pollutants in primary and secondary titanium process wastewater introduced into a POTW must not exceed the following values:

(a) **Level A.**

(1) *Chorination Off-Gas Wet Air Pollution Control.*

PSES FOR THE PRIMARY AND SECONDARY TITANIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pound per million pounds) of $TiCl_4$ produced	
Chromium (total)	0.412	0.169
Lead	0.393	0.187
Nickel	1.797	1.189
Thallium	1.919	0.786
Fluoride	32.760	18.720
Titanium	0.412	0.169

(2) *Chlorination Area-Vent Wet Air Pollution Control.*

PSES FOR THE PRIMARY AND SECONDARY TITANIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of $TiCl_4$ produced	
Chromium (total)	0.458	0.187
Lead	0.437	0.208
Nickel	1.997	1.321
Thallium	2.132	0.874
Fluoride	36.400	20.800
Titanium	0.458	0.187

(3) *$TiCl_4$ Handling Wet Air Pollution Control.*

PSES FOR THE PRIMARY AND SECONDARY TITANIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of $TiCl_4$ produced	
Chromium (total)	0.082	0.034
Lead	0.079	0.037
Nickel	0.359	0.238
Thallium	0.383	0.157
Fluoride	6.545	3.740
Titanium	0.082	0.034

(4) *Sponge Crushing and Screening Wet Air Pollution Control.*

PSES FOR THE PRIMARY AND SECONDARY TITANIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of titanium produced	
Chromium (total)	0.285	0.117
Lead	0.272	0.129
Nickel	1.242	0.822
Thallium	1.327	0.544
Fluoride	22.650	12.940
Titanium	0.285	0.117

(b) *Level B.*

(1) *Chlorination Off-Gas Wet Air Pollution Control.*

PSES FOR THE PRIMARY AND SECONDARY TITANIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of $TiCl_4$ produced	
Chromium (total)	0.346	0.140
Lead	0.262	0.122
Nickel	0.515	0.346
Thallium	1.311	0.534
Fluoride	32.760	18.720
Titanium	0.346	0.140

(2) *Chlorination Area-Vent Wet Air Pollution Control.*

PSES FOR THE PRIMARY AND SECONDARY TITANIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of $TiCl_4$ produced	
Chromium (total)	0.385	0.156
Lead	0.291	0.135
Nickel	0.572	0.385
Thallium	1.456	0.593
Fluoride	36.400	20.800
Titanium	0.385	0.156

(3) *$TiCl_4$ Handling Wet Air Pollution Control.*

PSES FOR THE PRIMARY AND SECONDARY TITANIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of $TiCl_4$ produced	
Chromium (total)	0.069	0.028
Lead	0.052	0.024
Nickel	0.103	0.069
Thallium	0.262	0.107
Fluoride	6.545	3.740
Titanium	0.069	0.028

(4) *Reduction Area Wet Air Pollution Control.*

PSES FOR THE PRIMARY AND SECONDARY TITANIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of titanium produced	
Chromium (total)	1.528	0.620
Lead	1.157	0.537
Nickel	2.272	1.528
Thallium	5.782	2.354
Fluoride	144.600	82.600
Titanium	1.528	0.620

(5) *Melt Cell Wet Air Pollution Control.*

PSES FOR THE PRIMARY AND SECONDARY TITANIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of titanium produced	
Chromium (total)	0.787	0.319
Lead	0.595	0.276
Nickel	1.170	0.787
Thallium	2.977	1.212
Fluoride	74.410	42.520
Titanium	0.787	0.319

(6) *Cathode Gas Wet Air Pollution Control.*

PSES FOR THE PRIMARY AND SECONDARY TITANIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of titanium produced	
Chromium (total)	0.228	0.092
Lead	0.172	0.080
Nickel	0.338	0.228
Thallium	0.861	0.351
Fluoride	21.530	12.300
Titanium	0.228	0.092

(7) *Chlorine Liquefaction Wet Air Pollution Control.*

PSES FOR THE PRIMARY AND SECONDARY TITANIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of titanium produced	
Chromium (total)	11.010	4.464
Lead	8.332	3.868
Nickel	16.370	11.010
Thallium	41.660	16.960
Fluoride	1,042.000	595.100
Titanium	11.010	4.464

(8) *Sodium Reduction Container Reconditioning Wash.*

PSES FOR THE PRIMARY AND SECONDARY TITANIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of titanium produced	
Chromium (total)	0.474	0.192
Lead	0.359	0.167
Nickel	0.705	0.474
Thallium	1.795	0.731
Fluoride	44.870	25.640
Titanium	0.474	0.192

(9) *Chip Crushing Wet Air Pollution Control.*

PSES FOR THE PRIMARY AND SECONDARY TITANIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of titanium produced	
Chromium (total)	0.848	0.344
Lead	0.642	0.298
Nickel	1.261	0.848
Thallium	3.209	1.306
Fluoride	80.220	45.840
Titanium	0.848	0.344

(10) *Acid Leachate and Rinse Water.*

PSES FOR THE PRIMARY AND SECONDARY TITANIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of titanium produced	
Chromium (total)	4.381	1.776
Lead	3.315	1.539
Nickel	6.512	4.381
Thallium	16.580	6.749
Fluoride	414.400	236.800
Titanium	4.381	1.776

(11) *Sponge Crushing and Screening Wet Air Pollution Control.*

PSES FOR THE PRIMARY AND SECONDARY TITANIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of titanium produced	
Chromium (total)	0.239	0.097
Lead	0.181	0.084
Nickel	0.356	0.239
Thallium	0.906	0.369
Fluoride	22.650	12.940
Titanium	0.239	0.097

(12) *Acid Pickle and Wash Water.*

PSES FOR THE PRIMARY AND SECONDARY TITANIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of titanium pickled	
Chromium (total)	0.023	0.009
Lead	0.017	0.008
Nickel	0.034	0.023
Thallium	0.085	0.035
Fluoride	2.135	1.220
Titanium	0.023	0.009

(13) *Scrap Milling Wet Air Pollution Control.*

PSES FOR THE PRIMARY AND SECONDARY TITANIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of scrap milled	
Chromium (total)	0.084	0.034
Lead	0.064	0.030
Nickel	0.125	0.084
Thallium	0.318	0.129
Fluoride	7.945	4.540
Titanium	0.084	0.034

(14) *Scrap Detergent Wash Water.*

PSES FOR THE PRIMARY AND SECONDARY TITANIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of scrap washed	
Chromium (total)	6.684	2.710
Lead	5.058	2.349
Nickel	9.935	6.684
Thallium	25.290	10.300
Fluoride	632.300	361.300
Titanium	6.684	2.710

(15) *Casting Crucible Wash Water.*

PSES FOR THE PRIMARY AND SECONDARY TITANIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of titanium cast	
Chromium (total)	0.177	0.072
Lead	0.134	0.062
Nickel	0.262	0.177
Thallium	0.668	0.272
Fluoride	16.700	9.540
Titanium	0.177	0.072

(16) *Casting Contact Cooling Water.*

PSES FOR THE PRIMARY AND SECONDARY TITANIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of titanium cast	
Chromium (total)	27.000	10.950
Lead	20.430	9.487
Nickel	40.140	27.000
Thallium	102.200	41.600
Fluoride	2,554.000	1,460.000
Titanium	27.000	10.950

§ 421.306 Pretreatment standards for new sources.

Except as provided in 40 CFR Part 403.7, any new 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 new sources. The mass of wastewater pollutants in primary and secondary titanium process wastewater introduced into a POTW shall not exceed the following values:

(a) **Level A.**

(1) *Chlorination Off-Gas Wet Air Pollution Control.*

PSNS FOR THE PRIMARY AND SECONDARY TITANIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of $TiCl_4$ produced	
Chromium (total)	0.412	0.169
Lead	0.393	0.187
Nickel	1.797	1.189
Thallium	1.919	0.786
Fluoride	32.760	18.720
Titanium	0.412	0.169

(2) *Chlorination Area-Vent Wet Air Pollution Control.*

PSNS FOR THE PRIMARY AND SECONDARY TITANIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of $TiCl_4$ produced	
Chromium (total)	0.458	0.187
Lead	0.437	0.208
Nickel	1.997	1.321
Thallium	2.132	0.874
Fluoride	36.400	20.800
Titanium	0.458	0.187

(3) *$TiCl_4$ Handling Wet Air Pollution Control.*

PSNS FOR THE PRIMARY AND SECONDARY TITANIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of $TiCl_4$ produced	
Chromium (total)	0.082	0.034
Lead	0.079	0.037
Nickel	0.359	0.238
Thallium	0.383	0.157
Fluoride	6.545	3.740
Titanium	0.082	0.034

(4) *Sponge Crushing and Screening Wet Air Pollution Control.*

PSNS FOR THE PRIMARY AND SECONDARY TITANIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of titanium produced	
Chromium (total)	0.000	0.000
Lead	0.000	0.000
Nickel	0.000	0.000
Thallium	0.000	0.000
Fluoride	0.000	0.000
Titanium	0.000	0.000

(b) **Level B.**

(1) *Chlorination Off-Gas Wet Air Pollution Control.*

PSNS FOR THE PRIMARY AND SECONDARY TITANIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of $TiCl_4$ produced	
Chromium (total)	0.346	0.140
Lead	0.262	0.122
Nickel	0.515	0.346
Thallium	1.311	0.534
Fluoride	32.760	18.720
Titanium	0.346	0.140

(2) *Chlorination Area-Vent Wet Air Pollution Control.*

PSNS FOR THE PRIMARY AND SECONDARY TITANIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of $TiCl_4$ produced	
Chromium (total)	0.385	0.156
Lead	0.291	0.135
Nickel	0.572	0.385
Thallium	1.456	0.593
Fluoride	36.400	20.800
Titanium	0.385	0.156

(3) *$TiCl_4$ Handling Wet Air Pollution Control.*

PSNS FOR THE PRIMARY AND SECONDARY TITANIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of $TiCl_4$ produced	
Chromium (total)	0.069	0.028
Lead	0.052	0.024
Nickel	0.103	0.069
Thallium	0.262	0.107
Fluoride	6.545	3.740
Titanium	0.069	0.028

(4) *Reduction Area Wet Air Pollution Control.*

PSNS FOR THE PRIMARY AND SECONDARY TITANIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of titanium produced	
Chromium (total)	1.528	0.620
Lead	1.157	0.537
Nickel	2.272	1.528
Thallium	5.782	2.354
Fluoride	144.600	82.600
Titanium	1.528	0.620

(5) *Melt Cell Wet Air Pollution Control.*

PSNS FOR THE PRIMARY AND SECONDARY TITANIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of titanium produced	
Chromium (total)	0.787	0.319
Lead	0.595	0.276
Nickel	1.170	0.787
Thallium	2.977	1.212
Fluoride	74.410	42.520
Titanium	0.787	0.319

(6) *Cathode Gas Wet Air Pollution Control.*

PSNS FOR THE PRIMARY AND SECONDARY TITANIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of titanium produced	
Chromium (total)	0.228	0.092
Lead	0.172	0.080
Nickel	0.338	0.228
Thallium	0.861	0.351
Fluoride	21.530	12.300
Titanium	0.228	0.092

(7) *Chlorine Liquefaction Wet Air Pollution Control.*

PSNS FOR THE PRIMARY AND SECONDARY TITANIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of titanium produced	
Chromium (total)	0.000	0.000
Lead	0.000	0.000
Nickel	0.000	0.000
Thallium	0.000	0.000
Fluoride	0.000	0.000
Titanium	0.000	0.000

(8) *Sodium Reduction Container Reconditioning Wash.*

PSNS FOR THE PRIMARY AND SECONDARY TITANIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of titanium produced	
Chromium (total)	0.474	0.192
Lead	0.359	0.167
Nickel	0.705	0.474
Thallium	1.795	0.731
Fluoride	44.870	25.640
Titanium	0.474	0.192

(9) *Chip Crushing Wet Air Pollution Control.*

PSNS FOR THE PRIMARY AND SECONDARY TITANIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of titanium produced	
Chromium (total)	0.000	0.000
Lead	0.000	0.000
Nickel	0.000	0.000
Thallium	0.000	0.000
Fluoride	0.000	0.000
Titanium	0.000	0.000

(10) *Acid Leachate and Rinse Water.*

PSNS FOR THE PRIMARY AND SECONDARY TITANIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of titanium produced	
Chromium (total)	4.381	1.776
Lead	3.315	1.539
Nickel	6.512	4.381
Thallium	16.580	6.749
Fluoride	414.400	236.800
Titanium	4.381	1.776

(11) *Sponge Crushing and Screening Wet Air Pollution Control.*

PSNS FOR THE PRIMARY AND SECONDARY TITANIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of titanium produced	
Chromium (total)	0.000	0.000
Lead	0.000	0.000
Nickel	0.000	0.000
Thallium	0.000	0.000
Fluoride	0.000	0.000
Titanium	0.000	0.000

(12) *Acid Pickle and Wash Water.*

PSNS FOR THE PRIMARY SECONDARY TITANIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of titanium pickled	
Chromium (total)	0.023	0.009
Lead	0.017	0.008
Nickel	0.034	0.023
Thallium	0.085	0.035
Fluoride	2.135	1.220
Titanium	0.023	0.009

(13) *Scrap Milling Wet Air Pollution Control.*

PSNS FOR THE PRIMARY SECONDARY TITANIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of scrap milled	
Chromium (total)	0.000	0.000
Lead	0.000	0.000
Nickel	0.000	0.000
Thallium	0.000	0.000
Fluoride	0.000	0.000
Titanium	0.000	0.000

(14) *Scrap Detergent Wash Water.*

PSNS FOR THE PRIMARY SECONDARY TITANIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of scrap washed	
Chromium (total)	6.684	2.710
Lead	5.058	2.349
Nickel	9.935	6.684
Thallium	25.290	10.300
Fluoride	632.300	361.300
Titanium	6.684	2.710

(15) *Casting Crucible Wash Water.*

PSNS FOR THE PRIMARY SECONDARY TITANIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of titanium cast	
Chromium (total)	0.177	0.072
Lead	0.134	0.062
Nickel	0.262	0.177
Thallium	0.668	0.272
Fluoride	16.700	9.540
Titanium	0.177	0.072

(16) *Casting Contact Cooling Water.*

PSNS FOR THE PRIMARY SECONDARY TITANIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of titanium cast	
Chromium (total)	27.000	10.950
Lead	20.430	9.487
Nickel	40.140	27.000
Thallium	102.200	41.600
Fluoride	2,554.000	1,460.000
Titanium	27.000	10.950

§ 421.307 [Reserved]

Subpart AE—Secondary Tungsten and Cobalt Subcategory

§ 421.310 Applicability: Description of the secondary tungsten and cobalt subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of tungsten or cobalt at secondary tungsten and cobalt facilities processing tungsten or tungsten carbide scrap raw materials.

§ 421.311 Specialized definitions.

For the purpose of this subpart the general definitions, abbreviations, and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

§ 421.312 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 through 125.32, any existing point source subject to this subpart shall achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable technology currently available:

(1) *Tungsten Detergent Wash and Rinse.*

BPT LIMITATIONS FOR THE SECONDARY TUNGSTEN AND COBALT SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of tungsten scrap washed	
Copper	0.371	0.195
Nickel	0.374	0.248
Ammonia (as N)	26.020	11.420
Cobalt	0.041	0.018
Oil and Grease	3.900	2.340
Total suspended solids	7.995	3.803
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(2) *Tungsten Leaching Acid.*

BPT LIMITATIONS FOR THE SECONDARY TUNGSTEN AND COBALT SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of tungsten produced	
Copper	4.885	2.571
Nickel	4.937	3.265
Ammonia (as N)	343.100	150.600
Cobalt	0.540	0.231
Oil and Grease	51.420	30.850
Total suspended solids	105.400	50.140
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(3) *Tungsten Post-Leaching Wash and Rinse.*

BPT LIMITATIONS FOR THE SECONDARY TUNGSTEN AND COBALT SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of tungsten produced	
Copper	9.772	5.143
Nickel	9.875	6.532
Ammonia (as N)	686.400	301.200
Cobalt	1.080	0.463
Oil and Grease	102.900	61.720
Total suspended solids	210.900	100.300
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(4) *Synthetic Scheelite Filtrate.*

BPT LIMITATIONS FOR THE SECONDARY TUNGSTEN AND COBALT SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of synthetic scheelite produced	
Copper	31.660	16.660
Nickel	31.990	21.160
Ammonia (as N)	2,223.000	975.800
Cobalt	3.499	1.500
Oil and Grease	333.200	200.000
Total suspended solids	683.100	324.900
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(5) *Tungsten Carbide Leaching Wet Air Pollution Control.*

BPT LIMITATIONS FOR THE SECONDARY TUNGSTEN AND COBALT SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of tungsten carbide scrap leached	
Copper	3.327	1.751
Nickel	3.362	2.224
Ammonia (as N)	233.700	102.500
Cobalt	0.368	0.158
Oil and Grease	35.020	21.010
Total suspended solids	71.790	34.150
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(6) *Tungsten Carbide Wash Water.*

BPT LIMITATIONS FOR THE SECONDARY TUNGSTEN AND COBALT SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of tungsten carbide produced	
Copper	15.830	8.333
Nickel	16.000	10.580
Ammonia (as N)	1,112.000	488.100
Cobalt	1.750	0.750
Oil and Grease	166.700	100.000
Total suspended solids	341.700	162.500
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(7) *Cobalt Sudge Leaching Wet Air Pollution Control.*

BPT LIMITATIONS FOR THE SECONDARY TUNGSTEN AND COBALT SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of cobalt produced from cobalt sludge	
Copper	67.990	35.780
Nickel	68.700	45.440
Ammonia (as N)	4,775.000	2,095.000
Cobalt	7.514	3.220
Oil and Grease	715.600	429.400
Total suspended solids	1,467.000	697.700
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(8) *Crystallization Decant.*

BPT LIMITATIONS FOR THE SECONDARY TUNGSTEN AND COBALT SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of cobalt produced	
Copper	79.140	41.650
Nickel	79.970	52.900
Ammonia (as N)	5,559.000	2,439.000
Cobalt	8.747	3.749

BPT LIMITATIONS FOR THE SECONDARY TUNGSTEN AND COBALT SUBCATEGORY—Continued

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Oil and Grease	833.000	499.800
Total suspended solids	1,708.000	812.200
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(9) *Acid Wash Decant.*

BPT LIMITATIONS FOR THE SECONDARY TUNGSTEN AND COBALT SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of cobalt produced	
Copper	36.220	19.060
Nickel	36.600	24.210
Ammonia (as N)	2,544.000	1,116.000
Cobalt	4.003	1.716
Oil and Grease	381.300	228.800
Total suspended solids	781.600	371.700
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(10) *Cobalt Hydroxide Filtrate.*

BPT LIMITATIONS FOR THE SECONDARY TUNGSTEN AND COBALT SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of cobalt produced	
Copper	107.600	56.650
Nickel	108.800	71.940
Ammonia (as N)	7,560.000	3,316.000
Cobalt	11.900	5.098
Oil and Grease	1,133.00	679.800
Total suspended solids	2,323.000	1,105.000
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(11) *Cobalt Hydroxide Filter Cake Wash.*

BPT LIMITATIONS FOR THE SECONDARY TUNGSTEN AND COBALT SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of cobalt produced	
Copper	207.200	109.100
Nickel	209.400	138.500
Ammonia (as N)	14,550.000	6,385.000
Cobalt	22.900	9.813
Oil and Grease	2,181.000	1,309.000
Total suspended solids	4,471.000	2,126.000
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

§ 421.313 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 through 125.32, any existing point source subject to this subpart shall achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable:

(a) *Tungsten Detergent Wash and Rinse.*

BAT LIMITATIONS FOR THE SECONDARY TUNGSTEN AND COBALT SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of tungsten scrap washed	
Copper	0.250	0.119
Nickel	0.107	0.072
Ammonia (as N)	26.020	11.420
Cobalt	0.027	0.014

(b) *Tungsten Leaching Acid.*

BAT LIMITATIONS FOR THE SECONDARY TUNGSTEN AND COBALT SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of tungsten produced	
Copper	3.291	1.569
Nickel	1.414	0.951
Ammonia (as N)	343.100	150.600
Cobalt	0.360	0.180

(c) *Tungsten Post-Leaching Wash and Rinse.*

BAT LIMITATIONS FOR THE SECONDARY TUNGSTEN AND COBALT SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of tungsten produced	
Copper	6.583	3.137
Nickel	2.829	1.903
Ammonia (as N)	686.400	301.200
Cobalt	0.720	0.360

(d) *Synthetic Scheelite Filtrate.*

BAT LIMITATIONS FOR THE SECONDARY TUNGSTEN AND COBALT SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of synthetic scheelite produced	
Copper	21.330	10.170
Nickel	9.164	6.165
Ammonia (as N)	2,223.000	975.800
Cobalt	2.333	1.166

(e) *Tungsten Carbide Leaching Wet Air Pollution Control.*

BAT LIMITATIONS FOR THE SECONDARY TUNGSTEN AND COBALT SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of tungsten carbide scrap leached	
Copper	0.224	0.107
Nickel	0.096	0.065
Ammonia (as N)	23.370	10.250
Cobalt	0.025	0.012

(f) *Tungsten Carbide Wash Water.*

BAT LIMITATIONS FOR THE SECONDARY TUNGSTEN AND COBALT SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of tungsten carbide produced	
Copper	10.670	5.083
Nickel	4.583	3.083
Ammonia (as N)	1,112.000	486.100
Cobalt	1.167	0.583

(g) *Cobalt Sludge Leaching Wet Air Pollution Control.*

BAT LIMITATIONS FOR THE SECONDARY TUNGSTEN AND COBALT SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of cobalt produced from cobalt sludge	
Copper	4.580	2.183
Nickel	1.968	1.324
Ammonia (as N)	477.500	209.500
Cobalt	0.501	0.251

(h) *Crystallization Decant.*

BAT LIMITATIONS FOR THE SECONDARY TUNGSTEN AND COBALT SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of cobalt produced	
Copper	53.310	25.410
Nickel	22.910	15.410
Ammonia (as N)	5,559.000	2,439.000
Cobalt	5.831	2.916

(i) *Acid Wash Decant.*

BAT LIMITATIONS FOR THE SECONDARY TUNGSTEN AND COBALT SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of cobalt produced	
Copper	24.400	11.630
Nickel	10.490	7.053
Ammonia (as N)	2,544.000	1,116.000
Cobalt	2.669	1.335

(j) *Cobalt Hydroxide Filtrate.*

BAT LIMITATIONS FOR THE SECONDARY TUNGSTEN AND COBALT SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of cobalt produced	
Copper	72.510	34.560
Nickel	31.160	20.960
Ammonia (as N)	7,560.000	3,318.000
Cobalt	7.931	3.965

(k) *Cobalt Hydroxide Filter Cake Wash.*

BAT LIMITATIONS FOR THE SECONDARY TUNGSTEN AND COBALT SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of cobalt produced	
Copper	139.600	66.510
Nickel	59.970	40.340
Ammonia (as N)	14,550.000	6,385.000
Cobalt	15.270	7.633

§ 421.314 Standards of performance for new sources.

Any new source subject to this subpart shall achieve the following new source performance standards:

(a) *Tungsten Detergent Wash and Rinse.*

NSPS FOR THE SECONDARY TUNGSTEN AND COBALT SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of tungsten scrap washed	
Copper	0.250	0.119
Nickel	0.107	0.072
Ammonia (as N)	26.020	11.420
Cobalt	0.027	0.014
Oil and Grease	1.950	1.950
Total suspended solids	2.925	2.340
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(b) *Tungsten Leaching Acid.*

NSPS FOR THE SECONDARY TUNGSTEN AND COBALT SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of tungsten produced	
Copper	3.291	1.569
Nickel	1.414	0.951
Ammonia (as N)	343.100	150.600
Cobalt	0.360	0.180
Oil and Grease	25.710	25.710
Total suspended solids	38.570	30.850
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(c) *Tungsten Post-Leaching Wash and Rinse.*

NSPS FOR THE SECONDARY TUNGSTEN AND COBALT SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of tungsten produced	
Copper	6.583	3.137
Nickel	2.829	1.903
Ammonia (as N)	686.400	301.200
Cobalt	0.720	0.360
Oil and Grease	51.430	51.430
Total suspended solids	77.150	61.720
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(d) *Synthetic Scheelite Filtrate.*

NSPS FOR THE SECONDARY TUNGSTEN AND COBALT SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of synthetic scheelite produced	
Copper	21.330	10.170
Nickel	9.164	6.165
Ammonia (as N)	2,223.000	975.800
Cobalt	2.333	1.166
Oil and Grease	166.600	166.600
Total suspended solids	249.900	200.000
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(e) *Tungsten Carbide Leaching Wet Air Pollution Control.*

NSPS FOR THE SECONDARY TUNGSTEN AND COBALT SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of tungsten carbide scrap leached	
Copper	0.224	0.107
Nickel	0.096	0.065
Ammonia (as N)	23.370	10.250
Cobalt	0.025	0.012
Oil and Grease	1.750	1.750
Total suspended solids	2.625	2.100
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(f) *Tungsten Carbide Wash Water.*

NSPS FOR THE SECONDARY TUNGSTEN AND COBALT SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of tungsten carbide produced	
Copper	10.670	5.083
Nickel	4.583	3.083
Ammonia (as N)	1,112.000	488.100
Cobalt	1.167	0.583
Oil and Grease	83.330	83.330
Total suspended solids	125.000	100.000
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(g) *Cobalt Sludge Leaching Wet Air Pollution Control.*

NSPS FOR THE SECONDARY TUNGSTEN AND COBALT SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of cobalt produced from cobalt sludge	
Copper	4.580	2.183
Nickel	1.968	1.324
Ammonia (as N)	477.500	209.500
Cobalt	0.501	0.251
Oil and Grease	35.780	35.780
Total suspended solids	53.670	42.940
pH	(1)	(1)

Within the range of 7.5 to 10.0 at all times.

(h) *Crystallization Decant.*

NSPS FOR THE SECONDARY TUNGSTEN AND COBALT SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of cobalt produced	
Copper	53.310	25.410
Nickel	22.910	15.410
Ammonia (as N)	5,559.000	2,439.000
Cobalt	5.831	2.916

NSPS FOR THE SECONDARY TUNGSTEN AND COBALT SUBCATEGORY—Continued

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Oil and Grease	416.500	416.500
Total suspended solids	624.800	499.800
pH	(1)	(1)

Within the range of 7.5 to 10.0 at all times.

(i) *Acid Wash Decant.*

NSPS FOR THE SECONDARY TUNGSTEN AND COBALT SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of cobalt produced	
Copper	24.400	11.630
Nickel	10.490	7.053
Ammonia (as N)	2,544.000	1,116.000
Cobalt	2.669	1.335
Oil and Grease	190.600	190.600
Total suspended solids	286.000	228.800
pH	(1)	(1)

Within the range of 7.5 to 10.0 at all times.

(j) *Cobalt Hydroxide Filtrate.*

NSPS FOR THE SECONDARY TUNGSTEN AND COBALT SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of cobalt produced	
Copper	72.510	34.560
Nickel	31.160	20.960
Ammonia (as N)	7,560.000	3,318.000
Cobalt	7.931	3.965
Oil and Grease	566.500	566.500
Total suspended solids	849.700	679.800
pH	(1)	(1)

Within the range of 7.5 to 10.0 at all times.

(k) *Cobalt Hydroxide Filter Cake Wash.*

NSPS FOR THE SECONDARY TUNGSTEN AND COBALT SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of cobalt produced	
Copper	139.600	66.510
Nickel	59.970	40.340
Ammonia (as N)	14,550.000	6,385.000
Cobalt	15.270	7.633
Oil and Grease	1,091.000	1,091.000
Total suspended solids	1,636.000	1,309.000
pH	(1)	(1)

Within the range of 7.5 to 10.0 at all times.

§ 421.315 [Reserved]

§ 421.316 Pretreatment standards for new sources.

Except as provided in 40 CFR 403.7, any new 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 new sources. The mass of wastewater pollutants in secondary tungsten and cobalt process wastewater introduced into a POTW shall not exceed the following values:

(a) *Tungsten Detergent Wash and Rinse.*

PSNS FOR THE SECONDARY TUNGSTEN AND COBALT SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of tungsten scrap washed	
Copper	0.250	0.119
Nickel	0.107	0.072
Ammonia (as N)	26.020	11.420
Cobalt	0.027	0.014

(b) *Tungsten Leaching Acid.*

PSNS FOR THE SECONDARY TUNGSTEN AND COBALT SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of tungsten produced	
Copper	3.291	1.569
Nickel	1.414	0.951
Ammonia (as N)	343.100	150.600
Cobalt	0.360	0.180

(c) *Tungsten Post-Leaching Wash and Rinse.*

PSNS FOR THE SECONDARY TUNGSTEN AND COBALT SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of tungsten produced	
Copper	6.583	3.137
Nickel	2.829	1.903
Ammonia (as N)	686.400	301.200
Cobalt	0.720	0.360

(d) *Synthetic Scheelite Filtrate.*

PSNS FOR THE SECONDARY TUNGSTEN AND COBALT SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of synthetic scheelite produced	
Copper	21.330	10.170
Nickel	9.164	6.165
Ammonia (as N)	2,223.000	975.800
Cobalt	2.333	1.166

(e) *Tungsten Carbide Leaching Wet Air Pollution Control.*

PSNS FOR THE SECONDARY TUNGSTEN AND COBALT SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of tungsten carbide scrap leached	
Copper	0.224	0.107
Nickel	0.096	0.065
Ammonia (as N)	23.370	10.250
Cobalt	0.025	0.012

(f) *Tungsten Carbide Wash Water.*

PSNS FOR THE SECONDARY TUNGSTEN AND COBALT SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of tungsten carbide produced	
Copper	10.670	5.083
Nickel	4.583	3.083
Ammonia (as N)	1,112.000	488.100
Cobalt	1.167	0.583

(g) *Cobalt Sludge Leaching Wet Air Pollution Control.*

PSNS FOR THE SECONDARY TUNGSTEN AND COBALT SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of cobalt produced from cobalt sludge	
Copper	4.580	2.183
Nickel	1.968	1.324
Ammonia (as N)	477.500	209.500
Cobalt	0.501	0.251

(h) *Crystallization Decant.*

PSNS FOR THE SECONDARY TUNGSTEN AND COBALT SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of cobalt produced	
Copper	53.310	25.410
Nickel	22.910	15.410
Ammonia (as N)	5,559.000	2,439.000
Cobalt	5.831	2.916

(i) *Acid Wash Decant.*

PSNS FOR THE SECONDARY TUNGSTEN AND COBALT SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of cobalt produced	
Copper	24.400	11.630
Nickel	10.490	7.053
Ammonia (as N)	2,544.000	1,116.000
Cobalt	2.669	1.335

(j) *Cobalt Hydroxide Filtrate.*

PSNS FOR THE SECONDARY TUNGSTEN AND COBALT SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of cobalt produced	
Copper	72.510	34.560
Nickel	31.160	20.960
Ammonia (as N)	7,560.000	3,318.000
Cobalt	7.931	3.965

(k) *Cobalt Hydroxide Filter Cake Wash.*

PSNS FOR THE SECONDARY TUNGSTEN AND COBALT SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of cobalt produced	
Copper	139.600	66.510
Nickel	59.970	40.340
Ammonia (as N)	14,550.000	6,385.000
Cobalt	15.270	7.633

§ 421.317 [Reserved]

Subpart AF—Secondary Uranium Subcategory

§ 421.320 Applicability: Description of the secondary uranium subcategory.

The provisions of this subpart are applicable to discharges resulting from

the production of uranium by secondary uranium facilities.

§ 421.321 Specialized definitions.

For the purpose of this subpart the general definitions, abbreviations, and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

§ 421.322 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 through 125.32, any existing point source subject to this subpart shall achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable technology currently available:

(a) *Refinery Filtrate.*

BPT LIMITATIONS FOR THE SECONDARY URANIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of uranium trioxide produced	
Chromium (total)	15.310	6.264
Copper	66.120	34.800
Nickel	66.820	44.200
Ammonia (as N)	4,645.000	2,039.000
Fluoride	1,218.000	696.000
Uranium	69.600	28.540
Total suspended solids	1,427.000	678.600
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(b) *Slag Leach Slurry.*

BPT LIMITATIONS FOR THE SECONDARY URANIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of uranium trioxide produced	
Chromium (total)	1.672	0.684
Copper	7.220	3.800
Nickel	7.296	4.826
Ammonia (as N)	507.100	222.500
Fluoride	133.000	76.000
Uranium	7.600	3.116
Total suspended solids	155.800	74.100
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(c) *Solvent Extraction Raffinate.*

BPT LIMITATIONS FOR THE SECONDARY URANIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of uranium trioxide produced	
Chromium (total)	2.332	0.954
Copper	10.070	5.300
Nickel	10.180	6.731
Ammonia (as N)	707.200	310.400
Fluoride	185.500	106.000
Uranium	10.600	4.346
Total suspended solids	217.300	103.400
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(d) *Digestion Operation Wet Air Pollution Control.*

BPT LIMITATIONS FOR THE SECONDARY URANIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of uranium trioxide produced	
Chromium (total)	0.013	0.005
Copper	0.057	0.030
Nickel	0.058	0.038
Ammonia (as N)	4.000	1.760
Fluoride	1.050	0.600
Uranium	0.060	0.025
Total suspended solids	1.230	0.585
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(e) *Evaporation and Calcination Wet Air Pollution Control.*

BPT LIMITATIONS FOR THE SECONDARY URANIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of uranium trioxide produced	
Chromium (total)	0.000	0.000
Copper	0.000	0.000
Nickel	0.000	0.000
Ammonia (as N)	0.000	0.000
Fluoride	0.000	0.000
Uranium	0.000	0.000
Total suspended solids	0.000	0.000
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(f) *Hydrogen Reduction and Hydrofluorination KOH Wet Air Pollution Control.*

BPT LIMITATIONS FOR THE SECONDARY URANIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of uranium tetrafluoride produced	
Chromium (total)	0.009	0.004
Copper	0.038	0.020
Nickel	0.038	0.025
Ammonia (as N)	2.670	1.170
Fluoride	0.700	0.400
Uranium	0.040	0.016
Total suspended solids	0.820	0.390
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(g) *Hydrofluorination Wet Air Pollution Control.*

BPT LIMITATIONS FOR THE SECONDARY URANIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of uranium tetrafluoride produced	
Chromium (total)	0.000	0.000
Copper	0.000	0.000
Nickel	0.000	0.000
Ammonia (as N)	0.000	0.000
Fluoride	0.000	0.000
Uranium	0.000	0.000
Total suspended solids	0.000	0.000
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

§ 421.323 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 through 125.32, any existing point source subject to this subpart shall achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable:

(a) *Refinery Filtrate.*

BAT LIMITATIONS FOR THE SECONDARY URANIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of uranium trioxide produced	
Chromium (total)	12.880	5.220
Copper	44.550	21.230
Nickel	19.140	12.880
Ammonia (as N)	4,645.000	2,039.000
Fluoride	1,218.000	696.000
Uranium	46.290	19.140

(b) *Slag Leach Slurry.*

BAT LIMITATIONS FOR THE SECONDARY URANIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of uranium trioxide produced	
Chromium (total)	1.406	0.570

BAT LIMITATIONS FOR THE SECONDARY URANIUM SUBCATEGORY—Continued

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Copper	4.864	2.318
Nickel	2.090	1.406
Ammonia (as N)	507.100	222.500
Fluoride	133.000	76.000
Uranium	5.054	2.090

(c) *Solvent Extraction Raffinate.*

BAT LIMITATIONS FOR THE SECONDARY URANIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of uranium trioxide produced	
Chromium (total)	1.961	0.795
Copper	6.784	3.233
Nickel	2.915	1.961
Ammonia (as N)	707.200	310.400
Fluoride	185.500	106.000
Uranium	7.049	2.915

(d) *Digestion Operation Wet Air Pollution Control.*

BAT LIMITATIONS FOR THE SECONDARY URANIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of uranium trioxide produced	
Chromium (total)	0.011	0.005
Copper	0.038	0.018
Nickel	0.017	0.011
Ammonia (as N)	4.000	1.760
Fluoride	1.050	0.600
Uranium	0.040	0.017

(e) *Evaporation and Calcination Wet Air Pollution Control.*

BAT LIMITATIONS FOR THE SECONDARY URANIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of uranium trioxide produced	
Chromium (total)	0.000	0.000
Copper	0.000	0.000
Nickel	0.000	0.000
Ammonia (as N)	0.000	0.000
Fluoride	0.000	0.000
Uranium	0.000	0.000

(f) *Hydrogen Reduction and Hydrofluorination KOH Wet Air Pollution Control.*

BAT LIMITATIONS FOR THE SECONDARY URANIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of uranium tetrafluoride produced	
Chromium (total)	0.007	0.003
Copper	0.026	0.012
Nickel	0.011	0.007
Ammonia (as N)	2.670	1.170
Fluoride	0.700	0.400
Uranium	0.027	0.011

(g) *Hydrofluorination Wet Air Pollution Control.*

BAT LIMITATIONS FOR THE SECONDARY URANIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of uranium tetrafluoride produced	
Chromium (total)	0.000	0.000
Copper	0.000	0.000
Nickel	0.000	0.000
Ammonia (as N)	0.000	0.000
Fluoride	0.000	0.000
Uranium	0.000	0.000

§ 421.324 Standards of performance for new sources.

Any new source subject to this subpart shall achieve the following new source performance standards:

(a) *Refinery Filtrate.*

NSPS FOR THE SECONDARY URANIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of uranium trioxide produced	
Chromium (total)	12.880	5.220
Copper	44.550	21.230
Nickel	19.140	12.880
Ammonia (as N)	4,645.000	2,039.000
Fluoride	1,218.000	696.000
Uranium	46.290	19.140
Total suspended solids	522.000	417.600
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(b) *Slag Leach Slurry.*

NSPS FOR THE SECONDARY URANIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of uranium trioxide produced	
Chromium (total)	1.406	0.570
Copper	4.864	2.318
Nickel	2.090	1.406
Ammonia (as N)	507.100	222.500
Fluoride	133.000	76.000
Uranium	5.054	2.090
Total suspended solids	57.000	45.600
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(c) *Solvent Extraction Raffinate.*

NSPS FOR THE SECONDARY URANIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of uranium trioxide produced	
Chromium (total)	1.961	0.795
Copper	6.784	3.233
Nickel	2.915	1.961
Ammonia (as N)	707.200	310.400
Fluoride	185.500	106.000
Uranium	7.049	2.915
Total suspended solids	79.500	63.600
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(d) *Digestion Operation Wet Air Pollution Control.*

NSPS FOR THE SECONDARY URANIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of uranium trioxide produced	
Chromium (total)	0.011	0.005
Copper	0.038	0.018
Nickel	0.017	0.011
Ammonia (as N)	4.000	1.760
Fluoride	1.050	0.600
Uranium	0.040	0.017
Total suspended solids	0.450	0.360
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(e) *Evaporation and Calcination Wet Air Pollution Control.*

NSPS FOR THE SECONDARY URANIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of uranium trioxide produced	
Chromium (total)	0.000	0.000
Copper	0.000	0.000
Nickel	0.000	0.000
Ammonia (as N)	0.000	0.000
Fluoride	0.000	0.000
Uranium	0.000	0.000
Total suspended solids	0.000	0.000
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(f) *Hydrogen Reduction and Hydrofluorination KOH Wet Air Pollution Control.*

NSPS FOR THE SECONDARY URANIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of uranium tetrafluoride produced	
Chromium (total)	0.007	0.003
Copper	0.026	0.012
Nickel	0.011	0.007
Ammonia (as N)	2.670	1.170
Fluoride	0.700	0.400
Uranium	0.027	0.011
Total suspended solids	0.300	0.240
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(g) *Hydrofluorination Wet Air Pollution Control.*

NSPS FOR THE SECONDARY URANIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of uranium tetrafluoride produced	
Chromium (total)	0.000	0.000
Copper	0.000	0.000
Nickel	0.000	0.000
Ammonia (as N)	0.000	0.000
Fluoride	0.000	0.000
Uranium	0.000	0.000
Total suspended solids	0.000	0.000
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

§ 421.325 [Reserved].

§ 421.326 Pretreatment standards for new sources.

Except as provided in 40 CFR 403.7, any new 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 new sources. The mass of wastewater pollutants in secondary uranium process wastewater introduced into a POTW shall not exceed the following values:

(a) *Refinery Filtrate.*

PSNS FOR THE SECONDARY URANIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of uranium trioxide produced	
Chromium (total)	12.880	5.220
Copper	44.550	21.230
Nickel	19.140	12.880
Ammonia (as N)	4,645.000	2,039.000
Fluoride	1,218.000	696.000

PSNS FOR THE SECONDARY URANIUM SUBCATEGORY—Continued

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Uranium	46.290	19.140

(b) *Slag Leach Slurry.*

PSNS FOR THE SECONDARY URANIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of uranium trioxide produced	
Chromium (total)	1.406	0.570
Copper	4.864	2.318
Nickel	2.090	1.406
Ammonia (as N)	507.100	222.500
Fluoride	133.000	76.000
Uranium	5.054	2.090

(c) *Solvent Extraction Raffinate.*

PSNS FOR THE SECONDARY URANIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of uranium trioxide produced	
Chromium (total)	1.961	0.795
Copper	6.784	3.233
Nickel	2.915	1.961
Ammonia (as N)	707.200	310.400
Fluoride	185.500	106.000
Uranium	7.049	2.915

(d) *Digestion Operation Wet Air Pollution Control.*

PSNS FOR THE SECONDARY URANIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of uranium trioxide produced	
Chromium (total)	0.011	0.005
Copper	0.038	0.018
Nickel	0.017	0.011
Ammonia (as N)	4.000	1.760
Fluoride	1.050	0.600
Uranium	0.040	0.017

(e) *Evaporation and Calcination Wet Air Pollution Control.*

PSNS FOR THE SECONDARY URANIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of uranium trioxide produced	
Chromium (total)	0.000	0.000
Copper	0.000	0.000
Nickel	0.000	0.000
Ammonia (as N)	0.000	0.000
Fluoride	0.000	0.000
Uranium	0.000	0.000

(f) *Hydrogen Reduction and Hydrofluorination KOH Wet Air Pollution Control.*

PSNS FOR THE SECONDARY URANIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of uranium tetrafluoride produced	
Chromium (total)	0.007	0.003
Copper	0.026	0.012
Nickel	0.011	0.007
Ammonia (as N)	2.670	1.170
Fluoride	0.700	0.400
Uranium	0.027	0.011

(g) *Hydrofluorination Wet Air Pollution Control.*

PSNS FOR THE SECONDARY URANIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of uranium tetrafluoride produced	
Chromium (total)	0.000	0.000
Copper	0.000	0.000
Nickel	0.000	0.000
Ammonia (as N)	0.000	0.000
Fluoride	0.000	0.000
Uranium	0.000	0.000

§ 421.327 [Reserved]

Subpart AG—Primary Zirconium and Hafnium Subcategory

§ 421.330 Applicability: Description of the primary zirconium and hafnium subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of zirconium or hafnium at primary zirconium and hafnium facilities.

There are two levels of BPT, BAT, NSPS, PSES and PSNS provisions for this subpart. Level A is applicable to facilities which only produce zirconium or zirconium/nickel alloys by magnesium reduction of zirconium

dioxide. Level B is applicable to all other facilities.

§ 421.331 Specialized definitions.

For the purpose of this subpart the general definitions, abbreviations, and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

§ 421.332 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 through 125.32, any existing point source subject to this subpart shall achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable technology currently available:

(a) **Level A.**

(1) *Acid Leachate (Zirconium Metal Production).*

BPT LIMITATIONS FOR THE PRIMARY ZIRCONIUM AND HAFNIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of pure zirconium produced	
Chromium (total)	12.970	5.304
Cyanide (total)	8.545	3.536
Lead	12.380	5.893
Nickel	56.570	37.420
Ammonia (as N)	3,932.000	1,726.000
Radium 226 [1]	884.000	363.600
Total suspended solids	1,208.000	574.600
pH	[2]	[2]

[1] Values in picocuries per kilogram (pc/kg).
[2] Within the range of 7.5 to 10.0, at all times.

(2) *Acid Leachate (Zirconium Alloy Production).*

BPT LIMITATIONS FOR THE PRIMARY ZIRCONIUM AND HAFNIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of zirconium contained in alloys	
Chromium (total)	6.939	2.839
Cyanide (total)	4.574	1.893
Lead	6.624	3.154
Nickel	30.280	20.030
Ammonia (as N)	2,105.000	923.600
Radium 226 [1]	473.200	194.600
Total suspended solids	646.600	307.600
pH	[2]	[2]

[1] Values in picocuries per kilogram (pc/kg).
[2] Within the range of 7.5 to 10.0 at all times.

(3) *Leaching Rinse Water (Zirconium Metal Production).*

BPT LIMITATIONS FOR THE PRIMARY ZIRCONIUM AND HAFNIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of pure zirconium produced	
Chromium (total)	25.930	10.610
Cyanide (total)	17.090	7.072
Lead	24.750	11.790
Nickel	113.200	74.840
Ammonia (as N)	7,865.000	3,451.000
Radium 226 [1]	1,768.000	727.200
Total suspended solids	2,416.000	1,149.000
pH	[2]	[2]

[1] Values in picocuries per kilogram (pc/kg).
[2] Within the range of 7.5 to 10.0 at all times.

(4) *Leaching Rinse Water (Zirconium Alloy Production).*

BPT LIMITATIONS FOR THE PRIMARY ZIRCONIUM AND HAFNIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of zirconium contained in alloys	
Chromium (total)	0.347	0.142
Cyanide (total)	0.229	0.095
Lead	0.331	0.158
Nickel	1.515	1.002
Ammonia (as N)	105.300	46.210
Radium 226 [1]	23.670	9.736
Total suspended solids	32.350	15.390
pH	[2]	[2]

[1] Values in picocuries per kilogram (pc/kg).
[2] Within the range of 7.5 to 10.0 at all times.

(b) **Level B.**

(1) *Sand Drying Wet Air Pollution Control.*

BPT LIMITATIONS FOR THE PRIMARY ZIRCONIUM AND HAFNIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of zircon sand	
Chromium (total)	0.167	0.068
Cyanide (total)	0.110	0.045
Lead	0.159	0.076
Nickel	0.728	0.481
Ammonia (as N)	50.580	22.200
Radium 226 [1]	11.370	4.677
Total suspended solids	15.540	7.391
pH	[2]	[2]

[1] Values in picocuries per kilogram (pc/kg).
[2] Within the range of 7.5 to 10.0 at all times.

(2) *Sand Chlorination Off-Gas Wet Air Pollution Control.*

BPT LIMITATIONS FOR THE PRIMARY ZIRCONIUM AND HAFNIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of crude $ZrCl_4$ produced	
Chromium (total)	6.473	2.648
Cyanide (total)	4.267	1.766
Lead	6.179	2.943
Nickel	28.250	18.690
Ammonia (as N)	1,963.000	861.600
Radium 226 [1]	441.400	181.600
Total suspended solids	603.200	286.900
pH	[2]	[2]

[1] Values in picocuries per kilogram (pc/kg).
[2] Within the range fo 7.5 to 10.0 at all time.

(3) *Sand Chlorination Area Vent Wet Air Pollution Control.*

BPT LIMITATIONS FOR THE PRIMARY ZIRCONIUM AND HAFNIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of crude $ZrCl_4$ produced	
Chromium (total)	8.631	3.531
Cyanide (total)	5.689	2.354
Lead	8.239	3.923
Nickel	37.660	24.910
Ammonia (as N)	2,618.000	1,149.000
Radium 226 [1]	588.500	242.100
Total suspended solids	804.300	382.500
pH	[2]	[2]

[1] Values in picocuries per kilogram (pc/kg).
[2] Within the range fo 7.5 to 10.0 at all time.

(4) *$SiCl_4$ Purification Wet Air Pollution Control.*

BPT LIMITATIONS FOR THE PRIMARY ZIRCONIUM AND HAFNIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of $SiCl_4$ purified	
Chromium (total)	3.806	1.557
Cyanide (total)	2.509	1.038
Lead	3.633	1.730
Nickel	16.610	10.990
Ammonia (as N)	1,154.000	506.500
Radium 226 [1]	259.500	106.800
Total suspended solids	354.700	168.700
pH	[2]	[2]

[1] Values in picocuries per kilogram (pc/kg).
[2] Within the range fo 7.5 to 10.0 at all time.

(5) *$SiCl_4$ Purification Waste Acid.*

BPT LIMITATIONS FOR THE PRIMARY ZIRCONIUM AND HAFNIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of $SiCl_4$ purified	
Chromium (total)	1.903	0.779
Cyanide (total)	1.254	0.519
Lead	1.817	0.865
Nickel	8.304	5.493

BPT LIMITATIONS FOR THE PRIMARY ZIRCONIUM AND HAFNIUM SUBCATEGORY—Continued

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Ammonia (as N)	577.100	253.300
Radium 226 [1]	129.800	53.370
Total suspended solids	177.300	840.340
pH	([2])	([2])

[1] Values in picocuries per kilogram (pc/kg).
[2] Within the range fo 7.5 to 10.0 at all time.

(6) *Feed Makeup Wet Air Pollution Control.*

BPT LIMITATIONS FOR THE PRIMARY ZIRCONIUM AND HAFNIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of crude $ZrCl_4$ produced	
Chromium (total)	2.787	1.140
Cyanide (total)	1.837	0.760
Lead	2.660	1.267
Nickel	12.160	8.044
Ammonia (as N)	845.300	370.900
Radium 226 [1]	190.000	78.160
Total suspended solids	259.700	123.500
pH	([2])	([2])

[1] Values in picocuries per kilogram (pc/kg).
[2] Within the range fo 7.5 to 10.0 at all time.

(7) *Iron Extraction (MIBK) Steam Stripper Bottoms.*

BPT LIMITATIONS FOR THE PRIMARY ZIRCONIUM AND HAFNIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) zirconium, and hafnium produced	
Chromium (total)	0.914	0.374
Cyanide (total)	0.602	0.249
Lead	0.872	0.415
Nickel	3.988	2.638
Ammonia (as N)	277.200	121.600
Radium 226 [1]	62.310	25.630
Total suspended solids	85.160	40.500
pH	([2])	([2])

[1] Values in picocuries per kilogram (pc/kg).
[2] Within the range fo 7.5 to 10.0 at all time.

(8) *Zirconium Filtrate.*

BPT LIMITATIONS FOR THE PRIMARY ZIRCONIUM AND HAFNIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of zirconium produced	
Chromium (total)	31.330	12.820
Cyanide (total)	20.650	8.543
Lead	29.900	14.240
Nickel	136.700	90.410
Ammonia (as N)	9,499.000	4,169.000
Radium 226 [1]	2,136.000	878.500
Total suspended solids	2,919.000	1,388.000
pH	([2])	([2])

[1] Values in picocuries per kilogram (pc/kg).
[2] Within the range of 7.5 to 10.0 at all times.

(9) *Hafnium Filtrate.*

BPT LIMITATIONS FOR THE PRIMARY ZIRCONIUM AND HAFNIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of hafnium produced	
Chromium (total)	0.000	0.000
Cyanide (total)	0.000	0.000
Lead	0.000	0.000
Nickel	0.000	0.000
Ammonia (as N)	0.000	0.000
Radium 226 [1]	0.000	0.000
Total suspended solids	0.000	0.000
pH	([2])	([2])

[1] Values in picocuries per kilogram (pc/kg).
[2] Within the range of 7.5 to 10.0 at all times.

(10) *Calcining Caustic Wet Air Pollution Control.*

BPT LIMITATIONS FOR THE PRIMARY ZIRCONIUM AND HAFNIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of zirconium and hafnium produced	
Chromium (total)	7.857	3.214
Cyanide (total)	5.178	2.143
Lead	7.500	3.571
Nickel	34.290	22.680
Ammonia (as N)	2,283.000	1,046.000
Radium 226 [1]	535.700	220.400
Total suspended solids	732.100	348.200
pH	([2])	([2])

[1] Values in picocuries per kilogram (pc/kg).
[2] Within the range of 7.5 to 10.0 at all times.

(11) *Pure Chlorination Wet Air Pollution Control.*

BPT LIMITATIONS FOR THE PRIMARY ZIRCONIUM AND HAFNIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of zirconium and hafnium produced	
Chromium (total)	11.580	4.738
Cyanide (total)	7.634	3.159
Lead	11.060	5.265
Nickel	50.540	33.430
Ammonia (as N)	3,512.000	1,541.000
Radium 226 [1]	789.700	324.800
Total suspended solids	1,079.000	513.300
pH	([2])	([2])

[1] Values in picocuries per kilogram (pc/kg).
[2] Within the range of 7.5 to 10.0 at all times.

(12) *Reduction Area-Vent Wet Air Pollution Control.*

BPT LIMITATIONS FOR THE PRIMARY ZIRCONIUM AND HAFNIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of zirconium and hafnium produced	
Chromium (total)	0.290	0.119
Cyanide (total)	0.191	0.079
Lead	0.276	0.132
Nickel	1.264	0.836
Ammonia (as N)	87.820	38.540
Radium 226 [1]	19.740	8.120
Total suspended solids	26.980	12.830
pH	([2])	([2])

[1] Values in picocuries per kilogram (pc/kg).
[2] Within the range of 7.5 to 10.0 at all times.

(13) *Magnesium Recovery Wet Air Pollution Control.*

BPT LIMITATIONS FOR THE PRIMARY ZIRCONIUM AND HAFNIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of zirconium and hafnium produced	
Chromium (total)	5.791	2.369
Cyanide (total)	3.817	1.580
Lead	5.528	2.632
Nickel	25.270	16.720
Ammonia (as N)	1,756.000	770.800
Radium 226 [1]	394.900	162.400
Total suspended solids	539.600	256.700
pH	([2])	([2])

[1] Values in picocuries per kilogram (pc/kg).
[2] Within the range of 7.5 to 10.0 at all times.

(14) *Zirconium Chip Crushing Wet Air Pollution Control.*

BPT LIMITATIONS FOR THE PRIMARY ZIRCONIUM AND HAFNIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of zirconium produced	
Chromium (total)	0.000	0.000
Cyanide (total)	0.000	0.000
Lead	0.000	0.000
Nickel	0.000	0.000
Ammonia (as N)	0.000	0.000
Radium 226 [1]	0.000	0.000
Total suspended solids	0.000	0.000
pH	([2])	([2])

[1] Values in picocuries per kilogram (pc/kg).
[2] Within the range of 7.5 to 10.0 at all times.

(15) *Acid Leachate (Zirconium Metal Production).*

BPT LIMITATIONS FOR THE PRIMARY ZIRCONIUM AND HAFNIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of pure zirconium produced	
Chromium (total)	12.970	5.304

BPT LIMITATIONS FOR THE PRIMARY ZIRCONIUM AND HAFNIUM SUBCATEGORY—Continued

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Cyanide (total)	8.545	3.536
Lead	12.380	5.893
Nickel	56.570	37.420
Ammonia (as N)	3,932.000	1,726.000
Radium 226 [1]	884.000	363.600
Total suspended solids	1,208.000	574.600
pH	([2])	([2])

[1] Values in picocuries per kilogram (pc/kg).
[2] Within the range of 7.5 to 10.0 at all times.

(16) *Acid Leachate (Zirconium Alloy Production).*

BPT LIMITATIONS FOR THE PRIMARY ZIRCONIUM AND HAFNIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of zirconium contained in alloys	
Chromium (total)	6.939	2.839
Cyanide (total)	4.574	1.893
Lead	6.624	3.154
Nickel	30.280	20.030
Ammonia (as N)	2,105.000	923.600
Radium 226 [1]	473.200	194.600
Total suspended solids	646.600	307.600
pH	([2])	([2])

[1] Values in picocuries per kilogram (pc/kg).
[2] Within the range of 7.5 to 10.0 at all times.

(17) *Leaching Rinse water (Zirconium Metal Production).*

BPT LIMITATIONS FOR THE PRIMARY ZIRCONIUM AND HAFNIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of pure zirconium produced	
Chromium (total)	25.930	10.610
Cyanide (total)	17.090	7.072
Lead	24.750	11.790
Nickel	113.200	74.840
Ammonia (as N)	7,865.000	3,451.000
Radium 226 [1]	1,768.000	727.200
Total suspended solids	2,416.000	1,149.000
pH	([2])	([2])

[1] Values in picocuries per kilogram (pc/kg).
[2] Within the range of 7.5 to 10.0 at all times.

(18) *Leaching Rinse Water (Zirconium Alloy Production).*

BPT LIMITATIONS FOR THE PRIMARY ZIRCONIUM AND HAFNIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of zirconium contained in alloys	
Chromium (total)	0.347	0.142
Cyanide (total)	0.229	0.095
Lead	0.331	0.158
Nickel	1.515	1.002
Ammonia (as N)	105.300	46.210
Radium 226 [1]	23.670	9.736

BPT LIMITATIONS FOR THE PRIMARY ZIRCONIUM AND HAFNIUM SUBCATEGORY—Continued

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Total suspended solids	32.350	15.390
pH	([2])	([2])

[1] Values in picocuries per kilogram (pc/kg).
[2] Within the range of 7.5 to 10.0 at all times.

§ 421.333 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 through 125.32, any existing point source subject to this subpart shall achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable:

(a) **Level A.**

(1) *Acid Leachate (Zirconium Metal Production).*

BAT LIMITATIONS FOR THE PRIMARY ZIRCONIUM AND HAFNIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of pure zirconium produced	
Chromium (total)	12.970	5.304
Cyanide (total)	8.545	3.536
Lead	12.380	5.893
Nickel	56.570	37.420
Ammonia (as N)	3,932.000	1,726.000
Radium 226 [1]	884.000	363.600

[1] Values in picocuries per kilogram (pc/kg).

(2) *Acid Leachate (Zirconium Alloy Production).*

BAT LIMITATIONS FOR THE PRIMARY ZIRCONIUM AND HAFNIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of zirconium contained in alloys	
Chromium (total)	6.939	2.839
Cyanide (total)	4.574	1.893
Lead	6.624	3.154
Nickel	30.280	20.030
Ammonia (as N)	2,105.000	923.600
Radium 226 [1]	473.200	194.600

[1] Values in picocuries per kilogram (pc/kg).

(3) *Leaching Rinse Water (Zirconium Metal Production).*

BAT LIMITATIONS FOR THE PRIMARY ZIRCONIUM AND HAFNIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of pure zirconium produced	
Chromium (total)	25.930	10.610
Cyanide (total)	17.090	7.072
Lead	24.750	11.790
Nickel	113.200	74.840
Ammonia (as N)	7,865.000	3,451.000
Radium 226 [1]	1,768.000	727.000

[1] Values in picocuries per kilogram (pc/kg).

(4) *Leaching Rinse Water (Zirconium Alloy Production).*

BAT LIMITATIONS FOR THE PRIMARY ZIRCONIUM AND HAFNIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of zirconium contained in alloys	
Chromium (total)	0.347	0.142
Cyanide (total)	0.229	0.095
Lead	0.331	0.158
Nickel	1.515	1.002
Ammonia (as N)	105.300	46.210
Radium 226 [1]	23.670	9.736

[1] Values in picocuries per kilogram (pc/kg).

(b) **Level B.**

(1) *Sand Drying Wet Air Pollution Control.*

BAT LIMITATIONS FOR THE PRIMARY ZIRCONIUM AND HAFNIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of zircon sand	
Chromium (total)	0.140	0.057
Cyanide (total)	0.076	0.030
Lead	0.106	0.049
Nickel	0.209	0.140
Ammonia (as N)	50.580	22.200
Radium 226 [1]	7.561	3.100

[1] Values in picocuries per kilogram (pc/kg).

(2) *Sand Chlorination Off-Gas Wet Air Pollution Control.*

BAT LIMITATIONS FOR THE PRIMARY ZIRCONIUM AND HAFNIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of crude $ZrCl_4$ produced	
Chromium (total)	0.554	0.221
Cyanide (total)	0.294	0.118
Lead	0.412	0.191
Nickel	0.809	0.544
Ammonia (as N)	196.300	86.160
Radium 226 [1]	29.350	12.030

[1] Values in picocuries per kilogram (pc/kg).

(3) *Sand Chlorination Area Vent Wet Air Pollution Control.*

BAT LIMITATIONS FOR THE PRIMARY ZIRCONIUM AND HAFNIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of crude $ZrCl_4$ produced	
Chromium (total)	0.726	0.294
Cyanide (total)	0.392	0.157
Lead	0.549	0.255
Nickel	1.079	0.726
Ammonia (as N)	261.800	114.900
Radium 226[1]	39.140	16.050

[1]Values in picocuries per kilogram (pc/kg).

(4) *$SiCl_4$ Purification Wet Air Pollution Control.*

BAT LIMITATIONS FOR THE PRIMARY ZIRCONIUM AND HAFNIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of $SiCl_4$ purified	
Chromium (total)	0.320	0.130
Cyanide (total)	0.173	0.069
Lead	0.242	0.113
Nickel	0.476	0.320
Ammonia (as N)	115.400	50.650
Radium 226[1]	17.260	7.076

[1]Values in picocuries per kilogram (pc/kg).

(5) *$SiCl_4$ Purification Waste Acid.*

BAT LIMITATIONS FOR THE PRIMARY ZIRCONIUM AND HAFNIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of $SiCl_4$ purified	
Chromium (total)	1.600	0.649
Cyanide (total)	0.865	0.346
Lead	1.211	0.562
Nickel	2.379	1.600
Ammonia (as N)	577.100	253.300
Radium 226[1]	86.280	35.380

[1]Values in picocuries per kilogram (pc/kg).

(6) *Feed Makeup Wet Air Pollution Control.*

BAT LIMITATIONS FOR THE PRIMARY ZIRCONIUM AND HAFNIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of crude $ZrCl_4$ produced	
Chromium (total)	0.235	0.095
Cyanide (total)	0.127	0.051
Lead	0.178	0.082
Nickel	0.349	0.235
Ammonia (as N)	84.530	37.090
Radium 226[1]	12.650	5.186

[1]Values in picocuries per kilogram (pc/kg).

(7) *Iron Extraction (MIBK) Steam Stripper Bottoms.*

BAT LIMITATIONS FOR THE PRIMARY ZIRCONIUM AND HAFNIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of zirconium and hafnium produced	
Chromium (total)	0.769	0.312
Cyanide (total)	0.415	0.166
Lead	0.582	0.270
Nickel	1.143	0.769
Ammonia (as N)	277.200	121.600
Radium 226[1]	41.440	16.990

[1]Values in picocuries per kilogram (pc/kg).

(8) *Zirconium Filtrate.*

BAT LIMITATIONS FOR THE PRIMARY ZIRCONIUM AND HAFNIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of zirconium produced	
Chromium (total)	26.340	10.680
Cyanide (total)	14.240	5.695
Lead	19.940	9.255
Nickel	39.160	26.340
Ammonia (as N)	9,499.000	4,169.000
Radium 226[1]	1,420.000	582.400

[1]Values in picocuries per kilogram (pc/kg).

(9) *Hafnium Filtrate.*

BAT LIMITATIONS FOR THE PRIMARY ZIRCONIUM AND HAFNIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of hafnium produced	
Chromium (total)	0.000	0.000
Cyanide (total)	0.000	0.000
Lead	0.000	0.000
Nickel	0.000	0.000
Ammonia (as N)	0.000	0.000
Radium 226[1]	0.000	0.000

[1]Values in picocuries per kilogram (pc/kg).

(10) *Calcining Caustic Wet Air Pollution Control.*

BAT LIMITATIONS FOR THE PRIMARY ZIRCONIUM AND HAFNIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of zirconium and hafnium produced	
Chromium (total)	0.661	0.268
Cyanide (total)	0.357	0.143
Lead	0.500	0.232
Nickel	0.982	0.661
Ammonia (as N)	238.300	104.600
Radium 226[1]	35.630	14.610

[1]Values in picocuries per kilogram (pc/kg).

(11) *Pure Chlorination Wet Air Pollution Control.*

BAT LIMITATIONS FOR THE PRIMARY ZIRCONIUM AND HAFNIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of zirconium and hafnium produced	
Chromium (total)	0.974	0.395
Cyanide (total)	0.526	0.211
Lead	0.737	0.342
Nickel	1.448	0.974
Ammonia (as N)	351.200	154.100
Radium 226[1]	52.510	21.530

[1]Values in picocuries per kilogram (pc/kg).

(12) *Reduction Area-Vent Wet Air Pollution Control.*

BAT LIMITATIONS FOR THE PRIMARY ZIRCONIUM AND HAFNIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of zirconium produced	
Chromium (total)	0.244	0.099
Cyanide (total)	0.132	0.053
Lead	0.184	0.086
Nickel	0.362	0.244
Ammonia (as N)	87.820	38.540
Radium 226[1]	13.130	5.383

[1]Values in picocuries per kilogram (pc/kg).

(13) *Magnesium Recovery Wet Air Pollution Control.*

BAT LIMITATIONS FOR THE PRIMARY ZIRCONIUM AND HAFNIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of zirconium and hafnium produced	
Chromium (total)	0.487	0.197
Cyanide (total)	0.263	0.105
Lead	0.369	0.171
Nickel	0.724	0.487
Ammonia (as N)	175.600	77.080
Radium 226[1]	26.260	10.770

[1]Values in picocuries per kilogram (pc/kg).

(14) *Zirconium Chip Crushing Wet Air Pollution Control.*

BAT LIMITATIONS FOR THE PRIMARY ZIRCONIUM AND HAFNIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of zirconium produced	
Chromium (total)	0.000	0.000
Cyanide (total)	0.000	0.000
Lead	0.000	0.000
Nickel	0.000	0.000
Ammonia (as N)	0.000	0.000

BAT LIMITATIONS FOR THE PRIMARY ZIRCONIUM AND HAFNIUM SUBCATEGORY—Continued

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Radium 226[1]	0.000	0.000

[1] Values in picocuries per kilogram (pc/kg).

(15) *Acid Leachate (Zirconium Metal Production).*

BAT LIMITATIONS FOR THE PRIMARY ZIRCONIUM AND HAFNIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of pure zirconium produced	
Chromium (total)	10.900	4.420
Cyanide (total)	5.893	2.357
Lead	8.250	3.831
Nickel	16.210	10.900
Ammonia (as N)	3,932.000	1,726.000
Radium 226 [1]	587.800	241.000

[1] Values in picocuries per kilogram (pc/kg).

(16) *Acid Leachate (Zirconium Alloy Production).*

BAT LIMITATIONS FOR THE PRIMARY ZIRCONIUM AND HAFNIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of zirconium contained in alloys	
Chromium (total)	5.835	2.366
Cyanide (total)	3.154	1.262
Lead	4.416	2.050
Nickel	8.674	5.835
Ammonia (as N)	2,105.000	923.600
Radium 226 [1]	314.700	129.000

[1] Values in picocuries per kilogram (pc/kg).

(17) *Leaching Rinse Water (Zirconium Metal Production).*

BAT LIMITATIONS FOR THE PRIMARY ZIRCONIUM AND HAFNIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of pure zirconium produced	
Chromium (total)	21.810	8.840
Cyanide (total)	11.790	4.715
Lead	16.500	7.661
Nickel	32.410	21.810
Ammonia (as N)	7,865.000	3,451.000
Radium 226 [1]	1,176.000	482.000

[1] Values in picocuries per kilogram (pc/kg).

(18) *Leaching Rinse Water (Zirconium Alloy Production).*

BAT LIMITATIONS FOR THE PRIMARY ZIRCONIUM AND HAFNIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of zirconium contained in alloys	
Chromium (total)	0.292	0.118
Cyanide (total)	0.158	0.063
Lead	0.221	0.103
Nickel	0.434	0.292
Ammonia (as N)	105.300	46.210
Radium 226 [1]	15.740	6.454

[1] Values in picocuries per kilogram (pc/kg).

§ 421.334 Standards of performance for new sources.

Any new source subject to this subpart shall achieve the following new source performance standards:

(a) **Level A.**

(1) *Acid Leachate from Zirconium Metal Production.*

NSPS FOR THE PRIMARY ZIRCONIUM AND HAFNIUM

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	,mg/kg (pounds per million pounds) of zirconium and hafnium produced	
Chromium (total)	12.970	5.304
Cyanide (total)	8.545	3.536
Lead	12.380	5.893
Nickel	56.570	37.420
Ammonia (as N)	3,932.000	1,726.000
Radium 226 [1]	884.000	363.600
Total suspended solids	1,208.000	574.000
pH	[2]	[2]

[1] Values in picocuries per kilogram (pc/kg).
[2] Within the range of 7.5 to 10.0 at all times.

(2) *Acid Leachate from Zirconium Alloy Production.*

NSPS FOR THE PRIMARY ZIRCONIUM AND HAFNIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of zirconium produced	
Chromium (total)	6.939	2.839
Cyanide (total)	4.524	1.893
Lead	6.624	3.154
Nickel	30.280	20.030
Ammonia (as N)	2,105.000	923.600
Radium 226 [1]	473.200	194.600
Total suspended solids	646.600	307.600
pH	[2]	[2]

[1] Values in picocuries per kilogram (pc/kg).
[2] Within the range of 7.5 to 10.0 at all times.

(3) *Leaching Rinse Water from Zirconium Metal Production.*

NSPS FOR THE PRIMARY ZIRCONIUM AND HAFNIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of pure zirconium produced	
Chromium (total)	25.930	10.610
Cyanide (total)	17.090	7.072
Lead	24.750	11.790
Nickel	113.200	74.840
Ammonia (as N)	7,865.000	8,451.000
Radium 226 [1]	1,768.000	727.200
Total suspended solids	2,416.000	1,149.000
pH	[2]	[2]

[1] Values in picocuries per kilogram (pc/kg).
[2] Within the range of 7.5 to 10.0 at all times.

(4) *Leaching Rinse Water from Zirconium Alloy Production.*

NSPS FOR THE PRIMARY ZIRCONIUM AND HAFNIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of zirconium contained in alloys	
Chromium (total)	0.347	0.142
Cyanide (total)	0.229	0.095
Lead	0.381	0.158
Nickel	1.515	1.002
Ammonia (as N)	105.300	46.210
Radium 226 [1]	23.670	9.736
Total suspended solids	32.350	15.390
pH	[2]	[2]

[1] Values in picocuries per kilogram (pc/kg).
[2] Within the range of 7.5 to 10.0 at all times.

(b) **Level B.**

(1) *Sand Drying Wet Air Pollution Control.*

NSPS FOR THE PRIMARY ZIRCONIUM AND HAFNIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of zircon sand	
Chromium (total)	0.140	0.057
Cyanide (total)	0.076	0.030
Lead	0.106	0.049
Nickel	0.209	0.140
Ammonia (as N)	50.580	22.200
Radium 226 [1]	7.561	3.100
Total suspended solids	5.685	4.548
pH	[2]	[2]

[1] Values in picocuries per kilogram (pc/kg).
[2] Within the range of 7.5 to 10.0 at all times.

(2) *Sand Chlorination Off-Gas Wet Air Pollution Control.*

NSPS FOR THE PRIMARY ZIRCONIUM AND HAFNIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of crude $ZrCl_4$ produced	
Chromium (total)	0.544	0.221
Cyanide (total)	0.294	0.118
Lead	0.412	0.191
Nickel	0.809	0.544
Ammonia (as N)	196.300	86.160
Radium 226 [1]	29.350	12.030
Total suspended solids	22.070	17.650
pH	[2]	[2]

[1] Values in picocuries per kilogram (pc/kg).
[2] Within the range of 7.5 to 10.0 at all times.

(3) *Sand Chlorination Area Vent Wet Air Pollution Control.*

NSPS FOR THE PRIMARY ZIRONIUM AND HAFNIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of crude $ZrCl_4$ produced	
Chromium (total)	0.726	0.294
Cyanide (total)	0.392	0.157
Lead	0.549	0.255
Nickel	1.079	0.726
Ammonia (as N)	261.800	114.900
Radium 226 [1]	39.140	16.050
Total suspended solids	29.430	23.550
pH	[2]	[2]

[1] Values in picocuries per kilogram (pc/kg).
[2] Within the range of 7.5 to 10.0 at all times.

(4) *$SiCl_4$ Purification Wet Air Pollution Control.*

NSPS FOR THE PRIMARY ZIRCONIUM AND HAFNIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of $SiCl_4$ purified	
Chromium (total)	0.320	0.130
Cyanide (total)	0.173	0.069
Lead	0.242	0.113
Nickel	0.476	0.320
Ammonia (as N)	115.400	50.650
Radium 226 [1]	17.260	7.076
Total suspended solids	12.980	10.380
pH	[2]	[2]

[1] Values in picocuries per kilogram (pc/kg).
[2] Within the range of 7.5 to 10.0 at all times.

(5) *$SiCl_4$ Purification Waste Acid.*

NSPS FOR THE PRIMARY ZIRCONIUM AND HAFNIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of $SiCl_4$ purified	
Chromium (total)	1.600	0.649
Cyanide (total)	0.865	0.346
Lead	1.211	0.562
Nickel	2.379	1.600

NSPS FOR THE PRIMARY ZIRCONIUM AND HAFNIUM SUBCATEGORY—Continued

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Ammonia (as N)	577.100	253.300
Radium 226 [1]	86.280	35.380
Total suspended solids	64.880	51.900
pH	[2]	[2]

[1] Values in picocuries per kilogram (pc/kg).
[2] Within the range of 7.5 to 10.0 at all times.

(6) *Feed Makeup Wet Air Pollution Control.*

NSPS FOR THE PRIMARY ZIRCONIUM AND HAFNIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of crude $ZrCl_4$ produced	
Chromium (total)	0.235	0.095
Cyanide (total)	0.127	0.051
Lead	0.178	0.082
Nickel	0.349	0.235
Ammonia (as N)	84.530	37.090
Radium 226 [1]	12.650	5.186
Total suspended solids	9.510	7.608
pH	[2]	[2]

[1] Values in picocuries per kilogram (pc/kg).
[2] Within the range of 7.5 to 10.0 at all times.

(7) *Iron Extraction (MIBK) Steam Stripper Bottoms.*

NSPS FOR THE PRIMARY ZIRCONIUM AND HAFNIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of zirconium and hafnium produced	
Chromium (total)	0.769	0.312
Cyanide (total)	0.415	0.166
Lead	0.582	0.270
Nickel	1.143	0.769
Ammonia (as N)	277.200	121.600
Radium 226 [1]	41.440	16.990
Total suspended solids	31.160	24.930
pH	[2]	[2]

[1] Values in picocuries per kilogram (pc/kg).
[2] Within the range of 7.5 to 10.0 at all times.

(8) *Zirconium Filtrate.*

NSPS FOR THE PRIMARY ZIRCONIUM AND HAFNIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of zirconium produced	
Chromium (total)	26.340	10.680
Cyanide (total)	14.240	5.695
Lead	19.940	9.255
Nickel	39.160	26.340
Ammonia (as N)	9,499.000	4,169.000
Radium 226 [1]	1,420.000	582.400
Total suspended solids	1,068.000	854.300
pH	[2]	[2]

[1] Values in picocuries per kilogram (pc/kg).
[2] Within the range of 7.5 to 10.0 at all times.

(9) *Hafnium Filtrate.*

NSPS FOR THE PRIMARY ZIRCONIUM AND HAFNIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of hafnium produced	
Chromium (total)	0.000	0.000
Cyanide (total)	0.000	0.000
Lead	0.000	0.000
Nickel	0.000	0.000
Ammonia (as N)	0.000	0.000
Radium 226 [1]	0.000	0.000
Total suspended solids	0.000	0.000
pH	[2]	[2]

[1] Values in picocuries per kilogram (pc/kg).
[2] Within the range of 7.5 to 10.0 at all times.

(10) *Calcining Caustic Wet Air Pollution Control.*

NSPS FOR THE PRIMARY ZIRCONIUM AND HAFNIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of zirconium and hafnium produced	
Chromium (total)	0.661	0.268
Cyanide (total)	0.357	0.143
Lead	0.500	0.232
Nickel	0.982	0.661
Ammonia (as N)	238.300	104.600
Radium 226 [1]	35.630	14.610
Total suspended solids	26.790	21.430
pH	[2]	[2]

[1] Values in picocuries per kilogram (pc/kg).
[2] Within the range of 7.5 to 10.0 at all times.

(11) *Pure Chlorination Wet Air Pollution Control.*

NSPS FOR THE PRIMARY ZIRCONIUM AND HAFNIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of zirconium and hafnium produced	
Chromium (total)	0.974	0.395
Cyanide (total)	0.526	0.211
Lead	0.737	0.342
Nickel	1.448	0.974
Ammonia (as N)	351.200	154.100
Radium 226 [1]	52.510	21.530
Total suspended solids	39.480	31.590
pH	[2]	[2]

[1] Values in picocuries per kilogram (pc/kg).
[2] Within the range of 7.5 to 10.0 at all times.

(12) *Reduction Area-Vent Wet Air Pollution Control.*

NSPS FOR THE PRIMARY ZIRCONIUM AND HAFNIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of zirconium and hafnium produced	
Chromium (total)	0.244	0.099
Cyanide (total)	0.132	0.053
Lead	0.184	0.086
Nickel	0.362	0.244
Ammonia (as N)	87.820	38.540
Radium 226 [1]	13.130	5.383
Total suspended solids	9.870	7.896
pH	[2]	[2]

[1] Values in picocuries per kilogram (pc/kg).
[2] Within the range of 7.5 to 10.0 at all times.

(13) *Magnesium Recovery Wet Air Pollution Control.*

NSPS FOR THE PRIMARY ZIRCONIUM AND HAFNIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of zirconium and hafnium produced	
Chromium (total)	0.487	0.197
Cyanide (total)	0.263	0.105
Lead	0.369	0.171
Nickel	0.724	0.487
Ammonia (as N)	175.600	77.080
Radium 226 [1]	26.260	10.770
Total suspended solids	19.740	15.790
pH	[2]	[2]

[1] Values in picocuries per kilogram (pc/kg).
[2] Within the range of 7.5 to 10.0 at all times.

(14) *Zirconium Chip Crushing Wet Air Pollution Cntrol.*

NSPS FOR THE PRIMARY ZIRCONIUM AND HAFNIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of zirconium produced	
Chromium (total)	0.000	0.000
Cyanide (total)	0.000	0.000
Lead	0.000	0.000
Nickel	0.000	0.000
Ammonia (as N)	0.000	0.000
Radium 226 [1]	0.000	0.000
Total suspended solids	0.000	0.000
pH	[2]	[2]

[1] Values in picocuries per kilogram (pc/kg).
[2] Within the range of 7.5 to 10.0 at all times.

(15) *Acid Leachate from Zirconium Metal Production.*

NSPS FOR THE PRIMARY ZIRCONIUM AND HAFNIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of pure zirconium produced	
Chromium (total)	10.900	4.420

NSPS FOR THE PRIMARY ZIRCONIUM AND HAFNIUM SUBCATEGORY—Continued

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Cyanide (total)	5.893	2.357
Lead	8.250	3.831
Nickel	16.210	10.900
Ammonia (as N)	3,932.000	1,726,000
Radium 226 [1]	587.800	241.000
Total suspended solids	441.900	353.500
pH	[2]	[2]

[1] Values in picocuries per kilogram (pc/kg).
[2] Within the range of 7.5 to 10.0 at all times.

(16) *Acid Leachate from Zirconium Alloy Production.*

NSPS FOR THE PRIMARY ZIRCONIUM AND HAFNIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of zirconium contained in alloys	
Chromium (total)	5.835	2.366
Cyanide (total)	3.154	1.262
Lead	4.416	2.050
Nickel	8.674	5.835
Ammonia (as N)	2,105.000	923.600
Radium 226 [1]	314.700	129.000
Total suspended solids	236.600	189.200
pH	[2]	[2]

[1] Values in picocuries per kilogram (pc/kg).
[2] Within the range of 7.5 to 10.0 at all times.

(17) *Leaching Rinse Water from Zirconium Metal Production.*

NSPS FOR THE PRIMARY ZIRCONIUM AND HAFNIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of pure zirconium produced	
Chromium (total)	21.810	8.840
Cyanide (total)	11.790	4.715
Lead	16.500	7.661
Nickel	32.410	21.810
Ammonia (as N)	7,865.000	3,451.000
Radium 226 [1]	1,176.000	482.000
Total suspended solids	884.000	707.200
pH	[2]	[2]

[1] Values in picocuries per kilogram (pc/kg).
[2] Within the range of 7.5 to 10.0 at all times.

(18) *Leaching Rinse Water from Zirconium Alloy Production.*

NSPS LIMITATIONS FOR THE PRIMARY ZIRCONIUM AND HAFNUIM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of zirconium contained in alloys	
Chromium (total)	0.292	0.118
Cyanide (total)	0.158	0.063
Lead	0.221	0.103
Nickel	0.434	0.292
Ammonia (as N)	105.300	46.210
Radium 226 [1]	15.740	6.454

NSPS LIMITATIONS FOR THE PRIMARY ZIRCONIUM AND HAFNUIM SUBCATEGORY—Continued

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Total suspended solids	11.840	9.468
pH	[2]	[2]

[1] Values in picocuries per kilogram (pc/kg).
[2] Within the range of 7.5 to 10.0 at all times.

§ 421.335 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. The mass of wastewater pollutants in primary zirconium and hafnium process wastewater introduced into a POTW must not exceed the following values.

(a) **Level A.**

(1) *Acid Leachate from Zirconium Metal Production.*

PSES FOR THE PRIMARY ZIRCONIUM AND HAFNIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of -putrrzirconium produced	
Chromium (total)	12.970	5.304
Cyanide (total)	8.545	3.536
Lead	12.380	5.893
Nickel	56.570	37.420
Ammonia (as N)	3,932.000	1,726.000
Radium 226 [1]	884.000	363.600

[1] Values in picocuries per kilogram (pc/kg).

(2) *Acid Leachate from Zirconium Alloy Production.*

PSES FOR THE PRIMARY ZIRCONIUM AND HAFNIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of zirconium contained in alloys	
Chromium (total)	6.939	2.839
Cyanide (total)	4.574	1.893
Lead	6.624	3.154
Nickel	30.280	20.030
Ammonia (as N)	2,105.000	923.600
Radium 226 [1]	473.200	194.600

[1] Values in picocuries per kilogram (pc/kg).

(3) *Leaching Rinse Water from Zirconium Metal Production.*

PSES FOR THE PRIMARY ZIRCONIUM AND HAFNIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of pure zirconium produced	
Chromium (total)	25.930	10.610
Cyanide (total)	17.090	7.072
Lead	24.750	11.790
Nickel	113.200	74.840
Ammonia (as N)	7,865.000	3,451.000
Radium 226 [1]	1,768.000	727.200

[1] Values in picocuries per kilogram (pc/kg).

(4) *Leaching Rinse Water from Zirconium Alloy Production.*

PSES FOR THE PRIMARY ZIRCONIUM AND HAFNIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of zirconium contained in alloys	
Chromium (total)	0.347	0.142
Cyanide (total)	0.229	0.095
Lead	0.331	0.158
Nickel	1.515	1.002
Ammonia (as N)	105.300	46.210
Radium 226 [1]	23.670	9.736

[1]Values in picocuries per kilogram (pc/kg).

(b) **Level B.**

(1) *Sand Drying Wet Air Pollution Control.*

PSES FOR THE PRIMARY ZIRCONIUM AND HAFNIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of zircon sand	
Chromium (total)	0.140	0.057
Cyanide (total)	0.076	0.030
Lead	0.106	0.049
Nickel	0.209	0.140
Ammonia (as N)	50.580	22.200
Radium 226 [1]	7.561	3.100

[1]Values in picocunes per kilogram (pc/kg).

(2) *Sand Chlorination Off-Gas Wet Air Pollution Control.*

PSES FOR THE PRIMARY ZIRCONIUM AND HAFNIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of crude $ZrCl_4$ produced	
Chromium (total)	0.544	0.221
Cyanide (total)	0.294	0.118
Lead	0.412	0.191
Nickel	0.809	0.554
Ammonia (as N)	196.300	86.160
Radium 226 [1]	29.350	12.030

[1]Values in picocuries per kilogram (pc/kg).

(3) *Sand Chlorination Area Vent Wet Air Pollution Control.*

PSES FOR THE PRIMARY ZIRCONIUM AND HAFNIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of crude $ZrCl_4$ produced	
Chromium (total)	0.726	0.294
Cyanide (total)	0.392	0.157
Lead	0.549	0.255
Nickel	1.079	0.726
Ammonia (as N)	261.800	114.900
Radium 226 [1]	39.140	16.050

[1]Values in picocuries per kilogram (pc/kg).

(4) *$SiCl_4$ Purification Wet Air Pollution Control.*

PSES FOR THE PRIMARY ZIRCONIUM AND HAFNIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of $SiCl_4$ purified	
Chromium (total)	0.320	0.130
Cyanide (total)	0.173	0.069
Lead	0.242	0.113
Nickel	0.476	0.320
Ammonia (as N)	115.400	50.650
Radium 226 [1]	17.260	7.076

[1]Values in picocuries per kilogram (pc/kg).

(5) *$SiCl_4$ Purification Waste Acid.*

PSES FOR THE PRIMARY ZIRCONIUM AND HAFNIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of $SiCl_4$ purified	
Chromium (total)	1.600	0.649
Cyanide (total)	0.865	0.346
Lead	1.211	0.562
Nickel	2.379	1.600
Ammonia (as N)	577.100	253.300
Radium 226 [1]	86.260	35.380

[1]Values in picocuries per kilogram (pc/kg).

(6) *Feed Makeup Wet Air Pollution Control.*

PSES FOR THE PRIMARY ZIRCONIUM AND HAFNIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of crude $ZrCl_4$ produced	
Chromium (total)	0.235	0.095
Cyanide (total)	0.127	0.051
Lead	0.178	0.082
Nickel	0.349	0.235
Ammonia (as N)	84.530	37.090
Radium 226 [1]	12.650	5.186

[1] Values in picocuries per kilogram (pc/kg).

(7) *Iron Extraction (MIBK) Steam Stripper Bottoms.*

PSES FOR THE PRIMARY ZIRCONIUM AND HAFNIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of zirconium and hafnium produced	
Chromium (total)	0.769	0.312
Cyanide (total)	0.415	0.166
Lead	0.582	0.270
Nickel	1.143	0.769
Ammonia (as N)	277.200	121.600
Radium 226 [1]	41.440	16.990

[1] Values in picocuries per kilogram (pc/kg).

(8) *Zirconium Filtrate.*

PSES FOR THE PRIMARY ZIRCONIUM AND HAFNIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of zirconium produced	
Chromium (total)	26.340	10.680
Cyanide (total)	14.240	5.695
Lead	19.940	9.255
Nickel	39.160	26.340
Ammonia (as N)	8,499.000	4,169.000
Radium 226 [1]	1,420.000	582.400

[1] Values in picocuries per kilogram (pc/kg).

(9) *Hafnium Filtrate.*

PSES FOR THE PRIMARY ZIRCONIUM AND HAFNIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of hafnium produced	
Chromium (total)	0.000	0.000
Cyanide (total)	0.000	0.000
Lead	0.000	0.000
Nickel	0.000	0.000
Ammonia (as N)	0.000	0.000
Radium 226 [1]	0.000	0.000

[1] Values in picocuries per kilogram (pc/kg).

(10) *Calcining Caustic Wet Air Pollution Control.*

PSES FOR THE PRIMARY ZIRCONIUM AND HAFNIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of zirconium and hafnium produced	
Chromium (total)	0.661	0.268
Cyanide (total)	0.357	0.143
Lead	0.500	0.232
Nickel	0.982	0.661
Ammonia (as N)	238.300	104.600
Radium 226 [1]	35.630	14.610

[1] Values in picocuries per kilogram (pc/kg).

(11) *Pure Chlorination Wet Air Pollution Control.*

PSES FOR THE PRIMARY ZIRCONIUM AND HAFNIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of zirconium and hafnium produced	
Chromium (total)	0.974	0.395
Cyanide (total)	0.526	0.211
Lead	0.737	0.342
Nickel	1.448	0.974
Ammonia (as N)	351.200	154.100
Radium 226 [1]	52.510	21.530

[1] Values in picocuries per kilogram (pc/kg).

(12) *Reduction Area-Vent Wet Air Pollution Control.*

PSES FOR THE PRIMARY ZIRCONIUM AND HAFNIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of zirconium and hafnium produced	
Chromium (total)	0.244	0.099
Cyanide (total)	0.132	0.053
Lead	0.184	0.086
Nickel	0.362	0.244
Ammonia (as N)	87.820	38.540
Radium 226 [1]	13.130	5.383

[1] Values in picocuries per kilogram (pc/kg).

(13) *Magnesium Recovery Wet Air Pollution Control.*

PSES FOR THE PRIMARY ZIRCONIUM AND HAFNIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of zirconium and hafnium produced	
Chromium (total)	0.487	0.197
Cyanide (total)	0.263	0.105
Lead	0.369	0.171
Nickel	0.724	0.487
Ammonia (as N)	175.600	77.080
Radium 226 [1]	26.260	10.770

[1] Values in picocuries per kilogram (pc/kg).

(14) *Zirconium Chip Crushing Wet Air Pollution Control.*

PSES FOR THE PRIMARY ZIRCONIUM AND HAFNIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of zirconium produced	
Chromium (total)	0.000	0.000
Cyanide (total)	0.000	0.000
Lead	0.000	0.000
Nickel	0.000	0.000
Ammonia (as N)	0.000	0.000

PSES FOR THE PRIMARY ZIRCONIUM AND HAFNIUM SUBCATEGORY—Continued

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Radium 226 [1]	0.000	0.000

[1] Values in picocuries per kilogram (pc/kg).

(15) *Acid Leachate from Zirconium Metal Production.*

PSES FOR THE PRIMARY ZIRCONIUM AND HAFNIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of pure zirconium produced	
Chromium (total)	10.900	4.420
Cyanide (total)	5.893	2.357
Lead	8.250	3.831
Nickel	16.210	10.900
Ammonia (as N)	3,932.000	1,726.000
Radium 226 [1]	587.800	241.000

[1] Values in picocuries per kilogram (pc/kg).

(16) *Acid Leachate from Zirconium Alloy Production.*

PSES FOR THE PRIMARY ZIRCONIUM AND HAFNIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of zirconium contained in alloys	
Chromium (total)	5.835	2.366
Cyanide (total)	3.154	1.262
Lead	4.416	2.050
Nickel	8.674	5.835
Ammonia (as N)	2,105.000	923.600
Radium 226 [1]	314.700	129.000

[1] Values in picocuries per kilogram (pc/kg).

(17) *Leaching Rinse Water from Zirconium Metal Production.*

PSES FOR THE PRIMARY ZIRCONIUM AND HAFNIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of pure zirconium produced	
Chromium (total)	21.810	8.840
Cyanide (total)	11.790	4.715
Lead	16.500	7.661
Nickel	32.410	21.810
Ammonia (as N)	7,865.000	3,451.000
Radium 226 [1]	1,176.000	482.000

[1] Values in picocuries per kilogram (pc/kg).

(18) *Leaching Rinse Water from Zirconium Alloy Production.*

PSES FOR THE PRIMARY ZIRCONIUM AND HAFNIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per/million pounds) of zirconium contained in alloys	
Chromium (total)	0.292	0.118
Cyanide (total)	0.158	0.063
Lead	0.221	0.103
Nickel	0.434	0.292
Ammonia (as N)	105.300	46.210
Radium 226 [1]	15.740	6.454

[1] Values in picocuries per kilogram (pc/kg).

§ 421.336 Pretreatment standards for new sources.

Except as provided in 40 CFR 403.7, any new 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 new sources. The mass of wastewater pollutants in primary zirconium and hafnium process wastewater introduced into a POTW shall not exceed the following values:

(a) **Level A.**

(1) *Acid Leachate from Zirconium Metal Production.*

PSNS FOR THE PRIMARY ZIRCONIUM AND HAFNIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of pure zirconium produced	
Chromium (total)	12.970	5.304
Cyanide (total)	8.545	3.536
Lead	12.380	5.893
Nickel	56.570	37.420
Ammonia (as N)	3,932.000	1.726.000
Radium 226 [1]	884.000	363.600

[1] Values in picocuries per kilogram (pc/kg).

(2) *Acid Leachate from Zirconium Alloy Production.*

PSNS FOR THE PRIMARY ZIRCONIUM AND HAFNIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of ziroconium contained in alloys	
Chromium (total)	6.939	2.839
Cyanide (total)	4.574	1.893
Lead	6.624	3.154
Nickel	30.280	20.030
Ammonia (as N)	2,105.000	923.600
Radium 226 [1]	473.200	194.600

[1] Values in picocuries per kilogram (pc/kg).

(3) *Leaching Rinse Water from Zirconium Metal Production.*

PSNS FOR THE PRIMARY ZIRCONIUM AND HAFNIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of pure zirconium produced	
Chromium (total)	25.930	10.610
Cyanide (total)	17.090	7.072
Lead	24.750	11.790
Nickel	113.200	74.840
Ammonia (as N)	7,865.000	3,451.000
Radium 226[1]	1,766.000	727.200

[1] Values in picocuries per kilogram (pc/kg).

(4) *Leaching Rinse Water from Zirconium Alloy Production.*

PSNS FOR THE PRIMARY ZIRCONIUM AND HAFNIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of zirconium contained in alloys	
Chromium (total)	0.347	0.142
Cyanide (total)	0.229	0.095
Lead	0.331	0.158
Nickel	1.515	1.002
Ammonia (as N)	105.300	46.210
Radium 226[1]	23.670	9.736

[1] Values in picocuries per kilogram (pc/kg).

(b) **Level B.**

(1) *Sand Drying Wet Air Pollution Control.*

PSNS FOR THE PRIMARY ZIRCONIUM AND HAFNIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of zircon sand	
Chromium (total)	0.140	0.057
Cyanide (total)	0.076	0.030
Lead	0.106	0.049
Nickel	0.209	0.140
Ammonia (as N)	50.580	22.200
Radium 226[1]	7.561	3.100

[1] Values in picocuries per kilogram (pc/kg).

(2) *Sand Chlorination Off-Gas Wet Air Pollution Control.*

PSNS FOR THE PRIMARY ZIRCONIUM AND HAFNIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of crude $ZrCl_4$ produced	
Chromium (total)	0.544	0.221
Cyanide (total)	0.294	0.118
Lead	0.412	0.191
Nickel	0.809	0.544
Ammonia (as N)	196.300	86.160
Radium 226[1]	29.350	12.030

[1] Values in picocuries per kilogram (pc/kg).

(3) *Sand Chlorination Area Vent Wet Air Pollution Control.*

PSNS FOR THE PRIMARY ZIRCONIUM AND HAFNIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of crude $ZrCl_4$ produced	
Chromium (total)	0.726	0.294
Cyanide (total)	0.392	0.157
Lead	0.549	0.255
Nickel	1.079	0.726
Ammonia (as N)	261.800	114.900
Radium 226[1]	39.140	16.050

[1] Values in picocuries per kilogram (pc/kg).

(4) *$SiCl_4$ Purification Wet Air Pollution Control.*

PSNS FOR THE PRIMARY ZIRCONIUM AND HAFNIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of crude $SiCl_4$ purified	
Chromium (total)	0.320	0.130
Cyanide (total)	0.173	0.069
Lead	0.242	0.113
Nickel	0.476	0.320
Ammonia (as N)	115.400	50.650
Radium 226[1]	17.260	7.076

[1] Values in picocuries per kilogram (pc/kg).

(5) *$SiCl_4$ Purification Waste Acid.*

PSNS FOR THE PRIMARY ZIRCONIUM AND HAFNIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of $SiCl_4$ purified	
Chromium (total)	1.600	0.649
Cyanide (total)	0.865	0.346
Lead	1.211	0.562
Nickel	2.379	1.600
Ammonia (as N)	577.100	253.300
Radium 226[1]	86.280	35.380

[1] Values in picocuries per kilogram (pc/kg).

(6) *Feed Makeup Wet Air Pollution Control.*

PSNS FOR THE PRIMARY ZIRCONIUM AND HAFNIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of crude $ZrCl_4$ produced	
Chromium (total)	0.235	0.095
Cyanide (total)	0.127	0.051
Lead	0.178	0.082
Nickel	0.349	0.235
Ammonia (as N)	84.530	37.090
Radium 226[1]	12.650	5.186

[1] Values in picocuries per kilogram (pc/kg).

(7) *Iron Extraction (MIBK) Steam Stripper Bottoms.*

PSNS FOR THE PRIMARY ZIRCONIUM AND HAFNIUM SUBCATEGORY

Pollutant or Pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of zirconium and hafnium	
Chromium (total)	0.769	0.312
Cyanide (total)	0.415	0.166
Lead	0.582	0.270
Nickel	1.143	0.769
Ammonia (as N)	277.200	121.600
Radium 226[1]	41.440	16.990

[1] Value in picocuries per kilogram (pc/kg).

(8) *Zirconium Filtrate.*

PSNS FOR THE PRIMARY ZIRCONIUM AND HAFNIUM SUBCATEGORY

Pollutant or Pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of zirconium produced	
Chromium (total)	26.340	10.680
Cyanide (total)	14.240	5.695
Lead	19.940	9.255
Nickel	39.160	26.340
Ammonia (as N)	9,499.000	4,169.000
Radium 226[1]	1,420.000	582.400

[1] Value in picocuries per kilogram (pc/kg).

(9) *Hafnium Filtrate.*

PSNS FOR THE PRIMARY ZIRCONIUM AND HAFNIUM SUBCATEGORY

Pollutant or Pollutant property	Maximum for any 1 day	Maximum for monthly average
	g/kg (pounds per million pounds) of hafnium produced	
Chromium (total)	0.000	0.000
Cyanide (total)	0.000	0.000
Lead	0.000	0.000
Nickel	0.000	0.000
Ammonia (as N)	0.000	0.000
Radium 226[1]	0.000	0.000

[1] Value in picocuries per kilogram (pc/kg).

(10) *Calcining Caustic Wet Air Pollution Control.*

PSNS FOR THE PRIMARY ZIRCONIUM AND HAFNIUM SUBCATEGORY

Pollutant or Pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of zirconium and hafnium produced	
Chromium (total)	0.661	0.268
Cyanide (total)	0.357	0.143
Lead	0.500	0.232
Nickel	0.982	0.661
Ammonia (as N)	238.300	104.600
Radium 226[1]	35.630	14.610

[1] Value in picocuries per kilogram (pc/kg).

(11) *Pure Chlorination Wet Air Pollution Control.*

PSNS FOR THE PRIMARY ZIRCONIUM AND HAFNIUM SUBCATEGORY

Pollutant or Pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of zirconium and hafnium produced	
Chromium (total)	0.974	0.395
Cyanide (total)	0.526	0.211
Lead	0.737	0.342
Nickel	1.448	0.974
Ammonia (as N)	351.200	154.100
Radium 226 [1]	52.510	21.530

[1] Value in picocuries per kilogram (pc/kg).

(12) *Reduction Area-Vent Wet Air Pollution Control.*

PSNS FOR THE PRIMARY ZIRCONIUM AND HAFNIUM SUBCATEGORY

Pollutant or Pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of zirconium and hafnium produced	
Chromium (total)	0.244	0.099
Cyanide (total)	0.132	0.053
Lead	0.184	0.086
Nickel	0.362	0.244
Ammonia (as N)	87.820	38.540
Radium 226 [1]	13.130	5.383

[1] Value in picocuries per kilogram (pc/kg).

(13) *Magnesium Recovery Wet Air Pollution Control.*

PSNS FOR THE PRIMARY ZIRCONIUM AND HAFNIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	,g/kg (pounds per million pounds) of zirconium and hafnium produced	
Chromium (total)	0.487	0.197
Cyanide (total)	0.263	0.105
Lead	0.369	0.171
Nickel	0.724	0.487
Ammonia (as N)	175.600	77.080
Radium 226 [1]	26.260	10.770

[1]Values in picocuries per kilogram (pc/kg).

(14) *Zirconium Chip Crushing Wet Air Pollution Control.*

PSNS FOR THE PRIMARY ZIRCONIUM AND HAFNIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of zirconium produced.	
Chromium (total)	0.000	0.000
Cyanide (total)	0.000	0.000
Lead	0.000	0.000
Nickel	0.000	0.000
Ammonia (as N)	0.000	0.000
Radium 226 [1]	0.000	0.000

[1]Values in picocuries per kilogram (pc/kg).

(15) *Acid Leachate from Zirconium Metal Production.*

PSNS FOR THE PRIMARY ZIRCONIUM AND HAFNIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of pure zirconium produced.	
Chromium (total)	10.900	4.420
Cyanide (total)	5.893	2.357
Lead	6.250	3.831
Nickel	16.210	10.900
Ammonia (as N)	3,932.000	1,726.000
Radium 226 [1]	587.800	241.000

[1]Values in picocuries per kilogram (pc/kg).

(16) *Acid Leachate from Zirconium Alloy Production.*

PSNS FOR THE PRIMARY ZIRCONIUM AND HAFNIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of zirconium contained in alloys	
Chromium (total)	5.835	2.366
Cyanide (total)	3.154	1.262
Lead	4.416	2.050
Nickel	8.674	5.835
Ammonia (as N)	2,105.000	923.600
Radium 226 [1]	314.700	129.000

[1]Values in picocuries per kilogram (pc/kg).

(17) *Leaching Rinse Water from Zirconium Metal Production.*

PSNS FOR THE PRIMARY ZIRCONIUM AND HAFNIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of pure zirconium produced	
Chromium (total)	21.810	8.840
Cyanide (total)	01.790	4.715
Lead	16.500	7.661
Nickel	32.410	21.810
Ammonia (as N)	7,865.000	3,451.000
Radium 226 [1]	1,176.000	462.000

[1]Values in picocuries per kilogram (pc/kg).

(18) *Leaching Rinse Water (Zirconium Alloy Production).*

PSNS FOR THE PRIMARY ZIRCONIUM AND HAFNIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of zirconium contained in alloys	
Chromium (total)	0.292	0.118
Cyanide (total)	0.158	0.063
Lead	0.221	0.103
Nickel	0.434	0.292
Ammonia (as N)	105.300	46.210
Radium 226 [1]	15.740	6.454

[1]Values in picocuries per kilogram (pc/kg).

§ 421.337 [Reserved]

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Wednesday
June 27, 1984

Part III

Department of Energy

Bonneville Power Administration

Final Customer Service Policy and Record of Decision; Notice

DEPARTMENT OF ENERGY

Bonneville Power Administration

[BPA File Number: CSP-1]

Final Customer Service Policy and Record of Decision

AGENCY: Bonneville Power Administration (BPA), DOE.

ACTION: Notice of final customer service policy and record of decision.

SUMMARY: Under the Bonneville Project Act of 1937 and subsequent legislation, the BPA is responsible for marketing power from Federal dams and other resources in the Pacific Northwest. BPA is to encourage the widest possible use for the electricity it markets. In fulfillment of this responsibility, BPA has provided a high-voltage power grid which transmits bulk power from Northwest generating facilities to the utilities and other customers which buy power from BPA.

BPA's Customer Service Policy (CSP) defines the divisions of responsibility between BPA and its customers for providing facilities which link BPA's transmission system with the distribution systems or other facilities of BPA customers.

The CSP was established in 1962. This revision of the CSP has been under discussion with BPA customers and interested public since 1982. The final CSP covers services provided for all customer classes and includes all types of facilities constructed by BPA. It places an increased emphasis on joint "one-utility" planning and can be used as a comprehensive planning tool for BPA and customers. Within the policy, sufficient detail is provided describing each party's responsibilities in both transmission facility and distribution substation construction.

EFFECTIVE DATE: The policy will become effective on July 1, 1984.

ADDRESSES: Additional copies of this notice and copies of the Staff Evaluation and Addendum portion of the Record of Decision on this policy may be obtained from The Public Involvement Manager, Bonneville Power Administration, Box 3621, Portland, Oregon 97208.

FOR FURTHER INFORMATION CONTACT: Ms. Lynn W. Baker, Public Involvement office, at the address listed above, 503–230–3478. Oregon callers may use 800–452–8249; callers in California, Idaho, Montana, Nevada, Utah, Washington, and Wyoming may use 800–547–6048. Information may also be obtained from:

Mr. George Gwinnutt, Lower Columbia Area Manager, Suite 288, 1500 Plaza Building, 1500 NE. Irving Street, Portland, Oregon 97232, 503–230–4551.

Mr. Ladd Sutton, Eugene District Manager, Room 206, 211 East Seventh Avenue, Eugene, Oregon 97401, 503–687–6952.

Mr. Ronald H. Wilkerson, Upper Columbia Area Manager, Room 561, West 920 Riverside Avenue, Spokane, Washington 99201, 509–456–2518.

Mr. George E. Eskridge, Montana District Manager, 800 Kensington, Missoula, Montana 59801, 406–329–3060.

Mr. Ronald K. Rodewald, Wenatchee District Manager, P.O. Box 741, Wenatchee, Washington 98801, 509–662–4377, extension 379.

Mr. Richard D. Casad, Puget Sound Area Manager, 415 First Avenue North, Room 250, Seattle, Washington 98109, 206–442–4130.

Mr. Thomas Wagenhoffer, Snake River Area Manager, West 101 Poplar, Walla Walla, Washington 99362, 509–522–6226, extension 701.

Mr. Robert N. Laffel, Idaho Falls District Manager, 531 Lomax Street, Idaho Falls, Idaho 83401, 208–523–2706.

Mr. Frederic D. Rettenmund, Boise District Manager, Owyhee Plaza, Suite 245, 1109 Main Street, Boise, Idaho 83707, 208–334–9137.

SUPPLEMENTARY INFORMATION:

The Record of Decision on this policy is comprised of (1) this notice, including supplementary information, and the final policy and (2) The Staff Evaluation and Addendum thereto.

The supplementary information portion of this notice provides background on the development of the policy. The text of the policy includes appendices which provide supporting detail to the policy. The Staff Evaluation and Addendum describe issues resolved in the course of policy development; it is not being published because of its length. Copies of the Staff evaluation and Addendum may be obtained by contacting the Public Involvement Office, Bonneville Power Administration, at the address or telephone numbers listed above.

The Staff Evaluation and Addendum provide a detailed description of the decisionmaking process employed by BPA in regard to each of the major policy issues. For each issue, BPA considered carefully all public comments submitted on the policy as well as information developed by staff. BPA then selected those policy alternatives that were determined to contribute to the most effective customer service policy. The Staff Evaluation consists of the March 27, 1984, published Staff Evaluation. The Addendum provides further clarifications to specific issues based upon customer and public comments on the March 27, 1984, Staff Evaluation. The Addendum contains a concise statement of each issue which received comments, the proposed policy on the issue, a description of all alternatives considered and the arguments supporting each alternative, an evaluation of the comments, and BPA's decision for each issue.

I. Summary

A. Policy Development

In 1962, BPA developed a customer service policy to establish guidelines for BPA's participation in distribution substations serving only public utility power purchase customers. The policy was revised, unofficially, in 1976 with minimal changes. On June 15, 1982, BPA published in the **Federal Register** a notice of intent to revise the CSP. Eight public workshops were held throughout the region to assess the concerns of the public and utilities regarding the CSP. BPA received 31 comments. This input was used to develop the proposed policy, published in the **Federal Register** on September 29, 1983, for public review. In October 1983, BPA held six public information and comment forms to receive oral comments on the proposed policy. From the comment forums and associated letters, the staff developed the Staff Evaluation and revised the proposed policy. On March 27, 1984, BPA circulated the Staff Evaluation and revised CSP for public review. BPA received comments from nine utilities/organizations. These comments were evaluated. The resulting changes from the revised policy are mainly clarification of statements in the proposed policy. In addition to the public review, BPA staff reviewed the revised CSP. This internal review resulted in clarifications, which are included in the final CSP.

B. National Environmental Policy Act (NEPA) Compliance, 42 U.S.C. 4321. et seq.

The CSP will not affect the quality of the human environmental; the effects, if any, are entirely remote and speculative. Neither an Environmental Assessment or Environmental Impact Statement has been prepared.

C. Summary of Policy

I. Goals

The CSP provides consistency and flexibility in relationships between BPA and customers. The guidelines contained in the CSP establish the "ground rules"

for BPA's involvement with its customers. These ground rules will help provide consistent levels of service. There can be exceptions to the guidelines; however, suitable justification must be provided for each exception.

The CSP promotes the one-utility planning concept for all customer service projects. One-utility planning means that planning of future customer service projects will be done as if all facilities were owned by a single utility in a particular study or service area. This is the fundamental concept underlying the final policy. For planning purposes, there will be no distinction between BPA facilities and customer facilities. The actual division of construction and financial responsibilities will be done after the planning is completed. As a result of this approach, the most efficient long-range plan will be developed with minimum overall cost and environmental impacts. This planning concept will encourage cooperation between BPA and its customers, thereby minimizing problems in the construction and operation phases.

The CSP closely adheres to the mandate of the Bonneville Project Act the BPA encourage widespread electric use in the Pacific Northwest. Under the policy, BPA's mission of providing bulk power to the region's utilities, regardless of geographic location, is carried forth in the guidelines for financial and construction responsibilities. This is consistent with BPA's "postage stamp" rate concept, under which utilities are charged the same rate for energy regardless of their proximity to generation sources.

2. Major Features in the CSP

The CSP is designed to provide efficient and equitable services to all BPA customers. The policy covers all customers and transmission facilities. The final CSP deals with Direct Service Industries (DSI's), and Investor-Owned Utilities (IOU's) as well as preference customers. Also, it provides guidelines and criteria for all transmission facilities, not only distribution substations. Transmission lines, transmission line taps, and transformer additions are covered as well as distribution substations. The policy also describes the provision of facilities for wheeling (wheeling is transmitting other utilities' energy over BPA lines). Finally, the CSP addresses BPA's participation in emergency operations should a customer suffer a transformer failure.

BPA's service and requirements have been described in detail, so utilities can use the policy as a tool in planning their own facility development . The level of detail provided will also help assure consistent application of the policy throughout BPA's service area. BPA customers had expressed frustration with their inability to determine in advance what services BPA would provide for their systems. The CSP contains sufficient detail to allow customers to employ the policy itself as a planning tool for future expansion projects involving BPA. Also, it outlines BPA's financial and construction responsibilities for a broad range of transmission facilities for different sizes and types of customers. Therefore, customers considering expansion projects can plan with knowledge of BPA's participation in the projects, minimizing uncertainty regarding the extent and timing of BPA's participation. The policy will enhance customers' understanding of facility design construction, operation, and maintenance standards that are required for BPA involvement. This will help them gauge the cost impact of these standards, and determine the overall project economics with more accuracy.

Other features of the CSP include: (1) A transformation capacity limitation which shifts distribution substation responsibility to certain customers, while still providing BPA assistance to smaller customers; (2) description of BPA's role in transmission facility construction and encouraging larger utilities to develop the necessary interconnected transmission system; (3) definition of BPA's responsibilities in environmental reviews; and (4) provisions allowing for upgrading of inferior transfer service.

3. CSP Structure

The proposed CSP consists of a policy statement, guidelines, and appendices. The policy statement provides the foundation for the entire policy. The guideline section provides the necessary detail to assist customers and BPA in policy interpretation, and maintain consistent application. The appendices provides further clarification in specific areas. They include Definitions, Planning Assumptions, Typical BPA Project Lead Times, and Construction Responsibilities.

D. Summary of Issues

The major issues considered during the policy development process which were resolved within the policy are:

a. Maintaining "consistency with flexibility" in policy application.

b. Expanded scope covers all customer classes, not just preference customers, and all types of facilities, not just distribution substations.

c. Comprehensive planning tool for BPA and customers.

d. Increased emphasis on joint "one-utility" planning between BPA and customers for future customer service projects including nonconstruction alternatives such as conservation.

e. Transformation capacity limitation shifts distribution substation responsibility to certain customers, while still providing BPA assistance to smaller customers.

f. Describing BPA's role in transmission facility construction and encouraging larger utilities to develop the necessary interconnected transmission system.

g. Define BPA's responsibilities in environmental review and eliminating redundancy by, where available and appropriate, accepting documentation done by/for other agencies.

h. Transfer service provisions allow for upgrading inferior transfer service.

1. Criterion for transformation capacity limitation revised to the "25/50" basis. Customers below 25 MW average load will be eligible to receive 50 MVA of BPA provided transmission capacity.

j. Further clarification in BPA's responsibilities in environmental reviews.

k. Regional value of losses mandated for all one-utility planning.

l. Removal of BPA's Reliability Criteria and Standards as a policy appendix.

Discussion of these issues and their method of resolution is found in BPA's Staff Evaluation of the Record and the Addendum thereto. These documents are available on request at the locations listed under **ADDRESSES.**

Based upon the information presented above and in the Staff Evaluation and Addendum, I hereby adopt as BPA's final CSP the attached policy. This policy will become effective on July 1, 1984.

Issued in Portland, Oregon on June 15, 1984.

Peter T. Johnson,

Administrator.

Customer Service Policy

July 1, 1984.

Table of Contents

Introduction
Policy Statement
Guidelines
I. General
II. Utility Planning
A. One Utility Planning
B. Joint Utility Plan Development
C. Reliability
D. Environmental
III. Facility Construction
A. BPA Construction

B. Customer Construction for BPA
C. Customer Construction in BPA Distribution Substations
D. Customer Construction in BPA Transmission Substations
E. Project Responsibilities Statement
IV. Financial and Construction Responsibilities
A. BPA Criteria for Granting Interconnections
B. BPA Facility Construction
1. Power Sales Facilities—Firm Power
2. Power Sales Facilities—Nonfirm or Short-Term Firm Power
3. Convenience Point of Interconnection
4. Wheeling Facilities
C. Customer Facility Construction
1. For BPA
2. In BPA Distribution Substation Yards and Other Properties
D. Emergency Operations
E. Transfer Service
F. Resource Integration
G. Direct Service Industry Service
Appendices
A. Definitions
B. BPA/Utility Planning Assumptions
C. Project Proposal—Short-Term Construction Plan
D. Typical BPA Project Lead Time
E. Typical Distribution Substation—Development Guidelines, One Line Diagram, Elevation View, and Plan View
F. Division of Responsibilities Letter Agreement

Introduction

The main goal of the Customer Service Policy (CSP) is to provide the most efficient and equitable delivery of electrical energy from Bonneville Power Administration (BPA) through its customer utilities to the region's consumers. This policy will encourage both BPA and the region's utilities to work together in the development of the best plan-of-service under the one-utility concept, and to describe the financial and construction responsibilities for the implementation of the plan. The resulting policy is intended to provide the most efficient, fair division of responsibilities between BPA and its customer utilities for the construction of facilities for delivery of power to those utilities. The policy has been developed through the joint efforts of the region's utilities and BPA.

The CSP consists of a policy statement, guidelines, and appendices. The policy statement provides the foundation for the entire policy. All other statements must be consistent with this policy statement. The guidelines section provides the necessary detail to assist utilities and BPA in policy interpretation, and to maintain consistent application. The appendices provide further clarification of the policy statements and guidelines, with supplemental information regarding BPA's standards and policies. They include sections on Definitions, Planning Assumptions and Project Proposal Outline, Typical Project Lead Times, and Construction Responsibilities.

Due to the detailed nature of certain sections, periodic revision of this document will be necessary. Whether or not a complete public involvement process is required for CSP modifications, the customer utilities shall be apprised or major changes and given an opportunity to comment. Minor changes to the guidelines and updates of the appendices shall made by BPA and distributed to customer utilities.

Customer Service Policy Statement

1. BPA provides services to its customer (power sales and wheeling) in accordance with relevant laws, including the Bonneville Project Act, 16 U.S.C. 832, the Federal Columbia River Transmission System Act, 16 U.S.C. et seq., and the Pacific Northwest Electric Power Planning and Conservation Act, 16 U.S.C. 839. BPA delivers the output from Federal generating plants and other acquired resources to its customers to achieve the greatest benefit to the Region's electric power consumers.

2. As a marketing agency, BPA's primary responsibility for delivery of power is to provide a reliable transmission system for the integration and delivery of bulk power to its customers in the Pacific Northwest. BPA will construct and finance transmission facilities for the delivery of bulk power to general service areas. BPA will not assume a utility's area transmission responsibility and will encourage larger utilities to develop the necessary interconnected transmission system.

3. Planning and construction of facilities by BPA will be based upon joint studies conducted by BPA and each customer to determine the best engineering, economic, and environmental plan-of-service based on the one-utility concept. Joint, one-utility, long-range planning will maximize economic efficiency, improve electrical system performance, and minimize environmental impacts.

4. BPA will be financially responsible for providing a limited amount of capacity for deliveries and distribution voltage levels for small utility power sales customers. This assistance to smaller utilities will enable them to develop the financial base necessary to provide the construction, operation and maintenance of the facilities beyond the maximum level provided for by BPA.

5. BPA planning, construction, operation and maintenance of transmission lines and substations will be accomplished in accordance with applicable environmental legislation and in cooperation with Federal, State, and local governments, and concerned public.

CUSTOMER SERVICE POLICY GUIDELINES

I. General

The guidelines section of the Customer Service Policy (CSP) is intended to delineate the basic principles of the Customer Service Policy Statement by providing the datails necessary for applicaion. This should promote consistent interpretation of these principles by both BPA and the utilities. The guidelines were designed for and will be applied in normal situations. Deviations may be necessary to accommodate unique circumstances. Coordination of poilicy modifications and interpretations will be the responsibility of the BPA Division of Customer Service of the Office of Power and Resources Management. This section is divided into three parts: Utility Planning, Facility Construction, and Financial and Construction Responsibilities.

II. Utility Planning

A. One-Utility Planning

BPA will plan its system and encourage others to plan on a one-utility basis without regard to ownership of facilities. This planning criterion is essential to provide the greatest benefits to the electric power consumer. Under one-utility planning, consideration of such factors as engineering and operation and maintenance requirements, long-range planning, service reliability, loss evaluation, the economics and environmental impacts of various alternatives, and evaluation of non-construction alternative would assure the adoption of the best plan-of-service and avoid the construction of unnecessary facilities. A point of delivery or interconnection which does not meet this criterion shall be deemed a convenience point of delivery (see IV.B.3., Convenience Point of Interconnection) and, if constructed, shall be at no expense to BPA.

B. Joint Utility Plan Development

Joint utility plan development requires that all utilities work in a coordinate and cooperative manner to evaluate and develop the plans-of-service. These joint planning discussions must take palce in all phases of the plan development. Early involvement by BPA in the joint planning process will normally assure BPA cooperation. This will lead towards

a timely project completion BPA Area staff will be the primary BPA contact and will work with utilities in developing the joint utility plan.

Plan development should include all "study area" utilities and BPA. The utilities and BPA should evaluate each utilities' system requirements and planning assumptions. Appendix B lists categories of planning assumptions that should be addressed in preliminary plan development. If differences exist in planning assumptions, BPA and the utilities should develop acceptable assumptions for planning purposes which are responsive to the utilities' needs. If common assumptions cannot be agreed upon, BPA should provide a written statement as to the reasons for rejecting the utility's assumptions. BPA's financial participation in a plan which has not been agreed to may be limited, or nonexistent, and will be evaluated on a case-by-case basis. The value of loses used in planning will be based upon the regional value of losses, including any specific utility considerations. BPA and the utilities should develop acceptable assumptions for the value of losses for planning purposes.

After planning assumptions have been defined, the participants will jointly develop the system long-range plan-of-service on a one-utility basis. The key elements in planning for the study area include:

(a) Load forecast for existing and proposed delivery points.

(b) Identification of transmission and distribution capacities, reliability problems, and system losses due to increased loading of the existing system.

(c) Development of all reasonable alternative solutions including long-range needs and costs.

(d) Alternative evaluation; economic, engineering, and environmental.

(e) Plan selection.

All of the above elements must be mutually agreed upon by BPA and the utility in the final long-range plan.

It is important that all relevant factors be considered in the final decision, including alternative transmission system costs, loss analysis, reliability, and environmental impacts. After the long/range plan is developed, the budget item proposal can be prepared. This proposal is a short-term construction plan evaluating solutions to a particular service problem. The elements of this plan which shall be required are shown in Appendix C. Sufficient lead time will insure timely completion of BPA construction responsibilities (see Appendix D, Project Lead Time).

C. Reliability

Under the one-utility concept, reliability factors should be examined within each customer's system as well as in BPA's system. This is necessary because the reliability of the customer's system must be a factor in the selection of the best overall plan and the BPA system must be protected from any possible adverse effects of customer additions. The sensitivity and magnitude of the loads within each customer's system should also be considered in setting the level of reliability required. BPA's reference for its reliability planning is the Reliability Criteria and Standards Manual. This manual outlines the quality of service BPA strives to maintain in its system and it is available at the Area and District offices. Customers are encouraged to employ this manual as a planning tool for future system additions involving BPA.

D. Environmental

Early in the development of customer service project proposals, BPA will work closely with customers and with Federal, State, and local agencies to minimize duplication of efforts and to ensure accurate consideration of environmental effects. While information about the impacts of customer-built facilities must be available to the decision maker in BPA, depending on the degree of BPA involvement, the amount and detailed quality of such information need not be the same as is required by BPA decisions on similar facilities directly undertaken by BPA.

BPA will include in its environmental documents an analysis of its own actions, as well as those of the customer which meet each of the following conditions:

—The customer's action may have substantial environmental impacts;
—Where BPA has asserted influence or control over environmental considerations of location and/or design; and
—The customer's action has not yet satisfactorily addressed Federal, State, and local environmental requirements.

In cases of customer actions with probable minor or negligible impacts, BPA's need for information will be less than for BPA actions. In cases of impacts of increasing significance (to be determined by the Environmental Coordinator), BPA's need for information will increase and with such increase, BPA may determine that it should exercise influence or control over environmental considerations associated with location or design of the customer facility.

III. Facility Construction

The major goal of facility construction is the timely addition of facilities to meet load growth in the most efficient and economic manner. This section discusses the engineering aspects of construction. The conditions under which the facilities will be constructed and the division of financial responsibility are discussed in Section IV, Financial and Construction Responsibilities. A chart on BPA typical project lead times is shown in Appendix D.

A. BPA Construction

Facilities shall be constructed in a manner compatible with both BPA and the utility's system and shall neither jeopardize nor hinder the normal operation of either party's system. BPA will not normally construct facilities required within city limits and urban areas nor facilities to serve a single ultimate consumer (e.g., industrial consumer).

1. Transmission taps. Line taps will normally be constructed by BPA personnel or its contractor. Operation and maintenance responsibility will be determined on a case by case basis. Taps to BPA transmission lines must be adequately equipped with appropriate sectionalizing devices (e.g., disconnect switches, automatic sectionalizing switches, quick break, load break, power circuit breakers) as determined by BPA to maintain system reliability and stability. BPA's authorization for any new or revised POI will be required for this type of project. Compliance with environmental regulations is required. Project lead time is normally 1 year but may be extended due to project complexities.

2. Transmission lines. BPA will construct, operate, and maintain transmission lines at 115 kV and above, as necessary, to a customer's load area, consistent with the other elements of this policy. Construction will normally be by BPA or its contractor. The project lead time can be 2 years or more depending on project complexity. Compliance with environmental regulations is required.

3. Distribution substations. Distribution substations will normally transform transmission level voltages, 115 kV and above, to distribution levels. If the existing transmission voltage is 69 kV, BPA may construct stepdown substations to transform it to distribution voltage levels. Points of delivery at distribution voltages shall be

three-phase deliveries granted only at the secondary voltage level of the distribution substation and not less than 12.5 kV. A typical BPA-constructed stepdown substation consists of high-side isolating and transformer protection devices, power transformer, metering, meter house, and yard. Under normal conditions, the customer will install a switching station adjacent to or within the BPA stepdown substations, with appropriate protective devices. BPA will not provide a lowside circuit breaker.

Substations will be designed to allow the use of mobile emergency transformers and spare transformers simultaneously. Development guidelines, elevation and plan views, and one-line diagram for a typical distribution substation are shown in Appendix E. Construction of BPA portions of substations will normally be done by BPA or its contractor. The normal project lead time is 4 years. Compliance with environmental regulations is required.

4. Transformer additions. BPA transformer capacity additions in distrubution substations will normally be energized based on the Reliability Criteria and Standards in force at the time. Current standards are as follows:

a. Winter peaking loads—before estimated peak load exceeds transformer force-cooled thermal rating adjusted for ambient temperature and 95 percent power factor;

b. Summer peaking loads—before estimated peak load exceeds 90 percent of transformer, force-cooled thermal rating adjusted for ambient temperature and 95 percent power factor.

The project lead time for transformer additions is normally 3 years. However, if an unassigned system transformer is available, the lead time may be reduced. Compliance with environmental regulations is required.

5. Revenue metering. Revenue metering facilities are required to record power deliveries or exchanges. The location of the revenue metering may be at the point of delivery or interconnection, or at a more convenient location. Metering facilities for power deliveries to BPA customers will normally be provided, installed, operated, and maintained by BPA. Normally, metering installations shall conform to BPA standards. Any designs for metering installations deviating from these standards shall receive BPA approval prior to construction. The project lead time for a metering installation is 1 year, but may be extended or reduced based upon project complexities.

6. Transmission substation facilities. BPA may construct, operate, and maintain facilities within existing transmission substations if required by a customer's load. The facilities must be consistent with the best plan-of-service, based upon the one-utility planning concept. Project lead time will vary due to project complexities and magnitude. Compliance with environmental regulations is required.

B. Customer Construction for BPA

Where feasible, it may be appropriate for the customer to construct for BPA (see Section IV.C.1.). Facilities must comply with environmental standards and be constructed so as to not jeopardize the integrity of the BPA system. If operated and maintained by BPA, these facilities must be constructed to BPA engineering and safety standards.

C. Customer Construction in BPA Distribution Substations

In an effort to encourage one-utility planning, customers may install, construct, operate, and maintain their equipment within BPA substation yards when space is available and where the substation supplies a single customer. Exceptions to the single customer criteria may be made where customers at a multiple distribution point can agree to a joint maintenance and operation arrangement. All interconnections to BPA facilities shall meet BPA standards in order to provide the protection necessary for safe and reliable operation of BPA facilities. Compliance with environmental regulations and contracting procedures will be required.

D. Customer Construction in BPA Transmission Substations

BPA will negotiate customer construction and maintenance arrangements. Prime consideration is given to utilities with 24-hour dispatch capability and to the extent of possible adverse impacts to the interconnected transmission system.

E. Project Responsibilities Statement

In any joint project involving two or more utilities, it is essential that a clear understanding of each party's responsibility is established prior to project material acquisition, design, and construction. Normally, a Letter of Intent should be developed and approved after initial agreement on a plan-of-service and prior to budget submittal. This should include project timing, basic project responsibilities and other appropriate issues, see Appendix E. Following the Letter of Intent, commercial arrangements and construction details will be developed separately through the appropriate contractual actions and the Division of Responsibilities Letter Agreement (Appendix F). The development of these contracts may begin at anytime during the preconstruction phase, but must be executed prior to material acquisition, design, and construction phases (CPA). Normally, the Letter of Intent and contracts will be initiated and negotiated by BPA Area Offices. The complexity of a project should determine the necessity of a Letter of Intent for every project. An outline of the Division of Responsibilities Letter Agreement is shown in Appendix F.

IV. Financial and Construction Responsibilities

This section discusses BPA's role and responsibility in providing service facilities to its customers: Publicly and Cooperatively Owned and Investor-Owned Utilities, Federal Agencies, and Direct-Service Industries. Service facilities include both delivery and interconnection facilities, such as transmission support projects, delivery terminals, distribution substations, transformer additions, and resource integration facilities.

A. BPA Criteria for Granting Interconnections

The following criteria shall be met in granting a Point of Delivery (POD) or Interconnection (POI):

1. Best plan-of-service. Consistent with the aspects of the Utility Planning Section (Section II), it must be demonstrated that the POD or POI represents the best overall plan-of-service on a one-utility basis. If it does not represent the best overall plan, it shall be deemed a convenience point of interconnection. (See IV.B.3, Convenience Point of Interconnection.)

2. Service cost recovery. Recovery of BPA's costs associated with establishing and maintaining the facilities required for delivery to and at the POD or POI must be assured. This will be accomplished normally through wholesale power rates (Power Sales Customers), or through transmission rates, or special contract actions (Wheeling Customers). If a POI is granted that is neither for power sales nor wheeling, the costs for the interconnection and any applicable service charges shall be borne by the utility requesting or benefiting from the POI. If both BPA and the interconnecting utility request the POI, then the costs will be allocated based upon relative benefits. Any contract action describing cost-sharing arrangements and construction responsibilities shall be executed prior to project material

acquisition, design, and construction. The contract shall include provisions for recovery of any otherwise unrecoverable costs in the event of load reduction or early termination.

B. BPA Facility Construction

In determining BPA's financial and construction responsibility, the facilities required for Power Sales Customers and Wheeling Customers will be discussed separately. Costs associated with joint-use facilities (power sales and wheeling) shall be allocated equitably among the parties. Discussions regarding each party's financial and construction responsibilities shall occur early in the planning process with final commercial arrangements and appropriate contract actions executed prior to project material acquisition, design, and construction.

1. Power sales facilities—firm power. BPA will construct or be financially responsible for providing the transmission facilities required for the delivery of bulk power to customers' service areas. If BPA is requested to provide facilities to serve a load of tentative nature, the commercial arrangements shall include a minimum bill provision. Also, if a customer requires a higher level of service than normally provided by BPA (e.g., looped instead of radial service), the costs of providing the higher level of service will be borne by the customer. If a customer requests BPA to accelerate the timetable for construction of a customer service project that is consistent with the long-range plan, the customer shall pay all incremental costs associated with the early construction. This type of construction action will be evaluated on a case by case basis. However, a 5-year timetable acceleration would be reasonable for most situations: BPA may, at its option, request the customer construct and/or operate and maintain a facility at BPA expense pursuant to section IV.C.

a. Transmission taps. BPA will construct all taps on BPA transmission lines for deliveries to utility customers at BPA substations or customer-constructed substations. Each tap will include the necessary line sectionalizing switches. The customer will provide the protection and isolation devices as required by BPA to minimize the jeopardy to BPA's system.

b. Transmission lines. BPA will provide lines which deliver bulk power at the local transmission level, consistent with the best plan of service. Transmission lines necessary for bulk power deliveries to new systems will be 115 kV and above. Transmission lines necessary for bulk power deliveries to existing systems which are less than 115 kV may be provided at the established voltage level (normally 69 kV). Although these lines will normally be provided at BPA expense, construction and funding responsibility will be determined on a case-by-case basis.

If transmission lines to a load area are required they will normally be constructed by BPA. However, customers that have assumed load area transmission responsibilities or that serve a continuous load area will be responsible for providing all subsequent transmission lines to those respective load areas. Also, customers shall be responsible for all construction of transmission lines within load areas, city limits, urban areas, and all construction of short tap lines (normally up to ½ mile unless BPA owned distribution substation). Customers above 175 MW peak load will have all construction and financial responsibilities within their service areas regardless of any of the above special conditions. The peak load level will be that projected load level at the time the facilities are required.

c. Distribution substation (25/50 criteria). For utilities under 25 MW average load, BPA will provide 50 MVA of distribution transformation capacity. This will include the next increment which increases the total capacity over the 50 MVA limit. The 25 MW average load level will be based on the projected load level at the time the capacity will be installed. The 50 MVA level includes BPA-installed nameplate transformer capacity and associated substation facilities, transformer capacity that BPA leases, and BPA-provided transfer service loads. This criteria is intended to assist smaller utilities in developing the financial base necessary to provide for distribution facilities beyond the level provided by BPA. Customers shall be responsible for all substation construction within city limits and urban areas.

In transfer situations, BPA will provide continued transfer service for load growth, consistent with the above criteria, at existing points of delivery until additional facilities are required, contracted transfer demand limits are reached, or transfer agreements are terminated. Transfer costs for capacity above this criteria will be borne by the Customer.

d. Transformer additions. Based on the best overall plan-of-service determination and consistent with the criteria stated in IV.B.1c. above, BPA will provide transformer capacity additions at BPA distribution substations for existing points of delivery. Customers above this criteria level will be responsible for transformer additions. BPA may assist these customers by constructing on a trust fund basis or by providing available substation property.

e. Metering. Conssistent with other policy elements, BPA will normally provide all necessary metering, and will assume financial responsibility for interchange telemetering required under transfer situations.

BPA may, at its option, meter and bill more than one point of delivery on a combined or coincidental basis. Under normal conditions, a diversity charge will be assessed; however, it may be waived if the customer has constructed transmission facilities which would provide benefits to BPA. These include, but are not limited to, facilities BPA would have normally constructed, facilities which provide backup for the BPA transmission system leading to continued power sales, and facilities which prolong the life of existing PBA facilities. In order to waive a diversity charge, it must be demonstrated that the benefits BPA would receive due to a customer's increased role in transmission construction exceed the revenues accrued through noncoincidental billing.

f. Transmission substation facilities. BPA will construct and be financially responsible for facilities required for power delivery to customers at the customer's area transmission voltage level. Deliveries to new systems will be provided at 115 kV and above. New deliveries to systems with existing voltage levels less than 115 kV may be provided at the existing voltage level (normally 69 kV), consistent with the best plan of service. These delivery facilities include transmission terminal positions and system transformers.

2. Power sales facilities-nonfirm or short-term firm power. BPA will not normally construct facilities specifically for serving any part of a customer's nonfirm or short-term firm power purchases unless it can be shown to provide overall benefits to the region. If excess capacity is available, BPA will provide deliveries at the requested customer point of delivery.

3. Convenience point of interconnection. A convenience point of interconnection is requested for an individual customer's needs and is not accepted as the best one-utility plan-of-service. Since BPA places the one-utility concept as a fundamental principle in its planning process, it must be assured other utilities plan on the same basis. Therefore, all costs associated with a convenience POI shall be borne directly by the interconnecting utility. A POI

requested to improve a customer's system reliability which satisfies the one-utility planning concept shall not be determined as a convenience POI. Also, customers that have multiple POIs will be expected to utilize existing POI capacities consistent with one-utility planning. Additional POIs, if consistent with the one-utility planning concept, will not be determined as convenience POIs.

In order to grant a convenience POI, BPA must be assured of complete and long-term incremental cost recovery (increased costs of convenience POI over existing POI) associated with the power delivery. This will include direct BPA expenses for facilities constructed (e.g., transmission tap and metering), and any indirect costs (e.g., long-term increased transmission losses, transmission reconductoring, and increased system protection requirements). A specific agreement shall be negotiated outlining these terms prior to the POI approval. In the Power Sales Contract, the POI shall be stated as a convenience point of delivery. Compliance with environmental regulations and procedures will be required.

4. Wheeling facilities. In constructing facilities which provide a wheeling service, BPA must assure recovery of its investments. This will normally be accomplished by the actions stated below. However, a Use-of-Facility Transmission (UFT) rate, another appropriate BPA rate, or a trust fund may be employed if the recovery is uncertain. For facilities that perform a joint-use function (i.e., both power sales and wheeling), this section will apply to the wheeling component or portion of the facilities.

a. Transmission taps. The Wheeling Customer will be financially responsible for all costs associated with a BPA transmission line tap. BPA will normally construct the tap facilities. These will be financed under a trust fund arrangement. The customer will retain ownership of all trust fund line sectionalizing switches.

b. Transmission lines. In the construction of transmission lines, BPA will construct transmission facilities required for and providing the benefits of an interconnected regional network. BPA will not construct facilities from a customer's resource to the BPA transmission system nor assume a customer's service area transmission responsibilities unless agreed upon through specific contractual arrangements. Cost recovery for joint-use lines shall be through established transmission rates, while costs for sole use (wheeling) facilities shall be borne directly by wheeling customers (through a use-of-facilities rate or trust fund). Prior to BPA commitment of funds, appropriate contractual actions shall be executed, including rate, load, and resource reduction/termination provisions.

c. Distribution substations. All costs for the use of distribution substations shall be borne by Wheeling Customers (using a use-of-facilities rate methodology). BPA will not normally construct these types of facilities for the sole purpose of wheeling deliveries.

d. Transformer additions. All costs for the use of distribution substation transformer additions shall be borne by the Wheeling Customers (using a use-of-facilities rate methodology). BPA will nor normally construct these types of facilities for the sole purpose of wheeling deliveries.

e. Metering. BPA will install the metering as required. Costs shall be borne by the Wheeling Customers through a trust fund mechanism.

f. Transmission substation facilities. BPA will construct new transmission substations which provide a regional benefit. Appropriate contractual agreements for recovery of BPA investment will be executed prior to BPA commitment of funds. Specific facilities for wheeling customers within new or existing main grid substations shall normally be limited to terminal positions at approved POIs but may include other facilities, such as system transformers, based upon mutual acceptance. All costs shall be borne by the wheeling customer and will normally be recovered by trust fund.

C. Customer Facility Construction

1. For BPA. A demonstrated benefit to BPA may allow a Power Sales Customer to construct and/or operate and maintain a facility at BPA expense. The following factors will be considered in making the determination:

a. Best overall plan-of-service.

b. Customer(s) will experience undue hardship if project is delayed due to BPA procedural and construction requirements.

c. Overall cost benefit to BPA.

d. Land Acquisition and construction will comply with all Federal, state, and local government regulations and environmental requirements.

e. Unanticipated load growth in the Customer's service area.

f. Geographic proximity to existing BPA facilities and availability of BPA personnel.

This service is not intended to circumvent normal one-utility planning.

Decisions by BPA whether to own or lease facilities constructed by customers will be made on an individual basis. BPA monthly lease payments will be based on the annual facility cost, including interest, amortization, overheads and applicable operations and maintenance costs.

2. In BPA distribution substation yards and other properites. Customers will be encouraged to construct low-voltage delivery facilities within BPA substation yards or other properties. This construction will be limited to available space and compliance with BPA safety and environmental requirements. In existing properties, the customer shall pay for the costs incurred by BPA due to construction of the facility. Land costs will not be included.

D. Emergency Operations

BPA will assist in establishing an emergency transformer coverage program for transformer failures in customer's systems. Depending on the program composition, standard size transformers will be available for participating small to intermediate level customers (less than 175 MW peak load). The customer substatations must be designed to accommodate installation and safe operation of the transformers. All costs associated with this service shall be paid by the participants. To insure adequate coverage, BPA and the customers requesting this service will jointly develop a transformer coverage plan. Two services will be available: mobile spare coverage (short-term) and construction reserve coverage (up to 1 year).

E. Transfer Service

In accordance with other provisions of this policy for establishing new points of delivery, BPA can arrange for service to a power sales customer over a third party's (transferor) facilities if consistent with the best plan-of-service. BPA's financial responsibility shall include the costs of all transfers on the types of facilities that BPA would normally be required to provide for the customer, as specified in Section IV.B.1.

In the event of unsatisfactory or discontinued transfer service, BPA and the customer will develop and implement the best plan-of-service based on one-utility planning principles and in accordance with other provisions of this policy, as an alternative to the original transfer service. The transfer customer may be included in both the transfer contract negotiation process and planning discussions with BPA and the transferring utility.

F. Resource Integration

Facilities necessary to interconnect a non-BPA resource to existing BPA facilities will be installed at the expense of the user. Wheeling of such resources once integrated into BPA facilities will be subject to the BPA transmission policy and the customer service principles in Section IV.B.4. of this policy. Appropriate contractual actions shall be executed before BPA commitment of funds, if any.

G. Direct-Service Industry Service

BPA will construct or provide by transfer service the required transmission and substation facilities for service to its Direct Service Industrial customers.

Appendix A

Definitions

Annual Cost Ratio: Annual cost of the Federal Tranmission System, or any applicable portion thereof, divided by investment in such system. Similar calculation can be made for individual utility's system.

Area Load Center: Point at which the load of a given area is assumed to be centralized or concentrated.

Bulk Power Delivery: With regards to BPA mission, delivery of transmission level power quantities to point of delivery.

Capacity Limit: The maximum load carrying capability of a Utility's transmission or distribution facility determined by the owning utility. See Thermal Limit.

Coincidental Billing: Combining two or more points of metering to bill as one point of delivery.

Construction Project Authorization (CPA): Record and authorization for issuance of work order and obligation of funds to construct transmission system facilities.

Convenience Point of Interconnection: Point of interconnection or delivery that is not accepted as the best plan-of-service.

Cooperative: A private, normally nonprofit utility, operating within state law but essentially self-regulated by a board of directors elected from its membership.

Customer: Power Sales Customers or Wheeling Customer of BPA.

Direct-Service Industry (DSI): An industrial customer that contracts for the direct purchase of power from BPA.

Distribution Facilities: Facilities that move distribution voltage power from distribution substations to individual end-use loads. The maximum voltage of distribution facilities varies around the region but voltages at 34.5 kV and below are normally considered distribution voltages.

Distribution Substation: A substation which transforms transmission to distribution voltage levels (i.e., 115 kV to 12.5 kV).

Distribution Voltage Level: The voltage level used by a utility in its distribution system. The voltage of distribution facilities varies around the region and is normally 34.5 kV and below.

Diversity: The difference between the sum of the noncoincidental peaks of two or more individual loads and the coincidental peak of the combined load.

Diversity Factor: The ratio of the sum of the noncoincident maximum demands of the various subdivisions of a system, or part of a system, to the maximum demand of the whole system, or part under consideration.

End-Use Consumer: A consumer which purchases power from a utility for its own use.

Feeder Position: This normally includes a load and fault interrupting device, metering, a structure to connect an outgoing distribution line, and associated bus and switches as required.

Firm Power: Power guaranteed to be available at all times during the period covered by a commitment, even under adverse conditions, except for reason of certain uncontrollable forces or service provisions. Firm power is composed of either firm energy, firm capacity, or both.

Intermediate Customer: A Power Sales Customer with less than 175 MW peak load and exceeding the 25/50 criteria. See Small Customer and Large Customer.

Investor-Owned Utility (IOU): A utility which is organized under state law as a corporation for the purpose of providing electric power service and earning a profit for its stockholders.

Large Customer: A Power Sales Customer with more than 175 MW peak load who operates an extensive utility system and receives bulk power deliveries from BPA. See Small Customer and Intermediate Customer.

Lead Time: The time required from initial BPA review stages to project energization.

Letter Agreement (Construction): Defines each party's construction responsibilities for providing and installing facilities in a joint project (see Appendix F). Includes customer engineering requirements, identifies equipment to be installed in the customer's and BPA's portion of the substation.

Letter of Intent: Sets forth each utility's basic project responsibilities necessary to begin preliminary facility design. The Letter of Intent should be completed after initial project approval and prior to budget submittal (Construction Budget Project Authorization).

Load: The amount of electric power delivered or required at a given point on a system. Load originates primarily at the energy consuming equipment of consumer or a BPA customer.

Load Area: The distinct portion of a utility's service area in which there is a concentrated isolated and discrete pocket of load, surrounded by lower load-density areas. Examples are cities, densely populated but unincorporated urban areas, and industrial parks.

Load Estimate: The official BPA load estimate for the utility developed jointly between BPA and the utility.

Minimum Bill Provisions: Assurance of cost recovery for facilities constructed by BPA to serve loads of a tentative nature, typically, larger industrial or irrigation loads.

Municipal Utility: A utility owned and operated by a city.

Nonfirm Power: Power supplied or available under an arrangment which does not have the guaranteed continuous availablity feature of Firm Power.

Normal Utility Practice: The range of practices that are generally accepted by electric utilities for all phases of planning, consistent with standards publications such as American National Standards Institute (ANSI), National Electric Code, National Electric and Safety Code, Rural Electric Administration Standards, and Institute of Electrical and Electronics Engineers (IEEE).

One-Utility Concept: Planning decisions are made as though the same utility owned all relevant generating, transmission, and distribution facilities.

Peak Load: Maximum power demanded by a utility.

Planning Standards: Criteria of a utility or utilities, in a joint plan, which describe the standards used in the planning process. These include reliability, economic, environmental, and public policy factors.

Plan-of-Service: The project or projects which will solve a utility's or utilities' electrical service problem.

Point of Delivery (POD): Point at which utility systems are connected with the primary purpose of one-way power delivery.

Point of Interconnection (POI): Point in which utility systems are connected at which power can flow in either direction for power delivery (Point of Delivery), resource integration (wheeling), and system reliability improvement.

Power Sales Customer: A utility or industry which purchases electric power from BPA; distinguished from consumer, one who buys electric power from a utility. See Small, Intermediate, or Large Customer.

Power Transformer: Device used for changing voltage levels.

PUD: Public Utility District (in Washington) or People's Utility District (in Oregon); a separate unit of government established by voters of a district to supply electric or other utility service.

Reliability: In a network power system, the ability of the system to continue operation while some lines or generators are out of service or while the system is under stress. BPA has established minimum standards in the Reliability Criteria and Standards. For distribution utilities, reliability is normally defined in terms of yearly cumulative outage times per customer, number of outages per year per customer, and revenue loss due to outages. (See REA, EPRI, or other published criteria).

Resource Integration: Facilities necessary for interconnection of a generation project to the BPA transmission system.

Service Area: Total geographic area in which the utility provides electrical service.

Small Customer: Power Sales Customer whose total load requirements are less 25 MW average load. See Intermediate Customer and Large Customer.

Termination Charge: Unrecoverable costs associated with the unamortized value of a facility, which are the responsibility of a utility in the event of load reduction or termination before contract expiration.

Thermal Capacity: Maximum load which an electric device can carry under specified conditions for a given period of time, without exceeding limits of temperature of stress.

Transfer Agreement: Contractual agreement outlining the responsibilities of a utility for transfer of another utility's power, normally when the POD is in the transferor's load control area.

Transferor: Entity which receives energy at one point of system and makes such energy available at another point on its system.

Transmission Facilities: Facilities that transport electric energy in bulk from points of supply to points of delivery.

Transmission System: Interconnected electric transmission lines and associated equipment which provide for the transfer of bulk electric energy between point of supply and point of delivery.

Transmission Voltage Level: The voltage level at which bulk power is transmitted from a source to other principle parts of the system. This level is normally 115 kV or above, however, the transmission voltage level may be less than 115 kV.

Urban Area: Residential, commercial, or industrial area as defined by local land use plans.

Voltage Regulator: Usually a transformer-type device with the windings of the primary and regulated circuits suitably adapted and arranged for the control of the voltage of the regulated circuit.

Wheeling: The use of the transmission and distribution facilities of one system to transmit power of and for another system.

Wheeling Customer: A utility which transmits power over BPA transmission facilities for its own use.

Appendix B

BPA/Utility Planning Assumptions

In order to develop the best long-range "one-utility plan," mutually agreeable planning assumptions and methods need to be developed. Ultimately, this will lead to study results that can be used directly by participating organizations. The alternative to this is to produce separate studies, based upon different planning assumptions and methods, which invariably produces different conclusions. The different conclusions become the items to be resolved between BPA and utilities and may result in reduced financial involvement by BPA.

The following is a list of assumptions and methodologies which should be discussed and agreed upon prior to planning.

1. Study Period of Long-Range Plan Normally 20 year minimum.

2. Load Forecast Distribution by load, by point of delivery, or load area.

3. Exploratory Plans Reasonable number of transmission distribution alternatives.

4. Design Consideration.

a. Voltage Regulation Voltage drop with regulators.

b. Facility Capacity Thermal capacities of facilities based upon industry standards.

c. Value of Losses Regional value of power losses.

d. Service Reliability Goal Utility goal accounting for BPA's goal of 2½ hours cumulative annual outage time for point-of-delivery.

5. Facility Costs

Construction costs include design, labor, materials, engineering, and administrative overhead costs.

6. Economic Factors

a. Interest Rate

Individual utility interest rates.

b. Value of Losses Regional value of power losses.

c. Operation Maintenance

Based upon individual utility historical data with administrative overheads.

d. Present Worth Analysis

e. Facility Annual Costs Based on interest, amortization, and administrative overhead costs.

f. Value Remaining

Value remaining calculations to account for plans with different capacities should be made to equate all alternative plans economically.

7. Environmental Process

Environmental considerations are an integral part of one-utility planning. Section II.D.—Environmental Factors and Appendix C-Project Proposals provides guidance regarding environmental requirements.

8. Plan Review

Long-range plans should be reviewed periodically to insure that plans are consistent with the best-plan-of-service concept.

Appendix C

Project Proposal—Short-Term Construction Plan

The project budget item proposal for a short-term construction plan should be consistent with the long-range plan. The project proposal, developed by the customer and the Area, is necessary for BPA's budget proposal process. An outline of the proposal is shown below, and should be used as a guideline. This outline is similar to Appendix II of the REA Bulletin 60–8, "System Planning Guide, Electric Distribution Systems" which may also be used. The bulletin may be helpful as it provides detailed descriptions of the elements of a system plan.

Project Proposal Contents

1. Discussion of existing transmission and distribution facilities. (Include geographical and electrical diagrams showing lines and substations.)

2. Description of the service problem.

3. Alternative plans-of-service studied (description and discussion, including geographical information, electrical diagrams, engineering aspects, and mitigation measures not in the proposed action), and non-construction alternatives (e.g., conservation alternatives, load management, generation resources, loss reduction, etc.).

4. Summary of investments and economic analysis of plans studied. Cost of reliability will also be considered, if appropriate.

5. Long-range plan.

6. Operation and maintenance considerations.

7. Conclusions and recommendations.

Appendix

A. Load Forecast (e.g., load area, delivery point)

B. Comparative cost study using present worth analysis, accounting for all utility losses and transfer charges; study period should be sufficient length to include all major investments. Value remaining must be included in the present worth analysis.

C. Loss analysis.

D. One-line diagram of proposed facilities.

E. Cost estimates.

F. Pertinent correspondence.

G. Environmental analysis.

—What actions are automatically triggered by the proposed BPA action(s).

—What actions cannot or will not proceed unless the proposed BPA action(s) is taken previously or simultaneously?

—What actions are interdependent parts of the larger BPA proposed action(s) and depend on the larger BPA action(s) for their justification?

—What contractural arrangement are needed?

—Provide copies of any project studies already performed.

—List all Federal, state, and local agencies or organizations, and utilities that may be interested in this project, such as:

(1) Agencies with jurisdiction by law (permits, licences, etc.);

(2) Agencies with special expertise; and (3) persons and organizations reasonably believed to be interested or affected (utilities, environmental groups and other special interest groups).

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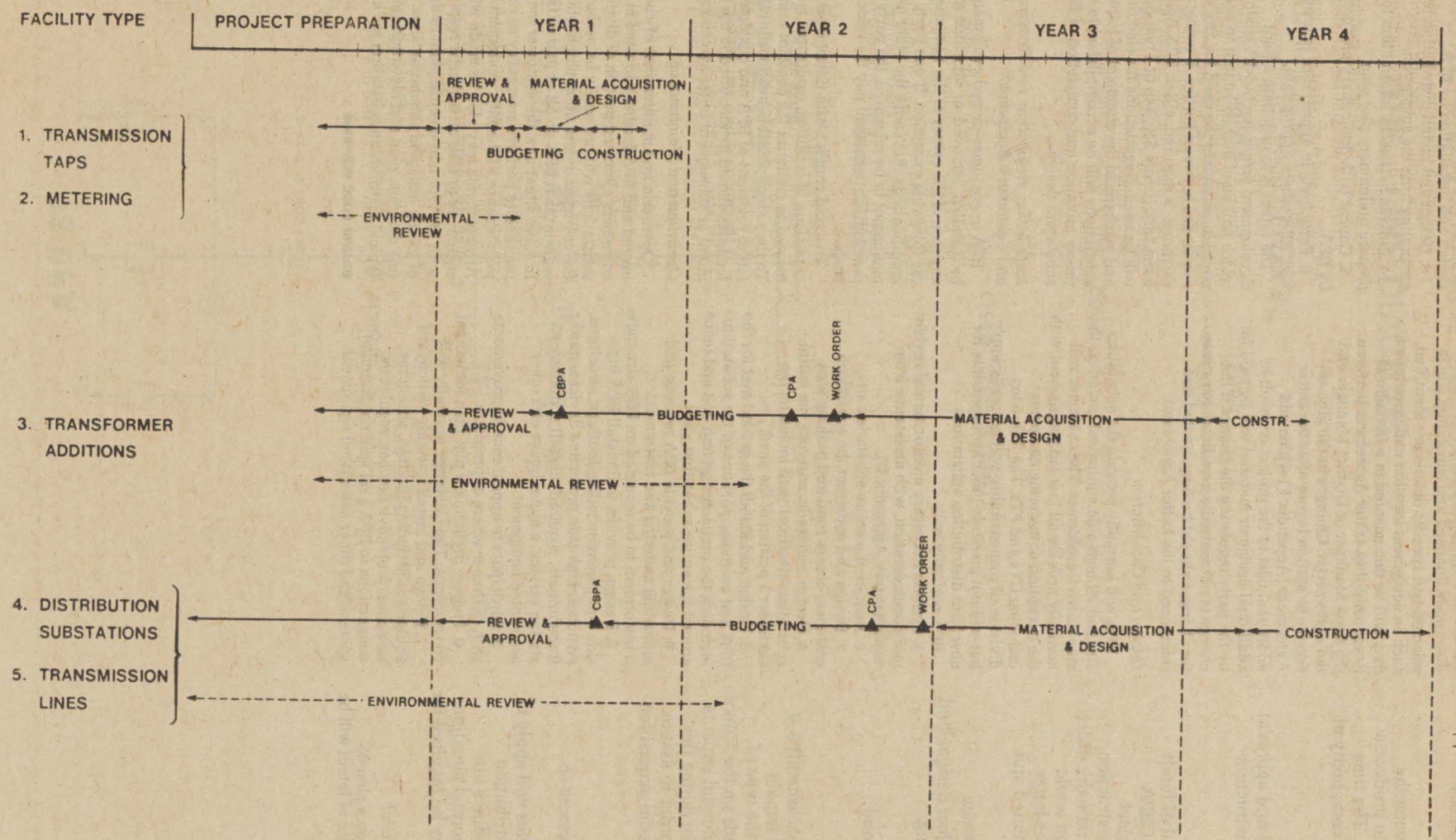
TYPICAL BPA PROJECT LEAD TIME*



Appendix D

NOTE: SEE NEXT PAGE FOR DEFINITION OF TERMS

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* THESE SCHEDULES CAN BE SHORTENED CONSIDERABLY IF THE FOLLOWING CONDITIONS EXIST. EMERGENCY NEED, NO ENVIRONMENTAL WORK REQUIRED, AVAILABLE FUNDS, AND/OR AVAILABLE TRANSFORMER FROM SYSTEM.

BPA Project Lead Time Definitions

Project Preparation

Joint development between the customer and BPA Area to produce a proposed plan-of-service. The time involved depends on the complexity of the service problem.

Review and Approval

Review of the proposal and approval for inclusion into the Construction Program.

Budgeting

Congressional approval of funds including processing the CBPA (Construction Budget Project Authorization), CPA (Construction Project Authorization), and work order; preliminary project design work; division of responsibilities letter agreement shall be negotiated and executed prior to CPA.

Material Acquisition and Design

Material ordering, project design, land acquisition, and surveying.

Construction

Construction, testing, and energization.

Environmental Review

EA (Environmental Assessment) 6–8 mo., EIS (Environmental Impact Statement) 1½–2 years; the type of document needed depends on the nature of the project and the potential impacts. This process should begin during the initial project stages in order to assure completion prior to material acquisition and design.

Appendix E

Guidelines for Joint Development of Distribution Substations

The following guidelines will apply to joint development of distribution substations. These guidelines are intended to reflect the normal situation; however, deviations may be required for specific projects.

Project Planning and Approval

When initial agreement on a plan-of-service is reached, the Letter of Intent will be written and approved. After the project diagram is finalized and substation site is selected and specific details are identified, such as equipment location and orientation, they will be documented in a Division of Responsibilities Letter Agreement between the Area Manager or District Manager and the customer(s). Changes in the plan-of-service or station layout after the Letter Agreement (Appendix F) which add additional cost to the project or result in additional design or material will be paid for by the party requisting the change if the change is not mutually beneficial. Requests for changes should be doucmented and referenced to the Letter Agreement

Design and Construction

BPA will normally provide the substation site and all high-side equipment including the step-down transformer. The customer will normally provide all low-side equipment with the exception of metering equipment including CTs and PTs. The following division of responsibility will normally apply, but will not preclude other arrangements for new joint distribution substations.

BPA normally will:

1. Perform necessary environmental review and documentation, with assistance from customer (see Appendix D).
2. Acquire the entire substation site.
3. Design and construct the substation entrance/access road and parking area.
4. Design, subgrade, and rock the entire substation electrical yard including the customer's portion of the yard.
5. Design and install the ground mat for the BPA and customer portions of the substation including the perimeter ground mat and fence around the entire substation yard.
6. Design and provide BPA revenue and indicating metering and instrument transformers to be mounted on PBA structure.
7. Design, provide, and install BPA high-side equipment including footings, structures, switches, high-side protective devices, power transformers, required oil spill containment, station service, a meter house and other associated equipment.
8. Participate in appearance improvements with customer where appropriate.
9. Prepare preliminary plot plan for mutual concurrence. The Customer normally will:
1. Design and install low-side switchyard equipment including footings, structures, switches, protective devices, regulators, connections to BPA's oil spill containment system, and other associated equipment.
2. Provide footing layout for ground mat design and installation by BPA.
3. Design and install distribution feeders emanating from the substation.
4. Provide necessary information to BPA to prepare preliminary plot plan.
5. Concur with preliminary plot proposed by BPA.
6. Participate in appearance improvements with BPA where appropriate.

The intent is to negotiate a joint development arrangement with customer(s) which will be of mutual benefit to each and if possible, eliminate the need for any monetary exchanges between parties. If monetary exchange is required, either BPA Agreement Form 1398 (under $50,000) or Trust Agreement will be used. Negotiations for electrical, civil, and mechanical development of joint substations will be accomplished to ensure timely initiation and completion of the substation design.

Installation, Relocation, and Removal of BPA and Customer's Equipment

BPA or customer-owned equipment shall be installed, removed, or relocated at the expense of the owner of the equipment, with the following exception. If one party requires modifications that cause the other party's equipment to be relocated, the party requiring the modifications shall pay the relocation costs.

To avoid conflict with future revisions or expansion of facilities, equipment will be located to minimize the need for relocation. To the extent possible, responsibilities for future revisions of BPA and customer facilities should be identified in the letter of intent or subsequent letter agreements.

Operation and Maintenance

Operation and maintenance of customer-owned and BPA facilities located in the customers allocated portion of distribution substations will ordinarily be performed by the customer unless other circumstances warrant that BPA do all or part of this work. In some situations, the customer may be required to perform emergency or routine maintenance of the BPA equipment. Arrangements may also be made with customers to take on a shared responsibility with BPA for non-electric plant maintenance of jointly occupied substation sites. A one line diagram, plan and elevation views of a typical distribution substation are attached.

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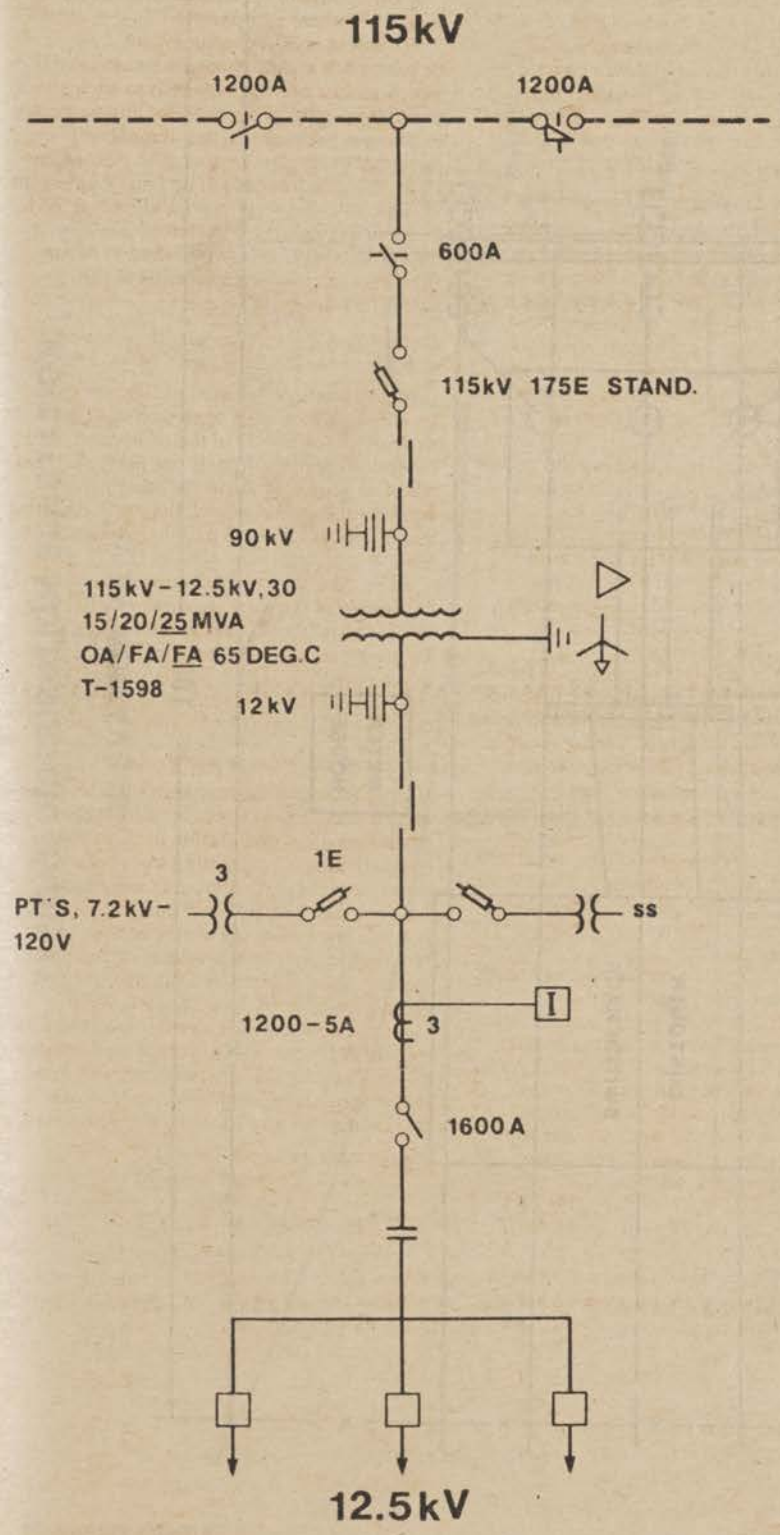
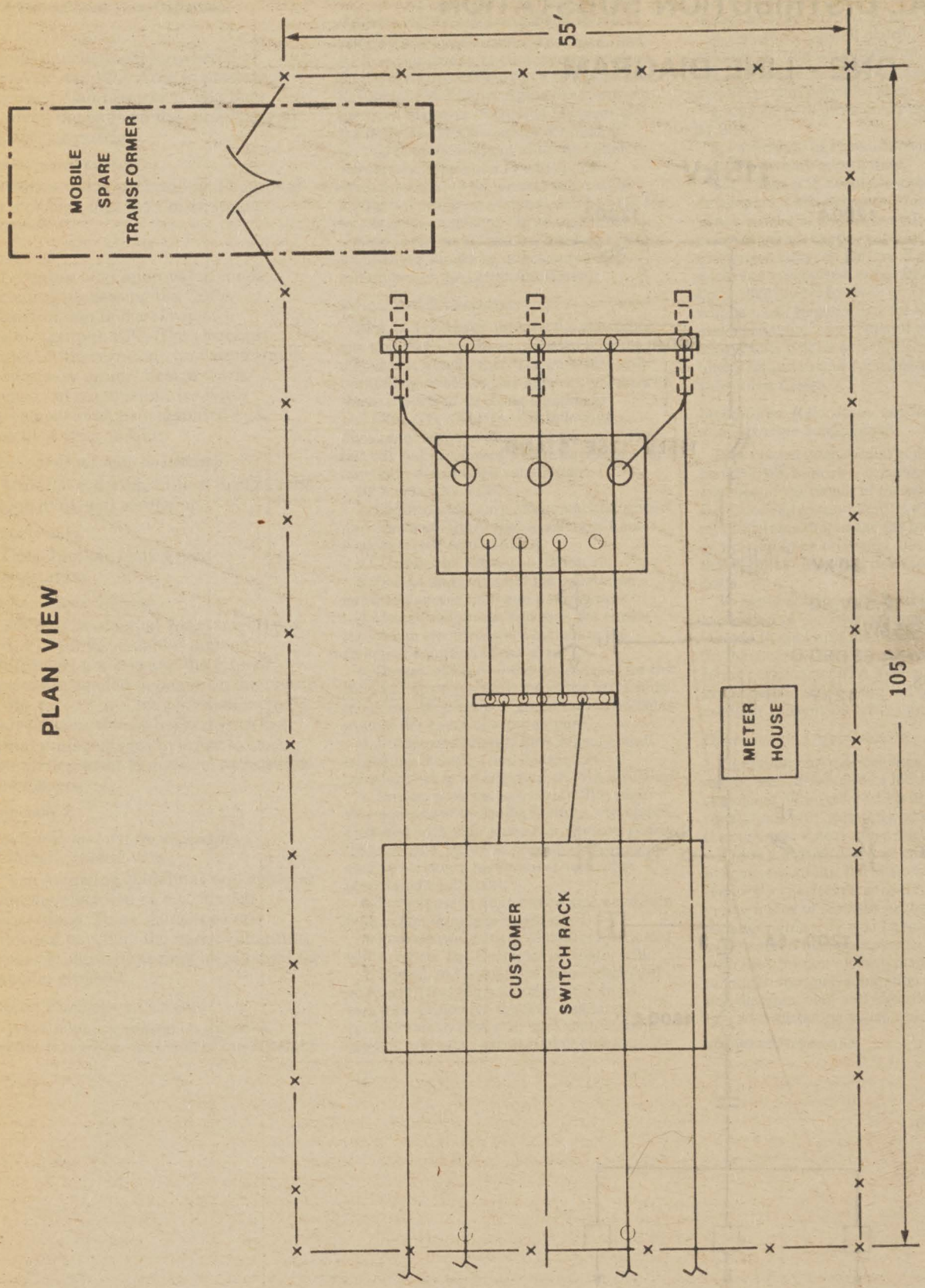
TYPICAL DISTRIBUTION SUBSTATION

ONE - LINE DIAGRAM



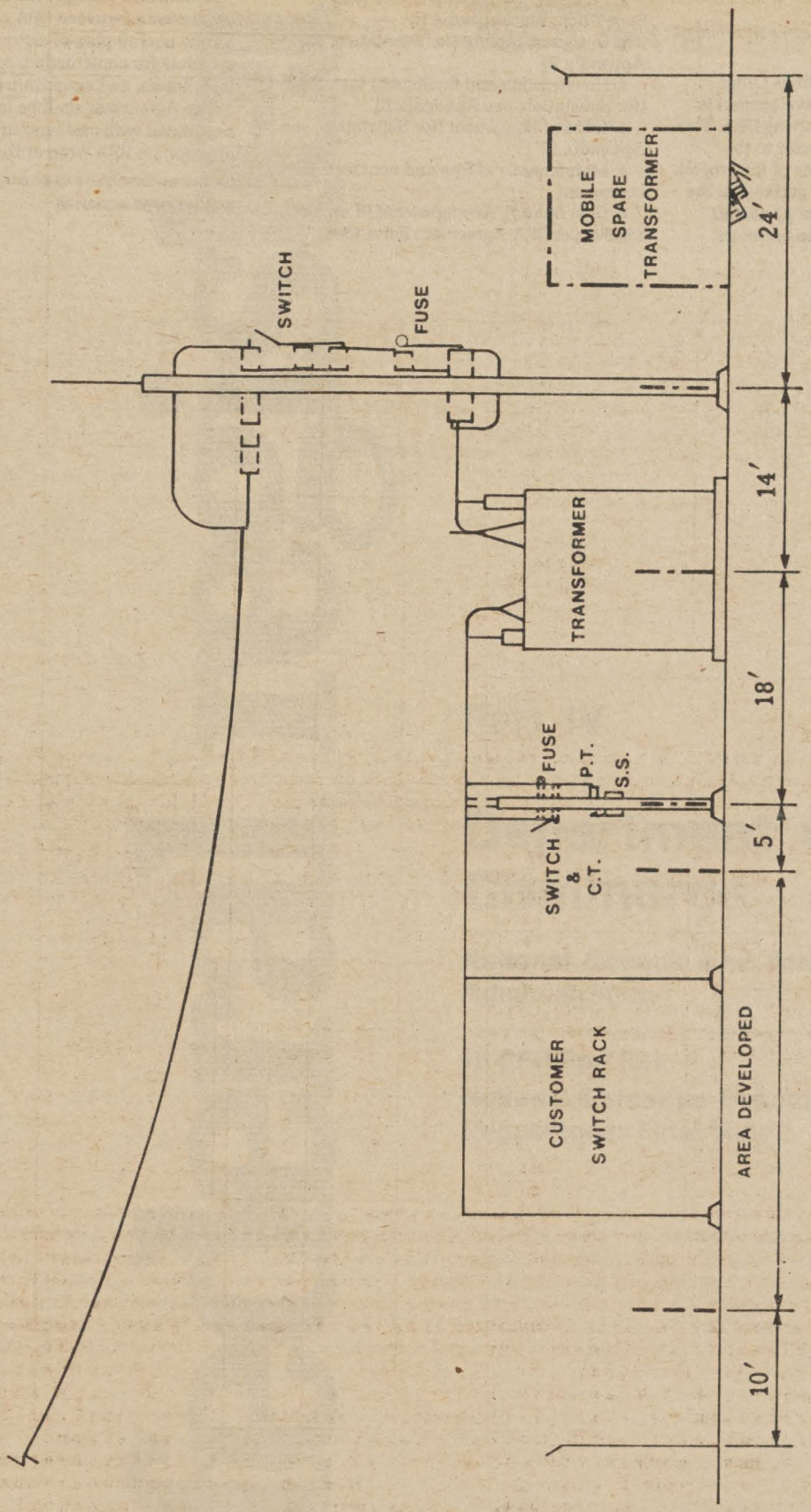
TYPICAL DISTRIBUTION SUBSTATION

PLAN VIEW



TYPICAL DISTRIBUTION SUBSTATION

ELEVATION VIEW



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Appendix F

Division of Responsibilities Letter Agreement Joint Facility Development

The Division of Responsibilities Letter Agreement for joint facility development is necessary for all projects involving BPA. This Agreement will be executed prior to the design and construction phases of the project. The following items are to be outlined in the Agreement, and will define the particular responsibilities of BPA and the customer.

1. Purchase/Ownership of Site (for Substation, see Appendix E)
2. Design of Facility (for Substation, see Appendix E)
3. Construction and Equipment Installation (for Substation, see Appendix E)
4. O&M of Equipment (for Substation, see Appendix E)
5. Maintenance of Site and nonelectric equipment
6. Cost Sharing Arrangements (if under $50,000 per BPA Agreement Form 1398).

In addition, the Agreement shall show concurrence between BPA and the customer for the overall plan-of-service and the schedule for construction, equipment installation, and energization.

The Agreement shall be initiated and negotiated with customer utilities by the appropriate BPA Area or District office.

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federal register

Wednesday
June 27, 1984

Part IV

Department of Commerce

National Oceanic and Atmospheric Administration

15 CFR Part 921

National Estuarine Sanctuary Program Regulations; Final Rule

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 921

[Docket No. 40315-30]

National Estuarine Sanctuary Program Regulations

AGENCY: Office of Ocean and Coastal Resource Management (OCRM), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: These final regulations revise existing procedures for selecting and designating national estuarine sanctuaries and provide guidance for their long-term management. Site identification and selection is to be based on a revised biogeographic classification scheme and typology of estuarine areas. The regulations place a greater emphasis on management planning by individual states early in the process of evaluating a potential site. The regulations reflect a progression from the initial identification of a site, through the designation process, and continued management of the sanctuary by the state after Federal financial assistance has ended. The regulations provide for regular programmatic evaluations of sanctuary performance. Clarifications in the financial assistance application and award process have also been made.

EFFECTIVE DATE: These regulations are effective Friday, October 5, 1984. This delayed effective date will allow sufficient time for the Congress to enact legislation pertaining to the conduct of the National Estuarine Sanctuary Program if it chooses to do so. If necessary, the effective date of these regulations will be postponed, and a notice thereof published in the **Federal Register**, in compliance with the notice provisions contained in section 12 of the Coastal Zone Management Act, 16 U.S.C. 1463a.

FOR FURTHER INFORMATION CONTACT: Dr. Nancy Foster, Chief, Sanctuary Programs Division, Office of Ocean and Coastal Resource Management, NOAA/NOS, 3300 Whitehaven St., NW., Washington, D.C. 20235, (202) 634-4236.

SUPPLEMENTARY INFORMATION:

I. Authority

This notice of final rulemaking is issued under the authority of Section 315(1) of the Coastal Zone Management Act, 16 U.S.C. 1461(1). The National Estuarine Sanctuary Program has been operating under guidelines published June 4, 1974 (39 FR 19922) and proposed regulations published September 9, 1977 (42 FR 45522).

II. General Background

On August 3, 1983 (48 FR 35120), NOAA published proposed regulations for continued inplementation of the National Esturine Sanctuary Program pursuant to Section 315 of the Coastal Zone Management Act, 16 U.S.C. 1461, (the Act). Written comments on the proposed regulations were accepted until October 3, 1983. These comments have been considered in preparing these final regulations. A summary of significant comments on the proposed regulations and NOAA's responses are presented below.

The final regulations establish the Program's Mission and Goals and revise the procedures for selecting, designating, and operating national estuarine sanctuaries.

III. Refinements to the Regulations for the National Estuarine Sanctuary Program

Based on experience in operating the Program and comments on the proposed regulations, a number of refinements in operational procedure and policy have been designed. The final regulations implement these refinements, which include:

A. Defining the Mission and Goals of the Program

The Mission Statement and Goals for the continued implementation of the National Estuarine Sanctuary Program stress the importance of designating estuarine area, through Federal-state cooperative efforts, for long-term research and educational benefits. Though broad in scope, they establish a framework within which specific Program activities are conducted. The Mission Statement and Goals are adopted by the final regulations (§ 921.1).

B. Revision of the Procedures for Selecting, Designating and Operating Estuarine Sanctuaries

(1) Revision of the Biogeographic Classification Scheme and Proposed Estuarine Typologies

The 1974 guidelines identified 11 biogeographic regions from which representative sites throughout the coastal waters of the United States would be chosen. Section 921.4(b) of the 1974 guidelines provided that "various sub-categories will be developed and utilized as appropriate."

In 1981, a study was undertaken to assess the original biogeographic classification scheme and make recommendations, as necessary. A system with 27 subcategories was proposed. The subcategories fit within the original scheme and further define the coastal areas to assure adequate sanctuary representation (Clark. *Assessing the National Estuarine Sanctuary Program: Action Summary*, March 1982, cited as *The Clark Report*).

The Clark Report also recommends consideration of an estuarine typology in evaluating and selecting sites. The typology system recognizes that there are significant differences in estuary characteristics not related to regional location. Such factors include water source, water depth, type of circulation, inlet dynamics, basin configuration, watershed type, and dominant ecological community.

The final regulations adopt the revised biogeographic classification scheme and the recommendation to consider typology in site selection (see § 921.3).

(2) Site Designation

Eligible states may apply for preacquisition awards to aid in selecting an estuarine site in conformity with the classification scheme and typology system. A description of the site selection process to be carried out by the state, including a provision for public participation in the process, must be submitted for NOAA's approval. This ensures that the procedures for the site selection process are planned prior to implementing the selection process and approval of the preacquisition award. Figure 1 depicts the entire designation process.

After selection of a site, a draft management plan is prepared. Requiring the development of a comprehensive draft management plan in the preacquisition phase is designed to guarantee that early in the estuarine sanctuary designation process the state considers management policies, an acquisition and construction plan (including schedules and priorities), staffing requirements, a research component, interpretive and education plans, future funding and other resource requirements, and alternatives. Draft and final environmental impact statements (EIS) are prepared analyzing the environmental and socioeconomic

impacts of establishing a sanctuary and implementing the draft management plan. The EIS is prepared in accordance with National Environmental Policy Act (NEPA) procedures, including provisions for public comment and hearings.

Following NOAA approval of the draft management plan and the final EIS, the site enters an initial acquisition and development phase. The state is then eligible for an initial acquisition and development award. During this phase, award funds may be used to purchase land, construct minor facilities (subject to pre-designation construction policies, see § 921.21), prepare the final management plan, and initiate onsite research and education programs. All of these tasks are to be carried out in conformance with the NOAA-approved draft management plan.

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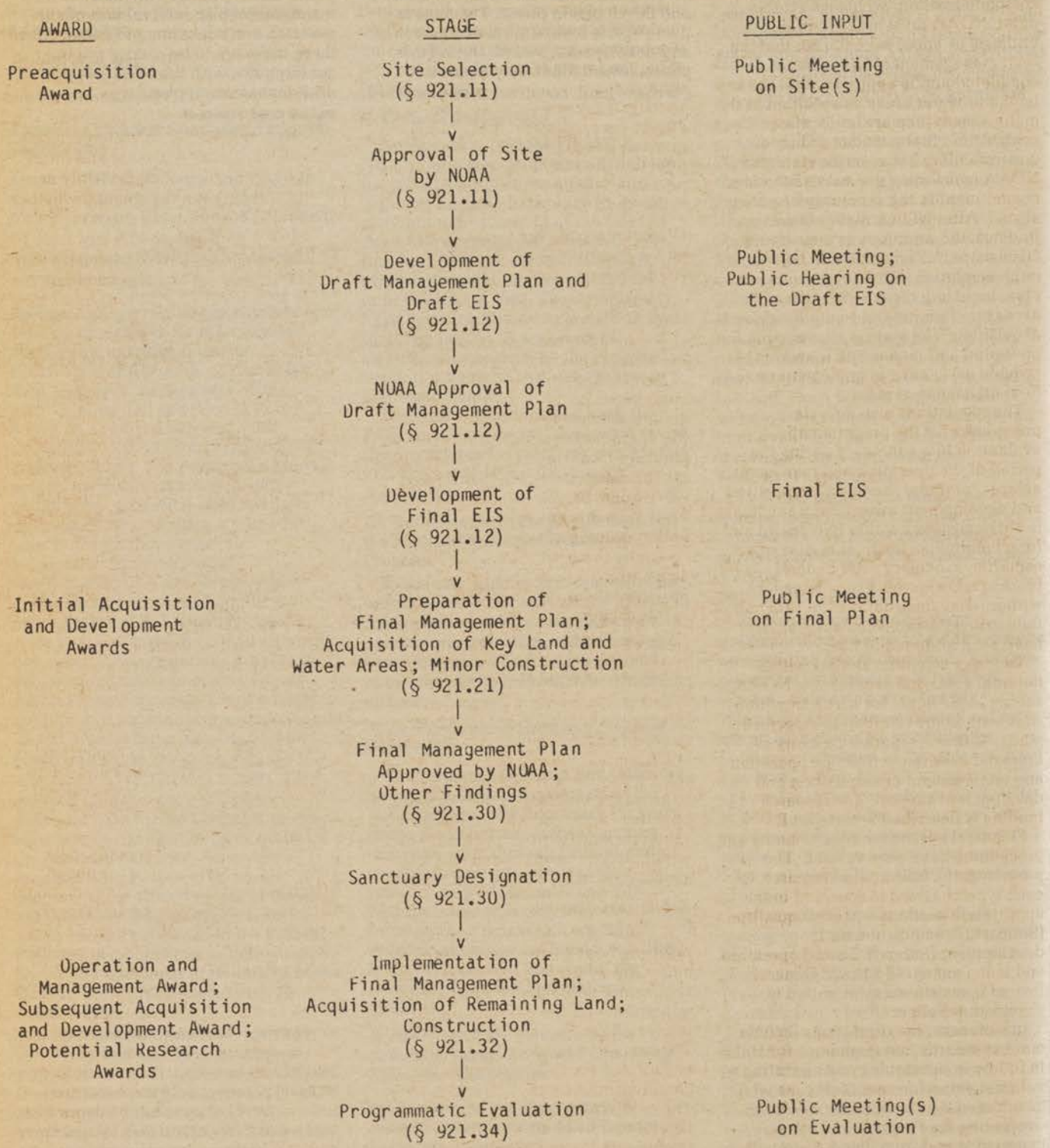
Figure 1. National Estuarine Sanctuary Program Designation Process



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The task under the intial acquisition and development phase should be completed within two years. At this point, NOAA must make formal findings, as specified § 921.30, that the final management plan has been completed and is approved, that the key land and water areas as specified in the management plan are under state control, and that a memorandum of understanding between the state and NOAA concerning the state's long-term commitment to the sanctuary has been signed. After NOAA makes these findings, the sanctuary is considered "designated". The state than begins implementation of the final management plan, including the construction of necessary facilities and additional land acquisition. The state is also eligible for operation and management awards to provide assistance in implementing the final management plan.

The regulations also provide procedures for the programmatic evaluation of a sanctuary during the period of the operation and management awards (or under the initial acquisition and development award if the sanctuary is not designated within two years) and for a continuing, biennial review of an estuarine sanctuary after Federal funding has expired. Procedures for withdrawing designation, if a sanctuary fails to meet established standards, have been added (§ 921.35).

To foster scientific studies within national estuarine sanctuaries, NOAA is setting aside funds for research within sites with approved final management plans. This is a separate category of financial assistance from the operation and management or acquisition and development support. The research funding is described in Subpart E.

Financial assistance requirements and procedures have been revised. The programmatic information required for each type of award is specified in the appropriate sections—in preacquisition (Subpart B); acquisition and development (Subpart C); and operation and management (§ 921.32). General financial assistance information is provided in Subpart F.

In summary, the regulations include more standards and guidelines for states to follow in developing and operating a national estuarine saanctuary, as well as additional guidelines for NOAA in overseeing the Program. Based on experience and from discussions with several states with estuarine sanctuaries, NOAA has found that the previous lack of guidance raised many concerns about what an estuarine sanctuary should be, the state's role in developing and operating a sanctuary, and how decisions should be made. The regulations ensure that a state will have adequate flexibility in long-term operation of an estuarine sanctuary to deal with changing circumstances. The regulations require more information about the sanctuary, particularly through the development of a site-specific management plan, prior to each step in the funding process. In this manner, it is expected that decisions affecting the sanctuary and management priorities will be planned for in advance, rather than in an *ad hoc* fashion.

IV. Summary of Significant Comments on the Proposed Regulations and NOAA's Responses

Comments were received from 17 sources. Commenters included Federal and state agencies, representatives of the oil and gas industry, representatives of the electric utility industry, and environmental and public interest groups. All comments received are on file at the Sanctuary Programs Division, Office of Ocean and Coastal Resource Management, 2001 Wisconsin Avenue, NW., Room 334 Washington, D.C. 20235. The comments are available for review at that office. Each of the major issues raised by the commenters has been summarized and NOAA's response provided under the relevant subheading in this section.

General

Impact on Existing Sanctuaries

One commenter suggested that the final regulations indicate the impact of the changes on existing sanctuaries.

Response: The changes in procedure reflected in these regulations will improve the Program's operation and the effective implementation of national estuarine sanctuaries over time. They will therefore be applied to existing sanctuaries to the degree practicable.

Public Participation

Because of the potential impacts resulting from an area being designated as a national estuarine sanctuary, one commenter noted that the maximum opportunity for the participation of interested persons should be provided. The commenter encouraged NOAA to ensure that states comply with the conditions of §§ 921.11(d) and 921.12(d). The commenter recommended that a careful review of all established and potential industrial activities be undertaken to ensure a well-balanced decision on the site's suitability for designation as a national estuarine sanctuary.

Response: NOAA agrees with the comment on the importance of public participation. Public participation efforts by the states, in conjunction with NOAA, are mandated by these regulations as an integral part of site selection, designation, and management.

The Program's purpose is to establish selected estuarine areas as sanctuaries to serve as natural field laboratories and provide opportunities for long-term research, education, and interpretation. Because of this, the present and future uses of such an area are certainly an important factor in considering whether it should be a national estuarine sanctuary.

It is also important to emphasize that the Program does not involve broad scale regulation on land uses apart from that already undertaken by the state or proposed by the state under its own applicable authorities. Multiple use of national estuarine sanctuaries is encouraged (see § 921.1(d)). Resource protection is, however, the highest priority goal of the National Estuarine Sanctuary Program and uses must be compatible with long-term resource protection. Within national estuarine sanctuaries, states may impose certain regulatory controls to ensure the continued protection of sanctuary resources. Areas proposed for designation are evaluated through the EIS process with opportunities for public comment.

Section-by-Section Analysis

Subpart A—General

Section 921.1—Mission and Goals.

(1) Several commenters supported the Program Mission and Goals and found them to be a substantial improvement over the 1974 guidelines and 1977 proposed regulations.

Response: The Mission and Goals were established to guide continued effective implementation of the National Estuarine Sanctuary Program. Program experience over the past several years led to the development of refinements designed to improve the original guidelines.

The concept of a national estuarine sanctuary does not easily merge with that of existing natural resource protection programs, such as wildlife refuges or parks. National estuarine sanctuaries are designed to ensure protection of a natural habitat unit in which long-term research and educational projects can be focused. A primary aim of these research and education projects is to provide information to states that is useful for decisionmaking concerning the development or protection of its coast and associated resources.

National estuarine sanctuaries are not established primarily for recreational pursuits, although compatible uses are encouraged. Sanctuaries are also not intended solely to enhance habitat for a single species by modification of the natural character of the estuarine system.

The final regulations, including the Mission and Goals, are designed to clarify the definition and function of a national estuarine sanctuary.

(2) Another commenter, however, suggested that the section on Mission and Goals, which replaced the "Policy and Objectives" section of the 1974 guidelines, expands the scope of the Program in ways not originally intended. The commenter suggested that Goal 2 (concerning research) was adequate, and that the other three should be deleted. The commenter suggested that the first goal, concerning long-term management planning, should be left to the National Marine Sanctuary Program or state coastal zone programs. The commenter further suggested that the third goal, involving enhancement of public awareness through interpretation, should also be dropped even though it was recognized that such interpretive efforts often stem from scientific research. Finally, the commenter suggested that the fourth goal, involving stimulating Federal-state cooperation to promote the management of estuarine areas, should be dropped since it allegedly provides the Federal government with more authority than needed. The commenter supports this view by citing legislative history to assert that the Act "authorizes Federal grants-in-aid, but makes no attempt to diminish State authority through Federal preemption."

The same commenter generally questions the need for the National Estuarine Sanctuary Program and need for revisions to the existing program. The commenter encouraged NOAA to examine the legal and scientific bases for the estuarine sanctuary program and to ensure that the regulations conform to the intended goals of the Coastal Zone Management Act.

Response: The Mission and Goals described in Section 921.1 are in no way an expansion of the Program. Rather they reflect the legislative history and a synthesis of the Program's past experience and need for basic policy guidance. Goals 2 and 3 are both valid; since both education and interpretive efforts are natural outgrowths of science. The first goal, involving management planning, represents a logical mechanism for achieving Program purposes with maximum utility and a minimum amount of waste. NOAA disagrees with the commenter on Goal 4. The purpose of the goal is to ensure the protection of selected estuarine areas. Federal/state cooperative efforts to ensure such protection are emphasized; the Federal role encompasses more then grants-in-aid, but includes continuing evaluation and coordination of research and education to ensure that the sites remain as natural field laboratories consistent with the legislative intent.

NOAA has based these revised regulations on the Act and its legislative history. Through experience with the Program, NOAA has made certain refinements to the process. In fact, by explicitly providing for Section 312 evaluations (as required by the Coastal Zone Management Act) as seeking to coordinate research and education from the national level, the Program has made significant strides to fulfill the Congressional intent (see §§ 921.1(c) and 921.34).

(3) One reviewer felt that the idea of coordinating research and education information expressed in § 921.1(c) was a good idea, but should be carefully thought out and developed in coordination with individual states.

Response: NOAA is now in the process of developing a detailed plan for coordinating research and education. Comments from states and other interested groups are being actively solicited in preparing this plan.

(4) Several commenters strongly supported the concept in § 921.1(d) of encouraging multiple use of estuarine sanctuaries. One of the same commenters also supported the statement in Section 921.11(c)(5) that the site selection process consider "the site's compatibility with existing and potential land and water use in contiguous areas."

Response: NOAA is strongly committed to the concept of multiple use in estuarine sanctuaries as long as the purposes for which the sanctuary is established are maintained. Therefore it is important that site selection efforts closely analyze existing and potential uses of the area and adjacent areas.

Section 921.3—Biogeographic Classification Scheme. (1) One state requested that the goal of one site per region be revised to allow for more sites per region based on the estuarine typology system. The commenter noted that only by including several sites per region could all significant national variation be included. The commenter suggested that outright acquisition was not always necessary. The alternative suggested was to incorporate into the National Estuarine Sanctuary Program those sites, as appropriate, that are owned by a state or conservation group. In this way actual ownership would not be as important as the site's value to the Program.

Response: NOAA believes that the inclusion of representatives of all national estuarine variations would be impracticable from a management perspective. It should be noted that control of estuarine land and water areas is only one facet in sanctuary designation. Properties already owned by the state or a conservation group may not comprise a natural unit or have the research and educational foundation required by the Program. Such areas are already in a protected status and are available for research and educational purposes, along with those regional representatives comprising the National Estuarine Sanctuary system. Adding these sites to the Program may not serve beneficial purposes. Thus, while the biogeographic classification scheme sets the initial parameters within which detailed site selecion and analysis is focused, it should not be considered alone. Many other factors must be considered.

Within regions without an estuarine sanctuary, however, the non-acquisition alternatives suggested by the commenter will be utilized to the greatest degree possible.

(3) Another commenter was concerned that implementation of the biogeographic classification scheme on the basis of one site per region would lead to too many estuarine sanctuaries.

Response: As detailed in *The Clark Report*, the classification scheme and estuarine typology are designed to provide the Program with an array of sanctuaries broadly reflective of our Nation's estuarine zones. Only with this diversity of sites can the Program produce beneficial research and educational projects useful in coastal decisionmaking. There are presently 14 biogeographic regions represented in the system.

(4) Another commenter stated that by including 27 regions, and providing for one site per region, NOAA has extened the Program in an unwarranted manner. The commenter recommended instead that NOAA use the classification scheme in the Program Development Plan for the National Marine Sanctuary Program which relied on eight regions.

Response: Estuarine sanctuaries, in order to be beneficial for long-term research and educational purposes, should reflect the Nation's coastal areas. The biogeographic classification scheme and estuarine typologies were developed from this premise as demonstrated in *The Clark Report*. In

identifying sites for potential marine sanctuary status, eight regions were used, but for administrative purposes rather than representativeness. On top of this scheme, a detailed marine classification scheme, developed solely for marine areas and illustrative of the Nation's oceans, was applied. As a result of this process, twenty-nine sites were selected by NOAA for placement on the Site Evaluation List (see 48 FR 35568 (1983)).

Section 921.4(b)—Coordination With the National Marine Sanctuary Program. One commenter was concerned about the possible duplication of time and effort if an area is established as an estuarine sanctuary and a marine sanctuary. The commenter requested that NOAA address the possibility of a dual designation and means by which both programs could coexist without generating serious problems.

Response: Section 921.4(b) is intended only to ensure that the National Estuarine Sanctuary Program and National Marine Sanctuary Program work closely together; this is particularly true in terms of management planning, research projects, and education/interpretive activities. It is also important to note that the Programs are not duplicative and could serve complementary purposes. The regulations have been clarified to provide that the boundaries of the national marine and estuarine sanctuaries would not overlap, even though they may be adjacent (similar to the case where a National Wildlife Refuge abuts a National Park).

Subpart B—Preacquisition: Site Selection and Management Plan Development

Section 921.10—General. (1) One state suggested that the $50,000 Federal share was not enough to accomplish the goals of the preacquisition award (e.g., site selection and draft managment plan development) and recommended that a small sum be set aside for site selection, and that other funds to prepare the draft plan be negotiated between the state and the Federal government based on the proposed sanctuary's complexity.

Response: Based on past experience, the $50,000 Federal funding level, supplemented by state match, is adequate for site selection and draft plan development. Additional funds to complete the final plan are available under the acquisition and development award (see § 921.21).

(2) One commenter suggested that specific reference to the need for Federal agency coordination be included in Subpart B. Such coordination could appropriately occur during the EIS process, but the commenter suggested that states may wish to involve Federal agencies with special expertise earlier during the site selection process.

Response: The regulations require that states seek the views of Federal agencies as well as other parties early in the site selection process (see §§ 921.11(d) and 921.12(a)(3)). Federal agencies will also be actively involved in the management planning process and EIS development (see § 921.12 (d) and (e)).

Section 921.11—Site Selection. (1) Several states suggested that the regulations address multiple-site national estuarine sanctuaries.

Response: Section 921.10(b) has been revised to specifically reference multiple-site systems within the National Estuarine Sanctuary Program.

(2) One commenter urged early and frequent public involvement in the designation and management of national estuarine sanctuaries. It was suggested that where the proposed regulations limit notice to the local media (for example in § 921.11(d) concerning preliminary site selection), notice should also be made in the **Federal Register** since not all parties interested in the proposed designation live in the adjacent area and the Program has a broad national interest.

Response: This change has been made (see § 921.11(d)).

Section 921.12—Management Plan Development. (1) One state noted that § 921.12(b), concerning management plan development, should include a description of the sanctuary administrative structure as a required plan component. It was suggested that the plan should at least outline the staff's roles for research, education/interpretation, and enforcement.

Response: NOAA agrees and language to this effect has been added at § 921.12(b)(2).

(2) One state suggested that an environmental impact statement not be required in all cases. Rather, in less complex situations, the flexibility to prepare an environmental assessment should be left open.

Response: NOAA disagrees. Based on experience with the program, an environmental assessment is not an adequate mechanism to fully consider the environmental and socioeconomic impacts of a proposed national estuarine sanctuary, particularly where a management program is being proposed. Further, it does not provide for the extensive public review required through the NEPA process. We believe that designation of any site qualifies as a significant Federal action for the purposes of the NEPA EIS requirement.

(3) One commenter noted that since resource protection is a primary program goal, the regulations should specify that the plan detail responsibilities for surveillance and enforcement of human activities.

Response: NOAA agrees and the regulations (at § 921.12(b)(8)) have been revised to require that responsibilities for surveillance and enforcement be detailed in the management plan.

(4) One commenter questioned the usefulness of the NOAA-state memorandum of understanding (MOU), which is required as part of the management plan (see § 921.12 (a)(5) and (b)(10)). The commenter suggested that the MOU could not be considered legally binding on future legislatures.

Response: The MOU emphasizes the significance of establishing an estuarine sanctuary and recognition by the state and Federal government of the long-term commitment to management of the area in accordance with the agreed-upon goals and objectives. The MOU spells out, at the beginning of the process, the roles of the Federal and state governments, and what is expected of each party. It will clearly indicate that each party is aware of its commitment and responsibilities at the beginning of the process. The MOU emphasizes that lands acquired under the National Estuarine Sanctuary Program must continue to be used in a manner consistent with sanctuary purposes.

(5) Several states approved requiring the management plan early in the process as a guide to future decisions before the expenditure of substantial funds. Other commenters, however, expressed concern that requiring the preparation of a draft management plan prior to any commitment to the site from NOAA could lead to the waste of extensive staff time, public participation, and resources.

Response: These regulations are predicated upon ten years of experience in administering the National Estuarine Sanctuary Program. The regulations are intended to rectify many of the problems that have occurred in specific sanctuaries in the past. Many of these problems could have been foreseen and overcome by thoughtful, pre-sanctuary planning. Thus, NOAA is strongly supportive of developing a management plan early in the decision process. The concern that NOAA is not committed to the state during the draft management plan process is unwarranted given the procedures specified in the regulations. NOAA's financial commitment begins with the preacquisition award for site

selection and continues through all the developmental stages. NOAA may support up to one-half of the total costs of establishing a particular sanctuary. NOAA's programmatic commitment to a proposed sanctuary begins with approval of a site and continues through the management plan review and preparation of the EIS. If the sanctuary proposal is approved, and if the requirements of the preacquisition phase are met, NOAA will proceed with establishing the site as a national estuarine sanctuary.

Decision points early in the process provide opportunities for either party to withdraw before too much time and effort have been committed.

(6) In terms of § 921.12(b)(7), one commenter suggested that the schedule for acquisition, required as part of the management plan, was useful as a guide, but not as a rigid planning document.

Response: NOAA views the acquisition strategy as a flexible planning tool. It does, however, identify key areas where acquisition should be focused and acquisition priorities developed. The strategy will also contain alternatives (including boundary changes) if selected priority areas eventually cannot be acquired.

(7) One commenter suggested that the requirements for the draft management plan should reference three additional elements, all of which were included in the 1974 guidelines: (1) Definitions of permitted, compatible, restricted and prohibited uses; (2) a monitoring plan to ensure that the integrity of the sanctuary is maintained; and (3) a description of the authorities which will be put in place to manage the Sanctuary and enforce the policy and use restrictions.

Response: A resource protection plan requirement has been added (see § 921.12(b)(8)) which encompasses elements (1) and (3). A monitoring plan should be included as part of the research plan (see § 921.12(b)(3)).

Subpart C—Development and Preparation of the Final Management Plan

Section 921.21—Initial Acquisition and Development Awards. (1) One state noted that the limit of 5 percent of the initial acquisition and development awards which may be expended on minor construction activities which aid in implementing portions of the management plan may not be adequate for multiple-site systems.

Response: After careful consideration, NOAA has determined that necessary construction can be planned for and included as part of the initial award. The intent of this restriction is to limit large capital expenditures until a final plan is prepared and substantial progress in land acquisition has been made.

Section 921.32—Operation and Management: Implementation of the Management Plan. (1) One state suggested the $250,000 cap on federal funding for operation and management in Section 921.32(b) should be modified to provide for additional funds based on need.

Response: The Program is designed to assist states in establishing estuarine sanctuaries. Funds are provided for an initial period of implemenatation; thereafter the states must assume responsibility for continued operation.

Section 921.33—Boundary Changes and Amendments to the Management Plan. (1) Several states requested that this section be modified to apply only to laws specifically applicable to the sanctuary, and not general environmental quality laws such as for air and water.

Response: Section 921.33 has been clarified to reflect this point.

(2) One commenter recommended that public notice and opportunity to comment be provided in all cases where boundaries are changed or management plans are amended under § 921.33.

Response: The proposed regulations provide that if NOAA determines it is necessary, public notice and an opportunity for comment on boundary changes and changes to the final management plan will be provided. Major changes do require public notice and opportunity for comment and, in certain cases, preparation of an environmental assessment. Thus, the clear intent of these regulations is to provide for public notice where applicable. There may, however, be times where changes to the management plan are minor and will not require such notice.

Section 921.34—Program Evaluation. (1) One commenter specifically questioned the value of Section 312-type evaluations of sanctuary performance; the commenter stated that performance reports, which are required as a condition of the financial award, are adequate for NOAA's purposes.

Response: Performance reports are of course helpful. But such reports do not address the specific range and depth of issues needed to assess the effectiveness of sanctuary operation and opportunities for improvement. In addition during an evaluation, individuals or groups that are, or should be, involved in sanctuary management or are affected by the sanctuary are contacted. This provides NOAA with valuable feedback that is necessary to gauge the effectiveness of the sanctuary's program.

(2) The same commenter as in (1) also questioned the value of a program evaluation after Federal funding expires.

Response: The required evaluations will ensure that sanctuary objectives, as specified in the management plan, are still being attained and that proposed boundary changes and amendments to the management plan can be reviewed. The evaluations will ensure that the purposes for which the sanctuary was established continue to be met and that the site meets the criteria of the national system.

After Federal funding expires, the state is required to submit an annual report on the sanctuary. The report will detail program successes and accomplishments in implementing the policies and activities described in the sanctuary management plan. The report also should propose a work plan for the next year of sanctuary operations and describe the state's role in ongoing sanctuary programs. Inadequate annual reports will trigger a full-scale evaluation with a site-visit. In addition, on a periodic basis, NOAA will also conduct a full-scale Section 312 evaluation with a site visit.

Section 921.35—Withdrawal of Designation. (1) Several reviewers suggested that the section on the withdrawal of designation be modified to allow the applicable state to participate in decisions regarding the disposition of property.

Response: The state will of course be consulted by NOAA in any decision regarding property disposition, which will be carried out according to Attachment N of OMB Circular A–102, Revised, and these regulations.

(2) Several reviewers questioned, in the event of withdrawal of sanctuary designation, the method of disposal for property held in less-than-fee simple or controlled by a lease.

Response: Section 921.21(e) [which was § 921.35(e) in the proposed regulations] would be followed to the extent it applies. Leasehold and other real property interests purchased in whole or in part with Federal funds are subject to the provisions of Attachment N, OMB Circular A–102, Revised.

(3) Another state requested that the deed language be rewritten so that a state would be "entitled to retain title to property which the state determines is no longer needed for grant purposes, so long as the property is used for other purposes approved by NOAA as being consistent with the sanctuary program."

Response: When property purchased in fee simple or less-than-fee simple is

no longer used for the purposes of the National Estuarine Sanctuary Program, NOAA is required to dispose of the property according to the provisions of Attachment N, OMB Circular A–102, Revised. These provisions are essentially the same as stated in § 921.21 (e) of the final regulations.

(4) One commenter suggested that specific criteria and an appeals procedure (including public notice of the proposed withdrawal of designation) be added to the regulations.

Response: As specified in §§ 921.34 and 921.35, NOAA's continuing evaluation of sanctuary performance will examine the state's performance in upholding the mandate of Section 315 of the Act, the national Program goals, and the policies established in the management plan. Specific criteria to judge these factors cannot be enumerated, but will be examined on a case-by-case basis. Section 921.35 spells out a procedure for withdrawal of designation, including an appeal to the Assistant Administrator for Ocean Services and Coastal Zone Management.

(5) One state questioned who would decide the "current fair market value" of lands slated for withdrawal of designation in § 921.35(e)(i) [now § 921.21(e)(i)]. It was recommended that an arbitration system of three independent appraisers or comparable system be established.

Response: Fair market value would be determined by an independent appraiser (e.g., certified real property appraiser or GSA representatives) and certified by a responsible official of the state, as provided by Attachment F of OMB Circular A–102, Revised.

Subpart E—Research Funds

(1) Several reviewers suggested that research funds be offered on a 100 percent Federal basis, i.e., without a state match requirement.

Response: Section 315 of the Coastal Zone Management Act requires that all funds to coastal states for national estuarine sanctuary purposes be provided on a fifty-fifty matching basis.

(2) Other commenters suggested that funding limits and the total research budget be discussed in the regulations.

Response: Funding limits and the total Federal funds for research in national estuarine sanctuaries will vary from year-to-year; thus, these figures are not included in the final regulations. NOAA will, however, distribute information about the relative funding limits and funding totals. Such information will be sent to states with national estuarine sanctuaries and to other interested parties.

Subpart F—General Financial Assistance Provisions

(1) One state criticized the exclusion of land as state match for the operation and management awards. The state found such an exclusion to be an undue constraint upon management and operation alternatives available to states.

Response: In order to maximize the support provided to a sanctuary during its early years, NOAA has precluded land as match for the operation and management award. To a reasonable degree, state match should relate to the purpose of the particular award. Since the purpose of the operation and management award is to provide for the sanctuary's operation and implementation of the management plan, the use of land as match is inappropriate, particularly since land acquisition should be well underway prior to the state's receiving an operation and management award. The allowable categories of match (see § 921.51(e)) provide the state with sufficient flexibility.

Appendix 2—Estuarine Typology

(1) One reviewer stated that in Group III—Chemical, the proposed salinity limits were particularly confusing. The reviewer noted that a salinity zone of 10 ppt to 20 ppt is very important because numerous estuaries possess waters in this salinity range, but the proposed polyhaline zone is too broad to describe this. The reviewer included the following table of salinity ranges from *Introduction to Marine Biology* by Mosby:

Salinity (0/00)	Type of water
0 to 0.5	Fresh water.
0.5 to 3.0	Oligohaline brackish water.
3.0 to 10	Mesohaline brackish water.
10.0 to 17	Polyhaline brackish water.
17 to 30	Oligohaline seawater.
30 to 34	Mesohaline seawater.
34 to 38	Polyhaline seawater.
>38	Brine.

From Valikangas, I. 1933. Uber die Biologie der Ostsee als Brackwassergebiet. Verh. int. Verein. theor. angew. Limnol. 6:1.

Response: Polyhaline should be 30 ppt to *18* ppt; the "5" was a typographical error. NOAA considered the information provided, but has decided to continue to use the proposed salinity ranges which are from *Ecology of Inland Waters and Estuaries* (Reid and Wood, 1976). This is the standard limnology test used in college. The table used as an example is from a 1933 paper; the salinity table used in the typology is the widely accepted "Venice System" adopted in 1958.

(2) The same reviewer also questioned the pH values suggesting that a pH of 5.5 is somewhat acid. It was suggested that the circumneutral range should be 6.5 rather than 5.5.

Response: For the reasons indicated in the above response, we decided to continue with the proposed system.

(3) Another reviewer stated that in Group II-Transition Areas, the description of coastal marshes and coastal mangroves as the only coastal wetland transition areas is too narrow. Other wetland areas (marshes, swamps, bogs) should be included.

Response: A new subtitle "Coastal Marshes and Swamps" has been added.

(4) Another commenter stated that the typology did not appear to contain criteria which adequately describe a Great Lakes-type site.

Response: Great Lakes areas can fall under Class II, Group I.B (Basin Structure); I.C (Inlet Type); I.D. (Bottom Composition); Group II.A (Circulation); II.C (Freshwater); and Group III-Chemical.

V. Other Actions Associated With the Proposed Rulemaking

(A) Classification Under Executive Order 12291

NOAA has concluded that these regulations are not major because they will *not* result in:

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

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

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

These final rules amend existing procedures for selecting and processing potential national estuarine sanctuaries in accordance with a revised biogeographic classification scheme and estuarine typologies. These rules establish a revised process for identifying, designating and managing national estuarine sanctuaries. They will not result in any direct economic or environmental effect nor will they lead to any major indirect economic or environmental impacts.

(B) Regulatory Flexibility Act Analysis

The General Counsel of the Department of Commerce certified to the Small Business Administration that this rule will not have a significant economic impact on a substantial number of small entities. Thus, regulatory Flexibility Analysis is not

required for this notice of final rulemaking. The regulations set forth procedures for identifying and designating national estuarine sanctuaries, and managing sites once designated.

These rules do not directly affect "small government jurisidictions" as defined by Pub. L. 96–354, the Regulatory Flexibility Act, and the rules will have no effect on small businesses.

(C) Paper Work Reduction Act of 1980 (Pub. L. 96–511)

These regulations do not impose any information requirements of the type covered by Pub. L. 96–511 other than those already approved by the Office of Management and Budget (approval number 0648–0121) for use through September 30, 1986.

(D) National Environmental Policy Act

NOAA has concluded that publication of these rules does not constitute a major Federal action significantly affecting the quality of the human environment. Therefore, an environmental impact statement is not required.

List of Subjects in 15 CFR Part 921

Administrative practice and procedure, Coastal zone, Environmental protection, Natural resources, Wetlands.

(Federal Domestic Assistance Catalog Number 11.420 Estuarine Sanctuary Program)

Dated: February 29, 1984.

Paul M. Wolff,

Assistant Administrator for Ocean Services and Coastal Zone Management.

Accordingly, 15 CFR Part 921 is revised as follows:

PART 921—NATIONAL ESTUARINE SANCTUARY PROGRAM REGULATIONS

Subpart A—General

Sec.
921.1 Mission and goals.
921.2 Definitions.
921.3 National Estuarine Sanctuary Biogeographic Classification Scheme and Estuarine Typologies.
921.4 Relationship to other provisions of the Coastal Zone Management Act and to the National Marine Sanctuary Program.

Subpart B—Preacquisition: Site Selection and Management Plan Development

921.10 General.
921.11 Site selection.
921.12 Management Plan development.

Subpart C—Acquisition, Development, and Preparation of the Final Management Plan

921.20 General.
921.21 Initial acquisition and development awards.

Subpart D—Sancturay Designation and Subsequent Operation

Sec.
921.30 Designation of National Estuarine Sanctuaries.
921.31 Supplemental acquisition and development awards.
921.32 Operation and management: Implementation of the Management Plan.
921.33 Boundary changes, Amendments to the Management Plan, and addition of multiple-site components.
921.34 Program evaluation.
921.35 Withdrawal of designation.

Subpart E—Research Funds

921.40 General.
921.41 Categories of potential research projects; evaluation criteria.

Subpart F—General Financial Assistance Provisions

921.50 Application information.
921.51 Allowable costs.
921.52 Amendments to financial assistance awards.

Appendix 1—Biogeographic Classification Scheme
Appendix 2—Typology of National Estuarine Areas

Authority: Sec. 315(l), Pub. L. 92–583, as amended; 86 Stat. 1280 (16 U.S.C. 1461(1)).

Subpart A—General

§ 921.1 Mission and goals.

(a) The mission of the National Estuarine Sanctuary Program is the establishment and management, through Federal-state cooperation, of a national system of estuarine sanctuaries representative of the various regions and estuarine types in the United States. Estuarine sanctuaries will be established to provide opportunities for long-term research, education, and interpretation.

(b) The goals of the Program for carrying out this mission are:

(1) Enhance resource protection by implementing a long-term management plan tailored to the site's specific resources;

(2) Provide opportunities for long-term scientific and educational programs in estuarine areas to develop information for improved coastal decisionmaking;

(3) Enhance public awareness and understanding of the estuarine environment through resource interpretive programs; and

(4) Promote Federal-state cooperative efforts in managing estuarine areas.

(c) To assist the states in carrying out the Program's goals in an effective manner, the National Oceanic and Atmospheric Administration (NOAA) will coordinate a research and education information exchange throughout the national estuarine sanctuary system. As part of this role, NOAA will ensure that information and ideas from one sanctuary are made available to others in the system. The network that will be established will enable sanctuaries to exchange information and research data with each other, with universities engaged in estuarine research, and with Federal and state agencies. NOAA's objective is a system-wide program of research and monitoring capable of addressing the management issues that affect long-term productivity of our Nation's estuaries.

(d) Multiple uses are encouraged to the degree compatible with the sanctuary's overall purpose as provided in the management plan and consistent with subsections (a) and (b), above. Use levels are set by the individual state and analyzed in the management plan. The sanctuary management plan (see § 921.12) will describe the uses and establishes priorities among these uses. The plan shall identify uses requiring a state permit, as well as areas where uses are encouraged or prohibited. In general, sanctuaries are intended to be open to the public; low-intensity recreational and interpretive activities are generally encouraged.

(e) Certain manipulative research activities may be allowed on a limited basis, but only if specified in the management plan and only if the activity is consistent with overall sanctuary purposes and the sanctuary resources are protected. Manipulative research activities require the prior approval of the state and NOAA. Habitat manipulation for resource management purposes is not permitted within national estuarine sanctuaries.

(f) While the Program is aimed at protecting natural, pristine sites, NOAA recognizes that many estuarine areas have undergone ecological change as a result of human activities. Although restoration of degraded areas is not a primary purpose of the Program, some restorative activities may be permitted in an estuarine sanctuary as specified in the management plan.

(g) NOAA may provide financial assistance to coastal states, not to exceed 50 percent of all actual costs, to assist in the designation and operation of national estuarine sanctuaries (see section 921.51(e)). Three types of awards are available under the National Estuarine Sanctuary Program. The *preacquisition award* is for site selection and draft management plan preparation. The *acquisition and development award* is intended primarily for land acquisition and construction purposes. The *operation and management award* provides funds to assist in implementing the research, educational, and administrative

programs detailed in the sanctuary management plan. Under the Act, the Federal share of funding for a national estuarine sanctuary shall not exceed $3,000,000. At the conclusion of Federal financial assistance, funding for the long-term operation of the sanctuary becomes the responsibility of the state.

(h) Lands already in protected status by another Federal, state, local government or private organization can be included within national estuarine sanctuaries only if the managing entity commits to long-term non-manipulative management. Federal lands already in protected status cannot comprise the key land and water areas of a sanctuary (see § 921.11(c)(3)).

§ 921.2 Definitions.

(a) "Act" means the Coastal Zone Management Act, as amended, 16 U.S.C. 1451 *et seq.* Section 315(1) of the Act, 16 U.S.C. 1461(1), establishes the National Estuarine Sanctuary Program.

(b) "Assistant Administrator" (AA) means the Assistant Administrator for Ocean Services and Coastal Zone Management, National Ocean Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, or his/her successor or designee.

(c) "Coastal state" means a state of the United States in, or bordering on, the Atlantic, Pacific, or Arctic Ocean, the Gulf of Mexico, Long Island Sound, or one or more of the Great Lakes. For the purposes of this title, the term also includes Puerto Rico, the Virgin Islands, Guam, the Commonwealth of the Northern Marianas, and the Trust Territories of the Pacific Islands, and American Samoa (see 16 U.S.C. 1454(4)).

(d) "Estuary" means that part of a river or stream or body of water having unimpaired connection with the open sea, where the sea water is measurably diluted with fresh water derived from land drainage. The term also includes estuary-type areas of the Great Lakes, see 16 U.S.C. 1454(7).

(e) "National Estuarine Sanctuary" means and area, which may include all or the key land and water portion of an estuary, and adjacent transitional areas and uplands, constituting to the extent feasible a natural unit, set asides as a natural field laboratory to provide long-term opportunities for research, educational, and interpretation on the ecological relationships within the area (see 16 U.S.C. 1454(8)).

§ 921.3 National Estuarine Sanctuary Biogeographic Classification Scheme and Estuarine Typologies.

(a) National estuarine sanctuaries are chosen to reflect regional differences and to include a variety of ecosystem types. A biogeographic classification scheme based on regional variations in the nation's coastal zone has been developed. The biogeographic classification scheme is used to ensure that the National Estuarine Sanctuary System includes at least one site from each region. The estuarine typology system is utilized to ensure that sites in the Program reflect the wide range of estuarine types within the United States.

(b) The biogeographic classification scheme, presented in Appendix 1, contains 27 regions. Figure 2 graphically depicts the biogeographic regions of the United States.

(c) The typology system is presented in Appendix 2.

§ 921.4 Relationship to other provisions of the Coastal Zone Management Act and to the National Marine Sanctuary Program.

(a) The National Estuarine Sanctuary Program is intended to provide information to state agencies and other entities involved in coastal zone management decisionmaking pursuant to the Coastal Zone Management Act, 16 U.S.C. 1451 *et seq.* Any coastal state, including those that do not have approved coastal zone management programs under section 306 of the Act, is eligible for an award under the National Estuarine Sanctuary Program (see § 921.2(e)).

(b) Where feasible, the National Estuarine Sanctuary Program will be conducted in close coordination with the National Marine Sanctuary Program (Title III of the Marine Protection, Research and Sanctuaries Act, as amended, 16 U.S.C. 1431–1434), also administered by NOAA. Title III authorizes the Secretary of Commerce to designate ocean waters as marine sanctuaries to protect or restore such areas for their conservation, recreational, ecological, or esthetic values. National marine and estuarine sanctuaries will not overlap, though they may be adjacent.

Subpart B—Preacquisition: Site Selection and Management Plan Development

§ 921.10 General.

(a) A state may apply for a preacquisition award for the purpose of site selection and preparation of documents specified in § 921.12 (draft management plan and environmental impact statement (EIS)). The total Federal share of the preacquisition award may not exceed $50,000, of which up to $10,000 may be used for site selection as described in § 921.11. Financial assistance application procedures are specified in Subpart F.

(b) In selecting a site, a state may choose to develop a multiple-site sanctuary reflecting a diversity of habitats in a single biogeographic region. A multiple-site sanctuary also allows the state to develop complementary research and educational programs within the multiple components of its sanctuary. Multiple-site sanctuaries are treated as one sanctuary in terms of financial assistance and development of an overall management framework and plan. Each individual component of a proposed multiple-site sanctuary shall be evaluated separately under § 921.11(c) as part of the site selection process. A state may propose to establish a multiple-site sanctuary at the time of the initial site selection, or at any point in the development or operation of the estuarine sanctuary, even after Federal funding for the single component sanctuary has expired. If the state decides to develop a multiple-site national estuarine sanctuary after the initial acquisition and development award is made on a single site, the proposal is subject to the requirements set forth in § 921.33. It should be noted, however, that the total funding for a multiple-site sanctuary remains at the $3,000,000 limit; the funding for operation of a multiple-site sanctuary is also limited to the $250,000 standard (see § 921.32(b)).

§ 921.11 Site selection.

(a) A state may use up to $10,000 in Federal preacquisition funds to establish and implement a site selection process which is approved by NOAA.

(b) In Addition to the requirements set forth in Subpart F, a request for Federal funds for site selection must contain the following programmatic information:

(1) A description of the proposed site selection process and how it will be implemented in conformance with the biogeographic classification scheme and typology (§ 921.3);

(2) An identification of the site selection agency and the potential management agency; and

(3) A description of how public participation will be incorporated into the process (see § 921.11(d)).

(c) As part of the site selection process, the state and NOAA shall evaluate and select the final site(s). NOAA has final authority in approving such sites. Site selection shall be guided by the following principles:

(1) The site's benefit to the National Estuarine Sanctuary Program relative to the biogeographic classification scheme

and typology set forth in § 921.3 and Appendices 1 and 2;

(2) The site's ecological characteristics, including its biological productivity, diversity of flora and fauna, and capacity to attract a broad range of research and educational interests. The proposed site should, to the maximum extent possible, be a natural system;

(3) Assurance that the site's boundaries encompass an adequate portion of the key land and water areas of the natural system to approximate an ecological unit and to ensure effective conservation. Boundary size will vary greatly depending on the nature of the ecosystem. National estuarine sanctuaries may include existing Federal or state lands already in a protected status where mutual benefit can be enhanced, see § 921.51(e)(2). Importantly, however, NOAA will not approve a site for potential sanctuary status that is dependent upon the inclusion of currently protected Federal lands in order to meet the requirements for sanctuary status (such as key land and water areas). Such lands may only be included within a sanctuary to serve as a buffer or for other ancillary purposes;

(4) The site's importance for research, including proximity to existing research facilities and educational institutions; *(Comment:* NOAA is developing more detailed criteria for selecting potential national estuarine sanctuaries based upon research characteristics. Once these criteria are developed, a notice of their availability will be published in the **Federal Register**).

(5) The site's compatibility with existing and potential land and water uses in contiguous areas; and

(6) The site's importance to education and interpretive efforts, consistent with the need for continued protection of the natural system.

(d) Early in the site selection process, the state must seek the views of affected landowners, local governments, other state and Federal agencies, and other parties who are interested in the area(s) being considered for selection as a potential national estuarine sanctuary. After the local government and affected landowners have been contacted, at least one public meeting shall be held in the area of the proposed site. Notice of such a meeting, including the time, place, and relevant subject matter, shall be announced by the state through the area's principal news media at least 15 days prior to the date of the meeting and by NOAA in the **Federal Register.**

§ 921.12 Management Plan development.

(a) After the selected site is approved by NOAA and the state, the state may request the remainder of the preacquisition funds to develop the draft management plan and environmental impact statement. The request must be accompanied by the information specified in Subpart F and the following programmatic information:

(1) An analysis of the site based on the biogeographic scheme/typology discussed in § 921.3 and set forth in Appendices 1 and 2;

(2) A description of the site and its major resources, including location, proposed boundaries, and adjacent land uses. Maps, including aerial photographs, are required;

(3) A description of the public participation process used by the state to solicit the views of interested parties, a summary of comments, and, if interstate issues are involved, documentation that the Governor(s) of the other affected state(s) has been contacted;

(4) A list of all sites considered and a brief statement of the basis for not selecting the non-preferred sites; and

(5) A draft management plan outline (see subsection (b) below) and an outline of a draft memorandum of understanding (MOU) between the state and NOAA detailing the Federal-state roles in sanctuary management during the period of federal funding and expressing the state's long-term commitment to operate and manage the sancturay.

(b) After NOAA approves the state's request to use the remaining preacquisition funds, the state shall begin developing a draft management plan. The plan will set out in detail:

(1) Sanctuary goals and objectives, management issues, and strategies or actions for meeting the goals and objectives;

(2) An administrative section including staff roles in administration, research, education/interpretation, and surveillance and enforcement.

(3) A research plan, including a monitoring design;

(4) An interpretive plan (including interpretive, educational and recreational activities);

(5) A plan for public access to the sanctuary;

(6) A construction plan, including a proposed construction schedule, and drawings of proposed developments. If a visitor center, research center or any other facilities are proposed for construction or renovation at the site, a preliminary engineering report must be prepared;

Note.—Information on preparing a preliminary engineering report (PER) is provided in "Engineering and Construction Guidelines for Coastal Energy Impact Program Applicants" (42 FR 64830 (1977)), which is supplied to award recipients;

(7) An acquisition plan identifying the ecologically key land and water areas of the sanctuary, priority acquisitions, and strategies for acquiring these areas. This plan should identify ownership patterns within the proposed sanctuary boundaries; land already in the public domain; an estimate of the fair market value of land to be acquired; the method of acquisition, or the feasible alternatives (including less-than-fee techniques) for the protection of the estuarine area; a schedule for acquisition with an estimate of the time required to complete the proposed sanctuary; and a discussion of any anticipated problems;

Note.—As discussed in § 921.11(c)(3), if protected lands are to be included within the proposed sanctuary, the state must demonstrate to NOAA that the site meets the criteria for national estuarine sanctuary status independent of the inclusion of such protected lands.

(8) A resource protection plan detailing applicable authorities, including allowable uses, uses requiring a permit and permit requirements, any restrictions on use of the sanctuary, and a strategy for sanctuary surveillance and enforcement of such use restrictions, including appropriate government enforcement agencies;

(9) If applicable, a restoration plan describing those portions of the site that may require habitat modification to restore natural conditions; and

(10) A proposed memorandum of understanding (MOU) between the state and NOAA regarding the Federal-state relationship during the establishment and development of the national estuarine sanctuary, and expressing the long-term commitment by the state to maintain effectively the sanctuary after Federal financial assistance ends. In conjunction with the MOU and where possible under state law, the state will consider taking appropriate administrative or legislative action to ensure the long-term protection of the sanctuary. The MOU shall be signed prior to sanctuary designation. If other MOUs are necessary (such as with a federal agency or another state agency), drafts of such MOUs also must be included in the plan.

(c) Regarding the preparation of an environmental impact statement (EIS) under the National Environmental Policy Act on a national estuarine sanctuary proposal, the state shall provide all

necessary information to NOAA concerning the socioeconomic and environmental impacts associated with implementing the draft management plan and feasible alternatives to the plan. Based on this information, NOAA will prepare the draft EIS.

(d) Early in the development of the draft management plan and the draft EIS, the state shall hold a meeting in the area or areas most affected to solicit public and government comments on the significant issues related to the proposed action. NOAA will publish a notice of the meeting in the **Federal Register** and in local media.

(e) NOAA will publish a **Federal Register** notice of intent to prepare a DEIS. After the draft EIS is prepared and filed with the Environmental Protection Agency (EPA), a Notice of Availability of the DEIS will appear in the **Federal Register.** Not less than 30 days after publication of the notice, NOAA will hold at least one public hearing in the area or areas most affected by the proposed sanctuary. The hearing will be held no sooner than 15 days after appropriate notice by NOAA of the meeting has been given in the principal news media and in the **Federal Register.** After a 45-day comment period, a final EIS is prepared by NOAA.

Subpart C—Acquisition, Development, and Preparation of the Final Management Plan

§ 921.20 General.

After NOAA approval of the site, the draft management plan and the draft MOU, and completion of the final EIS, a state is eligible for an acquisition and development award to acquire land and water areas for inclusion in the sanctuary and to construct research and educational facilities in accordance with the draft management plan. The acquisition and development award has two phases. In the initial phase, state performance should work to meet the criteria required for formal sanctuary designation, i.e., acquiring the key land and water areas as specified in the draft management plan and preparing the final plan. These requirements are specified in § 921.30. The initial acquisition and development phase is expected to last no longer than two years after the start of the award. If necessary, a longer time period may be negotiated between the state and NOAA. After the sanctuary is designated, funds may be used to acquire any remaining land and for construction purposes.

§ 921.21 Initial acquisition and development awards.

(a) Assistance is provided to aid the recipient in: (1) Acquiring land and water areas to be included in the sanctuary boundaries; (2) minor construction, as provided in paragraphs (b) and (c) of this section; (3) preparing the final management plan; and (4) up to the point of sanctuary designation, for initial management costs, e.g., implementing the NOAA approved draft management plan, preparing the final management plan, hiring a sanctuary manager and other staff as necessary, and for other management-related activities. Application procedures are specified in Subpart F.

(b) The expenditure of Federal and state funds on major construction activities is not allowed during the initial acquisition and development phase. The preparation of architectural and engineering plans, including specifications, for any proposed construction is permitted. In addition, minor construction activities, consistent with paragraph (c) of this section also are allowed. The NOAA-approved draft management plan must, however, include a construction plan and a public access plan before any award funds can be spent on construction activities.

(c) Only minor construction activities that aid in implementing portions of the management plan (such as boat ramps and nature trails) are permitted under the initial acquisition and development award. No more than five (5) percent of the initial acquisition and development award may be expended on such facilities. NOAA must make a specific determination, based on the final EIS, that the construction activity will not be detrimental to the environment.

(d) Except as specifically provided in paragraphs (a)–(c) of this section, construction projects, to be funded in whole or in part under the acquisition and development award, may not be initiated until the sanctuary receives formal designation, see § 921.30.

Note.—The intent of these requirements and the phasing of the acquisition and development award is to ensure that substantial progress in acquiring the key land and waters areas has been made and that a final management plan is completed before major sums are spent on construction. Once substantial progress in acquisition has been made, as defined by the state in the management plan, other activities guided by the final management plan may begin with NOAA's approval.

(e) Deeds for real property acquired for the sanctuary under acquisition funding shall contain substantially the following provision:

Title to the property conveyed by this deed shall vest in the [recipient of the CZMA Section 315 award or other Federally-approved entity] subject to the condition that the property shall remain part of the Federally-designated [name of National Estuarine Sanctuary]. In the event that the property is no longer included as part of the sanctuary, or if the sanctuary designation of which it is part is withdrawn, then the National Oceanic and Atmospheric Administration or its successor agency, in conjunction with the State, may exercise any of the following rights regarding the disposition of the property:

(i) The recipient may be required to transfer title to the Federal Government. In such cases, the recipient shall be entitled to compensation computed by applying the recipient's percentage of participation in the cost of the program or project to the current fair market value of the property; or

(ii) At the discretion of the Federal Government, (a) the recipient may either be directed to sell the property and pay the Federal Government an amount computed by applying the Federal percentage of participation in the cost of the original project to the proceeds from the sale (minus actual and reasonable selling and fix-up expenses, if any, from the sale proceeds); or (b) the recipient may be permitted to retain title after paying the Federal Government an amount computed by applying the Federal percentage of participation in the cost of the original project to the current fair market value of the property.

Note.—Fair market value of the property must be determined by an independent appraiser and certified by a responsible official of the state, as provided by OMB Circular A–102 Revised, Attachment F.

(f) Prior to submitting the final management plan to NOAA for review and approval, the state should hold a public meeting in the area affected by the estuarine sanctuary. NOAA will publish a notice of the meeting in the **Federal Register** and in the local media.

Subpart D—Sanctuary Designation and Subsequent Operation

§ 921.30 Designation of National Estuarine Sanctuaries.

(a) The AA shall designate an area as a national estuarine sanctuary pursuant to Section 315 of the Act, based upon written findings that the state has met the following conditions:

(1) A final management plan has been approved by NOAA;

(2) Sanctuary construction and access policies, § 921.21(b)–(d), have been followed;

(3) Key land and water areas of the proposed sanctuary, as identified in the management plan, are under state control; and

(4) An MOU between the state and NOAA ensuring a long-term commitment by the state to the

sanctuary's effective operation and implementation has been signed.

(b) A notice of designation of a national estuarine sanctuary will be placed in the **Federal Register** and in the local media.

(c) The term "state control" in § 921.30(a)(3) does not necessarily require that the land be owned by the state in fee simple. Less-than-fee interests and regulatory measures may suffice where the state makes a showing that the lands are adequately controlled consistent with the purposes of the sanctuary.

§ 921.31 Supplemental acquisition and development awards.

After sanctuary designation, and as specified in the approved management plan, the state may request a supplemental acquisition and development award for construction and acquiring any remaining land. Application procedures are specified in Subpart F. Land acquisition must follow the procedures specified in § 921.21(e).

§ 921.32 Operation and management: Implementation of the Management plan.

(a) After the sanctuary is formally designated, the state may apply for assistance to provide for operation and management. The purpose of this phase in the national estuarine sanctuary process is to implement the approved final management plan and to take the necessary steps to ensure the continued effective operation of the sanctuary after direct Federal support is concluded.

(b) Federal funds of up to $250,000, to be matched by the state, are available for the operation and management of the national estuarine sanctuary. Operation and management awards are subject to the following limitations:

(1) No more than $50,000 in Federal funds per annual award; and

(2) No more than ten percent of the total amount (state and Federal shares) of each operation and management award may be used for construction-type activities (i.e., $10,000 maximum per year).

§ 921.33 Boundary changes, amendments to the Management Plan, and addition of multiple-site components.

(a) Changes in sanctuary boundaries and major changes to the final management plan, including state laws or regulations promulgated specifically for the sanctuary, may be made only after written approval by NOAA. If determined to be necessary, NOAA may require public notice including notice in the **Federal Register** and an opportunity for comment. Changes in the boundary involving the acquisition of properties not listed in the management plan or final EIS require public notice and the opportunity for comment; in certain cases, an environmental assessment may be required. Where public notice is required, NOAA will place a notice in the **Federal Register** of any proposed changes in sanctuary boundaries or proposed major changes to the final management plan and ensure that a notice is published in the local media.

(b) As discussed in § 921.10(b), a state may choose to develop a multiple-site national estuarine sanctuary after the initial acquisition and development award for a single site has been made. Public notice of the proposed addition in the **Federal Register** and local media, and the opportunity for comment, in addition to the preparation of either an environmental assessment or environment impact statement on the proposal will be required. An environmental impact statement, if required, will be prepared in accordance with section 921.12 and will also include an administrative framework for the multiple-site sanctuary that describes the complementary research and educational programs within the sanctuary. If NOAA determines, based on the scope of the project and the issues associated with the additional site, that an environmental assessment is sufficient to establish a mulitple-site sanctuary, then the state shall develop a revised management plan as described in § 921.12(b). The revised management plan will address the sanctuary-wide goals and objectives and the additional component's relationship to the original site.

§ 921.34 Program evaluation.

(a) Performance during the term of the operation and management award (or under the initial acquisition and development award, if the sanctuary is not designated within two years) will be evaluated annually by the Program Office and periodically in accordance with the provisions of Section 312 of the Act to determine compliance with the conditions of the award and overall progress in implementing the management plan.

(b) To ensure effective sanctuary oversight after the major federal funding expires, the state is required to submit an annual report on the sanctuary. The report should detail program successes and accomplishments in meeting the policies and activities described in the sanctuary management plan. A work plan, detailing the projects to be undertaken the next year to meet the Program goals and the state's role in ongoing sanctuary programs, should also be included. Inadequate annual reports will trigger a full-scale management audit with a site-visit. On a periodic basis, NOAA will also conduct a full-scale Section 312 evaluation with a site visit and public meeting.

§ 921.35 Withdrawal of designation.

(a) Upon a finding by the Program Office through its programmatic evaluation (§ 921.34) that a national estuarine sanctuary is not meeting the mandate of Section 315 of the Act, the national Program goals or the policies established in the management plan, NOAA will provide the state with a written notice of the deficiency. Such a notice will explain the deficiencies in the state's approach, propose a solution or solutions to the deficiency and provide a schedule by which the state should remedy the deficiency. The state shall also be advised in writing that it may comment on the Program Office's finding of a deficiency and meet with Program officials to discuss the finding and seek to remedy the deficiency.

(b) If the issues cannot be resolved within a reasonable time, the Program Office will make recommendation regarding withdrawal of designation to the AA. A notice of intent to withdraw designation, with an opportunity for comment, will be placed in the **Federal Register**.

(c) The state shall be provided the opportunity for an informal hearing before the AA to consider the Program Office's recommendation and finding of deficiency, as well as the state's comments on and response to the recommendation and finding.

(d) Within 30 day after the informal hearing, the AA shall issue a written decision regarding the sanctuary. If a decision is made to withdraw sanctuary designation, the procedures specified in§ 921.21(e) regarding the disposition of real property acquired with federal funds shall be followed.

Subpart E—Research Funds

§ 921.40 General.

(a) To stimulate high quality research within designated national estuarine sanctuaries, NOAA may find research on a competitive basis to sanctuaries having an approval final management plan. Research funds are intended to support significant research projects that will lead to enhanced scientific understanding of the sanctuary environment, improved coastal decisionmaking, improved sanctuary management, or enhanced public appreciation and understanding of the sanctuary ecosystem. Research opportunities will be identified in final

management plans for national estuarine sanctuaries. Research funds will be used to fill obvious voids in available data, as well as to support creative or innovative projects.

(b) Research funds are provided in addition to any funds available to the state under the operation and management or acquisition and development awards. Research funds must be matched by the state, consistent with § 921.51(e)(iii) ("allowable costs"). Individual states may apply for funding for more than one research project per sanctuary.

§ 921.41 Categories of potential research project; evaluation criteria.

(a) While research funds may be used to start-up long-term projects, they are not intended as a source of continuing funding for a particular project over time. Emphasis will be placed on projects that are also of benefit to other sanctuaries in the system. Proposals for research under the following categories will be considered:

(1) Establishing a Data Base and Monitoring Program (e.g., studies related to gathering and interpreting baseline information on the estuary. Funds are available to establish a data base and monitoring system; however, the long-term support for such a system must be carried out as part of overall sanctuary implementation);

(2) Estuarine Ecology (e.g., studies of the relationships between estuarine species and their environment, studies of biological populations community relationships, studies on factors and processes that govern the biological productivity of the estuary);

(3) Estuarine Processes (e.g., studies on dynamic physical processes that influence and give the estuary its particular physical characteristics, including studies related to climate, patterns of watershed drainage and freshwater inflow, patterns of water circulation within the estuary, and studies on oceanic or terrestrial factors that influence the condition of estuarine waters and bottoms);

(4) Applied Research (e.g., studies designed to answer specific management questions); and

(5) Socioeconomic Research (e.g., studies on patterns of land use, sanctuary visitation, archaeological research).

(b) Proposals for research in national estuarine sanctuaries will be evaluated in accordance with criteria listed below:

(1) Scientific merits;

(2) Relevance or importance to sanctuary management or coastal decisionmaking;

(3) Research quality (i.e., soundness of approach, environmental consequences, experience related to methodologies);

(4) Importance to the National Estuarine Sanctuary Program;

(5) Budget and Institutional Capabilities (i.e., reasonableness of budget, sufficiency of logistical support); and

(6) In addition, in the case of long-term monitoring projects, the ability of the state or the research grant recipient to support the grant beyond this initial funding.

Subpart F—General Financial Assistance Provisions

§ 921.50 Application information.

(a) The maximum total Federal funding per sanctuary is $3,000,000 for the preacquisition, acquisition and development, and operation and management awards. The research funding under § 921.40 is excluded from this total.

(b) Only a state Governor, or his/her designated state agency, may apply for national estuarine sanctuary financial assistance awards. If a state is participating in the national Coastal Zone Management Progam, the recipient of an award under Section 315 of the Act shall consult with the state coastal management agency regarding the application.

(c) No acquisition and development award may be made by NOAA without the approval of the Governor of the state, or his/her designated agency, in which the land to be acquired is located.

(d) All applications are to be submitted to: Management and Budget Group, Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration, 3300 Whitehaven St., NW., Washington, D.C. 20235.

(e) An original and two copies of the complete application must be submitted at least 120 working days prior to the proposed beginning of the project. The Application for Federal Assistance Standard Form 424 (Non-construction Program) constitutes the formal application for preacquisition, operation and management, and research awards. The Application for Federal Assistance Standard Form 424 (Construction Program) constitutes the formal application for land acquisition and development awards. The application must be accompanied by the information required in Subpart B (preacquisition), Subpart C and Section 921.31 (acquisition and development), and § 921.32 (operation and management), as applicable. All applications must contain back up data for budget estimates (Federal and non-Federal shares), and evidence that the application complies with the Executive Order 12372, "Intergovernmental Review of Federal Programs." In addition, applications for acquisition and development awards must contain:

(1) State Historic Preservation Office comments;

(2) Appraisals and title information;

(3) Governor's letter approving the sanctuary proposal; and

(4) Written approval from NOAA of the draft or final management plan.

The Standard Form 424 has been approved by the Office of Management and Budget (Approval number 0648–0121) for use through September 30, 1986.

§ 921.51 Allowable costs.

(a) Allowable costs will be determined in accordance with OMB Circulars A–102, "Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments", and A–87, "Principles for Determining Costs Applicable to Grants and Contracts with State, Local, and Federally Recognized Indian Tribal Governments"; the financial assistance agreement; these regulations; and other Department of Commerce and NOAA directives. The term "costs" applies to both the Federal and non-Federal shares.

(b) Costs claimed as charges to the award must be reasonable, beneficial and necessary for the proper and efficient administration of the financial assistance award and must be incurred during the awards period, except as provided under preagreement costs, subsection (d).

(c) Costs must not be allocable to or included as a cost of any other Federally-financed program in either the current or a prior award period.

(d) Costs incurred prior to the effective date of the award (preagreement costs) are allowable only when specifically approved in the financial assistance agreement. For non-construction awards, costs incurred more than three months before the award beginning date will not be approved. For construction and land acquisition awards, NOAA will evaluate preagreement costs on a case-by-case basis.

(e) General guidelines for the non-Federal share are contained in OMB Circular A–102, Attachment F. The following may be used by the state in satisfying the matching requirement:

(1) *Preacquisition Awards.* Cash and in-kind contributions (value of goods

and services directly benefiting and specifically identifiable to this part of the project) are allowable. Land may not be used as match.

(2) *Acquisition and Development Awards.* Cash and in-kind contributions are allowable. In general, the fair market value of lands to be included within the sanctuary boundaries and acquired pursuant to the Act, with other than Federal funds, may be used as match. The fair market value of privately donated land, at the time of donation, as establishment by an independent appraiser and certified by a responsible official of the State (pursuant to OMB Circular A–102 Revised, Attachment F) may also be used as match. Appraisals must be performed according to Federal appraisal standards as detailed in NOAA regulations and the "Uniform Appraisal Standards for Federal Land Acquisitions." Costs related to land acquisition, such as appraisals, legal fees and surveys, may also be used as match. Land, including submerged lands, already in the state's possession, in a fully-protected status consistent with the purposes of the National Estuarine Sanctuary Program, may be used as match only if it was acquired within a one-year period prior to the award of preacquisition or acquisition funds and with the intent to establish a national estuarine sanctuary. For state lands not in a fully-protected status (e.g., a state park containing an easement for subsurface mineral rights), the value of the development right or foregone value may be used as match if acquired by or donated to the state for inclusion within the sanctuary.

A state may initially use as match land valued at greater than the Federal share of the acquisition and development award. The value in excess of the amount required as match for the initial award may be used to match subsequent supplemental acquisition and development awards for the estuarine sanctuary.

(3) *Operations and Management Awards; Research Funds.* Cash and in-kind contributions (directly benefiting and specifically identifiable to this phase of the project), except land, are allowable.

§ 921.52 Amendments to financial assistance awards.

Actions requiring an amendment to the financial assistance award, such as a request for additional Federal funds, revisions of the approved project budget, or extension of the performance period must be submitted to NOAA on Standard Form 424 (OMB approved number 0748–0121 for use through September 30, 1986) and approved in writing.

Appendix 1—Biographic Classification Scheme

Acadian

1. Northern Gulf of Maine (Eastport to the Sheepscot River).
2. Southern Gulf of Maine (Sheepscot River to Cape Cod).

Virginian

3. Southern New England (Cape Cod to Sandy Hook).
4. Middle Atlantic (Sandy Hook to Cape Hatteras).
5. Chesapeake Bay.

Carolinian

6. Northern Carolinas (Cape Hatteras to Santee River).
7. South Atlantic (Santee River to St. John's River).
8. East Florida (St. John's River to Cape Canaveral).

West Indian

9. Caribbean (Cape Canaveral to Ft. Jefferson and south).
10. West Florida (Ft. Jefferson to Cedar Key).

Louisianian

11. Panhandle Coast (Cedar Key to Mobile Bay).
12. Mississippi Delta (Mobile Bay to Galveston).
13. Western Gulf (Galveston to Mexican border).

Californian

14. Southern California (Mexican border to Point Concepcion).
15. Central California (Point Concepcion to Cape Mendocino).
16. San Francisco Bay.

Columbian

17. Middle Pacific (Cape Mendocino to the Columbia River).
18. Washington Coast (Columbia River to Vancouver Island).
19. Puget Sound.

Great Lakes

20. Western Lakes (Superior, Michigan, Huron).
21. Eastern Lakes (Ontario, Erie).

Fjord

22. Southern Alaska (Prince of Wales Island to Cook Inlet).
23. Aleutian Islands (Cook Inlet to Bristol Bay).

Sub-Arctic

24. Northern Alaska (Bristol Bay to Damarcation Point).

Insular

25. Hawaiian Islands.
26. Western Pacific Island.
27. Eastern Pacific Island.

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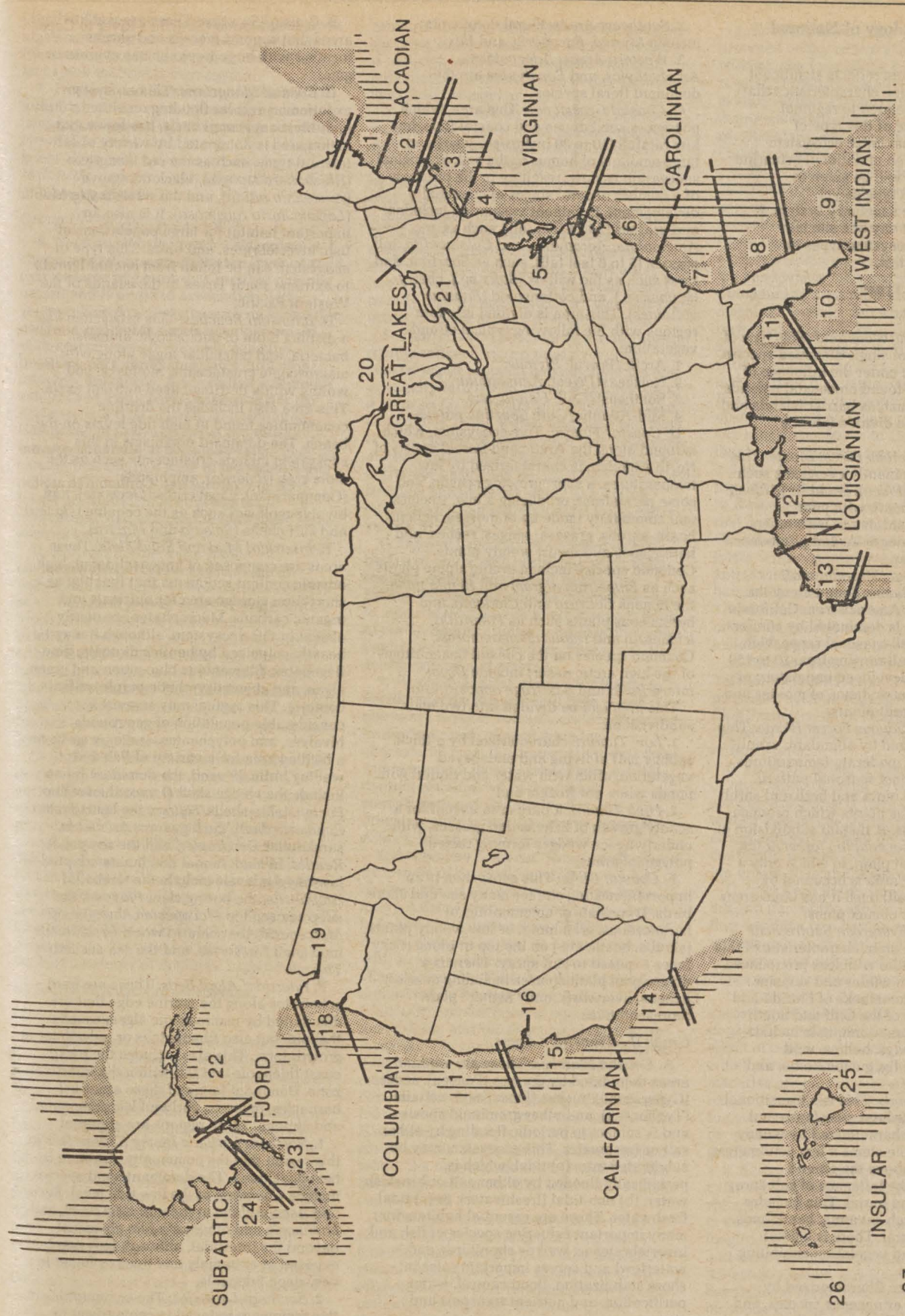

Figure 1. Biogeographic Regions of the United States.

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Appendix 2—Typology of National Estuarine Areas

This typology system reflects significant differences in estuarine characteristics that are not necessarily related to regional location. The purpose of this type of classification is to maximize ecosystem variety in the selection of national estuarine sanctuaries. Priority will be given to important ecosystem type as yet unrepresented in the sanctuary system. It should be noted that any one site may represent several ecosystem types or physical characteristics.

Class I—Ecosystem Types

Group I—Shorelands

A. *Maritime Forest-Woodland:* This type of ecosystem consists of single-stemmed species that have developed under the influence of salt spray. It can be found on coastal uplands or recent features, such as barrier islands and beaches, and may be divided into the following biomes:

1. *Northern Coniferous Forest Biome:* This is an area of predominantly evergeens such as the sitka spruce (*Picea*), grand fir (*Abies*), and white cedar (*Thuja*), with poor development of the shrub and herb layers, but high annual productivity and pronounced seasonal periodicity.

2. *Moist Temperate (Mesothermal) Coniferous Forest Biome:* Found along the west coast of North America from California to Alaska, this area is dominated by conifers, has a relatively small seasonal range, high humidity with rainfall ranging from 30 to 150 inches, and a well-developed understory of vegetation with an abundance of mosses and other moisture-tolerant plants.

3. *Temperate Deciduous Forest Biome:* This biome is characterized by abundant, evenly distributed rainfall, moderate temperatures which exhibt a distinct seasonal pattern, well-developed soil biota and herb and shrub layers, and numerous plants which produce pulpy fruits and nuts. A distant subdivision of this biome is the *pine edaphic forest* of the southeastern coastal plain, in which only a small portion of the area is occupied by climax vegetation, although it has large areas covered by edaphic climax pines.

4. *Broad-leaved Evergreen Subtropical Forest Biomes:* The main characteristic of this biome is high moisture with less pronounced differences between winter and summer. Examples are the hammocks of Florida and the live oak forests of the Gulf and South Atlantic coasts. Floral dominants include pines, magnolias, bays, hollies, wild tamarind, strangler fig, gumbo limbo, and palms.

B. *Coast Shrublands:* This is a transitional area between the coastal grasslands and woodlands and is characterized by woody species with multiple stems a few centimeters to several meters above the ground developing under the influence of salt spray and occasional sand burial. This includes thickets, scrub, scrub savanna, heathlands, and coastal chaparral. There is a great variety of shrubland vegetation exhibiting regional specificity:

1. *Northern Areas:* Characterized by *Hudsonia*, various erinaceous species, and thickets of *Myrica, Prunus*, and *Rosa*.

2. *Southeast Areas:* Floral dominants include *Myrica, Baccharis*, and *Ilex*.

3. *Western Areas: Adenostoma, Arcotyphylos*, and *Eucalyptus* are the dominant floral species.

C. *Coastal Grasslands:* This area, which possesses sand dunes and coastal flats, has low rainfall (10 to 30 inches per year) and large amounts of humus in the soil. Ecological succession is slow, resulting in the presence of a number of seral stages of community development. Dominant vegetation includes mid-grasses (2 to 4 feet tall), such as *Ammophila, Agropyron*, and *Calamovilfa*, tall grasses (5 to 8 feet tall), such as *Spartina*, and trees such as the willow (*Salix* sp.), cherry (*Prunus* sp.), and cottonwood (*Populus deltoides*). This area is divided into four regions with the following typical strand vegetation:

1. Arctic/Boreal: *Elymus;*
2. Northeast/West: *Ammophila;*
3. Southeast/Gulf: *Uniola;* and
4. Mid-Atlantic/Gulf: *Spartina patens.*

D. *Coastal Tundra:* This ecosystem, which is found along the Arctic and Boreal coasts of North America, is characterized by low temperatures, a short growing season, and some permafrost, producing a low, treeless mat community made up of mosses, lichens, heath, shrubs, grasses, sedges, rushes, and herbaceous and dwarf woody plants. Common species include arctic/alpine plants such as *Empetrum nigrum* and *Betula nana*, the lichens *Cetraria* and *Cladonia*, and herbaceous plants such as *Potentilla tridentata* and *Rubus chamaemorus*. Common species on the coastal beach ridges of the high arctic desert include *Dryas intergrifolia* and *Saxifrage oppositifolia*.

This area can be divided into two main subdivisions:

1. *Low Tundra:* characterized by a thick, spongy mat of living and undecayed vegetation, often with water and dotted with ponds when not frozen; and

2. *High Tundra:* a bare area except for a scanty growth of lichens and grasses, with underlying ice wedges forming raised polygonal areas.

E. *Coastal Cliffs:* This ecosystem is an important nesting site for many sea and shore birds. It consists of communities of herbaceaous, graminoid, or low woody plants (shrubs, heath, etc.) on the top or along rocky faces exposed to salt spray. There is a diversity of plant species including mosses, lichens, liverworts, and "higher" plant representatives.

Group II—Transition Areas

A. *Coastal Marshes:* These are wetland areas dominated by grasses (Poacea), sedges (Cyperaceae), rushes (Juncaceae), cattails (Typhaceae), and other graminoid species and is subject to periodic flooding by either salt or freshwater. This ecosystem may be subdivided into: (a) tidal, which is periodically flooded by either salt or brackish water; (b) non-tidal (freshwater); or (c) tidal freshwater. These are essential habitats for many important estuarine species of fish and invertebrates as well as shorebirds and waterfowl and serves important roles in shore stabilization, flood control, water purification, and nutrient transport and storage.

B. *Coastal Swamps:* These are wet lowland areas that support mosses and shrubs together with large trees such as cypress or gum.

C. *Coastal Mangroves:* This ecosystem experiences regular flooding on either a daily, monthly, or seasonal basis, has low wave action, and is dominated by variety of salt-tolerant trees, such as the red mangrove (*Rhizophora mangle*), black mangrove (*Avicennia nitida*), and the white mangrove (*Laguncularia racemosa*). It is also an important habitat for large populations of fish, invertebrates, and birds. This type of ecosystem can be found from central Florida to extreme south Texas to the islands of the Western Pacific.

D. *Intertidal Beaches:* This ecosystem has a distinct biota of microscopic animals, bacteria, and unicelluar algae along with macroscopic crustaceans, mollusks, and worms with a detritus-based nutrient cycle. This area also includes the driftline communities found at high tide levels on the beach. The dominant organisms in this ecosystem include crustaceans such as the mole crab (*Emerita*), amphipods (Gammaridae), ghost crabs (*Ocypode*), and bivalve molluscs such as the coquina (*Donax*) and surf clams (*Spisula* and *Mactra*).

E. *Intertidal Mud and Sand Flats:* These areas are composed of unconsolidated, high organic content sediments that function as a short-term storage area for nutrients and organic carbons. Macrophytes are nearly absent in this ecosystem, although it may be heavily colonized by benthic diatoms, dino-flagellates, filamentous blue-green and green algae, and chaemosynthetic purple sulfur bacteria. This system may support a considerable population of gastropods, bivalves, and polychaetes, and may serve as a feeding area for a variety of fish and wading birds. In sand, the dominant fauna include the wedge shell *Donax*, the scallop *Pecten*, tellin shells *Tellina*, the heart urchin *Echinocardium*, the lug worm *Arenicola*, sand dollar *Dendraster*, and the sea pansy *Renilla*. In mud, faunal dominants adapted to low oxygen levels include the terebellid *Amphitrite*, the boring clam *Playdon*, the deep sea scallop *Placopecten*, the quahog *Mercenaria*, the echiurid worm *Urechis*, the mud snail *Nassarius*, and the sea cucumber *Thyone*.

F. *Intertidal Algal Beds:* These are hard substrates along the marine edge that are dominated by macroscopic algae, usually thalloid, but also filamentous or unicellular in growth form. This also includes the rocky coast tidepools that fall within the intertidal zone. Dominant fauna of these areas are barnacles, mussels, periwinkles, anemones, and chitons. Three regions are apparent:

1. *Northern Latitude Rocky Shores:* It is in this region that the community structure is best developed. The dominant algal species include *Chondrus* at the low tide level, *Fucus* and *Ascophyllum* at the mid-tidal level, and *Laminaria* and other kelp-like algae just beyond the intertidal, although they can be exposed at extremely low tides or found in very deep tidepools.

2. *Southern Latitudes:* The communities in this region are reduced in comparison to

those of the northern latitudes and possesses algae consisting mostly of single-celled or filamentous green, blue-green, and red algae, and small thalloid brown algae.

3. *Tropical and Subtropical Latitudes:* The intertidal in this region is very reduced and contains numerous calcareous algae such as *Porolithon* and *Lithothamnion*, as well as green algae with calcareous particles such as *Halimeda*, and numerous other green, red, and brown algae.

Group III—Submerged Bottoms

A. *Subtidal Hardbottoms:* This system is characterized by a consolidated layer of solid rock or large pieces of rock (neither of biotic origin) and is found in association with geomorphological features such as submarine canyons and fjords and is usually covered with assemblages of sponges, sea fans, bivalves, hard corals, tunicates, and other attached organisms. A significant feature of estuaries in many parts of the world is the oyster reef, a type of subtidal hardbottom. Composed of assemblages of organisms (usually bivalves), it is usually found near an estuary's mouth in a zone of moderate wave action, salt content, and turbidity. If light levels are sufficient, a covering of microscopic and attached macroscopic algae, such as kelp, may also be found.

B. *Subtidal Softbottoms:* Major characteristics of this ecosystem are an unconsolidated layer of fine particles of silt, sand, clay, and gravel, high hydrogen sulfide levels, and anaerobic conditions often existing below the surface. Macrophytes are either sparse or absent, although a layer of benthic microalgae may be present if light levels are sufficient. The faunal community is dominated by a diverse population of deposit feeders including polychaetes, bivalves, and burrowing crustaceans.

C. *Subtidal Plants:* This system is found in relatively shallow water (less than 8 to 10 meters) below mean low tide. It is an area of extremely high primary production that provides food and refuge for a diversity of faunal groups, especially juvenile and adult fish, and in some regions, manatees and sea turtles. Along the North Atlantic and Pacific coasts, the seagrass *Zostera marina* predominates. In the South Atlantic and Gulf coast areas, *Thalassia* and *Diplanthera* predominate. The grasses in both areas support a number of epiphytic organisms.

Class II—Physical Characteristics

Group I—Geologic

A. *Basin Type:* Coastal water basins occur in a variety of shapes, sizes, depths, and appearances. The eight basic types discussed below will cover most of the cases:

1. *Exposed Coast:* Solid rock formations or heavy sand deposits characterize exposed ocean shore fronts, which are subject to the full force of ocean storms. The sand beaches are very resilient, although the dunes lying just behind the beaches are fragile and easily damaged. The dunes serve as a sand storage area, making them chief stabilizers of the ocean shorefront.

2. *Sheltered Coast:* Sand or coral barriers, built up by natural forces, provide sheltered areas inside a bar or reef where the ecosystem takes on many characteristics of confined waters—abundant marine grasses, shellfish, and juvenile fish. Water movement is reduced, with the consequent effects of pollution being more severe in this area than in exposed coastal areas.

3. *Bay:* Bays are larger confined bodies of water that are open to the sea and receive strong tidal flow. When stratification is pronounced, the flushing action is augmented by river discharge. Bays vary in size and in type of shorefront.

4. *Embayment:* A confined coastal water body with narrow, restricted inlets and with a significant freshwater inflow can be classified as an embayment. These areas have more restricted inlets than bays, are usually smaller and shallower, have low tidal action, and are subject to sedimentation.

5. *Tidal River:* The lower reach of a coastal river is referred to as a tidal river. The coastal water segment extends from the sea or estuary into which the river discharges to a point as far upstream as there is significant salt content in the water, forming a salt front. A combination of tidal action and freshwater outflow makes tidal rivers well-flushed. The tidal river basin may be a simple channel or a complex of tributaries, small associated embayments, marshfronts, tidal flats, and a variety of others.

6. *Lagoon:* Lagoons are confined coastal bodies of water with restricted inlets to the sea and without significant freshwater inflow. Water circulation is limited, resulting in a poorly flushed, relatively stagnant body of water. Sedimentation is rapid with a great potential for basin shoaling. Shores are often gently sloping and marshy.

7. *Perched Coastal Wetlands:* Unique to Pacific islands, this wetland type, found above sea level in volcanic crater remnants, forms as a result of poor drainage characteristics of the crater rather than from sedimentation. Floral assemblages exhibit distinct zonation while the faunal constituents may include freshwater, brackish, and/or marine species. Example: Aunu'u Island, American Samoa.

8. *Anchialine Systems:* These small coastal exposures of brackish water form in lava depressions or elevated fossil reefs, have only a subsurface connection to the ocean, but show tidal fluctuations. Differing from true estuaries in having no surface continuity with streams or ocean, this system is characterized by a distinct biotic community dominated by benthic algae such as *Rhizoclonium*, the mineral encrusting *Schizothrix*, and the vascular plant *Ruppia maritima*. Characteristic fauna, which exhibit a high degree of endemicity, include the mollusks *Theodoxus neglectus* and *T. cariosus*, the small red shrimp *Metabetaeus lohena* and *Halocaridina rubra*, and the fish *Eleotris sandwicensis* and *Kuhlia sandvicensus*. Although found throughout the world, the high islands of the Pacific are the only areas within the U.S. where this system can be found.

B. *Basin Structure:* Estuary basins may result from the drowning of a river valley (coastal plains estuary), the drowning of a glacial valley (fjord), the occurrence of an offshore barrier (bar-bounded estuary), some tectonic process (tectonic estuary), or volcanic activity (volcanic estuary).

1. *Coastal plains estuary:* Where a drowned valley consists mainly of a single channel, the form of the basin is fairly regular, forming a simple coastal plains estuary. When a channel is flooded with numerous tributaries, an irregular estuary results. Many estuaries of the eastern United States are of this type.

2. *Fjord:* Estuaries that form in elongated, steep headlands that alternate with deep U-shaped valleys resulting from glacial scouring are called fjords. They generally possess rocky floors or very thin veneers of sediment, with deposition generally being restricted to the head where the main river enters. Compared to total fjord volume, river discharge is small. But many fjords have restricted tidal ranges at their mouths, due to sills, or upreaching sections of the bottom which limit free movement of water, often making river flow large with respect to the tidal prism. The deepest portions are in the upstream reaches, where maximum depths can range from 800 m to 1200 m, while sill depths usually range from 40 m to 150 m.

3. *Bar-bounded Estuary:* These result from the development of an offshore barrier, such as a beach strand, a line of barrier islands, reef formations, a line of moraine debris, or the subsiding remnants of a deltaic lobe. The basin is often partially exposed at low tide and is enclosed by a chain of offshore bars or barrier islands, broken at intervals by inlets. These bars may be either deposited offshore or may be coastal dunes that have become isolated by recent sea level rises.

4. *Tectonic Estuary:* These are coastal indentures that have formed through tectonic processes such as slippage along a fault line (San Francisco Bay), folding, or movement of the earth's bedrock, often with a large inflow of freshwater.

5. *Volcanic Estuary:* These coastal bodies of open water, a result of volcanic processes, are depressions or craters that have direct and/or subsurface connections with the ocean and may or may not have surface continuity with streams. These formations are unique to island areas of volcanic origin.

C. *Inlet Type:* Inlets in various forms are an integral part of the estuarine environment, as they regulate, to a certain extent, the velocity and magnitude of tidal exchange, the degree of mixing, and volume of discharge to the sea. There are four major types of inlets:

1. *Unrestricted:* An estuary with a wide, unrestricted inlet typically has slow currents, no significant turbulence, and receive the full effect of ocean waves and local disturbances which serve to modify the shoreline. These estuaries are partially mixed, as the open mouth permits the incursion of marine waters to considerable distances upstream, depending on the tidal amplitude and stream gradient.

2. *Restricted:* Restrictions of estuaries can exist in many forms: bars, barrier islands, spits, sills, and more. Restricted inlets result in decreased circulation, more pronounced longitudinal and vertical salinity gradients, and more rapid sedimentation. However, if the estuary mouth is restricted by depositional features or land closures, the incoming tide may be held back until it suddenly breaks forth into the basin as a

tidal wave, or *bore*. Such currents exert profound effects on the nature of the substrate, turbidity, and biota of the estuary.

3. *Permanent:* Permanent inlets are usually opposite the mouths of major rivers and permit river water to flow into the sea. Sedimentation and deposition are minimal.

4. *Temporary (Intermittent):* Temporary inlets are formed by storms and frequently shift position, depending on tidal flow, the depth of the sea and sound waters, the frequency of storms, and the amount of littoral transport.

D. *Bottom Composition:* The bottom composition of estuaries attests to the vigorous, rapid, and complex sedimentation processes characteristic of most coastal regions with low relief. Sediments are derived through the hydrologic processes of erosion, transport, and deposition carried on by the sea and the stream.

1. *Sand:* Near estuary mouths, where the predominating forces of the sea build spits or other depositional features, the shores and substrates of the estuary are sandy. The bottom sediments in this area are usually coarse, with a graduation toward finer particles in the head of the estuary. In the head region and other zones of reduced flow, fine silty sands are deposited. Sand deposition occurs only in wider or deeper regions where velocity is reduced.

2. *Mud:* At the base level of a stream near its mouth, the bottom is typically composed of loose muds, silt, and organic detritus as a result of erosion and transport from the upper stream reaches and organic decomposition. Just inside the estuary entrance, the bottom contains considerable quantities of sand and mud, which support a rich fauna. Mud flats, commonly built up in estuarine basins, are composed of loose, coarse, and fine mud and sand, often dividing the original channel.

3. *Rock:* Rocks usually occur in areas where the stream runs rapidly over a steep gradient with its coarse materials being derived from the higher elevations where the stream slope is greater. The larger fragments are usually found in shallow areas near the stream mouth.

4. *Oyster shell:* Throughout a major portion of the world, the oyster reef is one of the most significant features of estuaries, usually being found near the mouth of the estuary in a zone of moderate wave action, salt content, and turbidity. It is often a major factor in modifying estuarine current systems and sedimentation, and may occur as an elongated island or peninsula oriented across the main current, or may develop parallel to the direction of the current.

Group II—Hydrographic

A. *Circulation:* Circulation patterns are the result of the combined influences of freshwater flow, tidal action, wind and oceanic forces, and serve many functions: nutrient transport, plankton dispersal, ecosystem flushing, salinity control, water mixing, and more.

1. *Stratified:* This is typical of estuaries with a strong freshwater influx and is commonly found in bays formed from "drowned" river valleys, fjords, and other deep basins. There is a net movement of freshwater outward at the top layer and saltwater at the bottom layer, resulting in a net outward transport of surface organisms and net inward transport of bottom organisms.

2. *Non-stratified:* Estuaries of this type are found where water movement is sluggish and flushing rate is low, although there may be sufficient circulation to provide the basis for a high carrying capacity. This is common to shallow embayments and bays lacking a good supply of freshwater from land drainage.

3. *Lagoonal:* An estuary of this type is characterized by low rates of water movement resulting from a lack of significant freshwater influx and a lack of strong tidal exchange because of the typically narrow inlet connecting the lagoon to the sea. Circulation, whose major driving force is wind, is the major limiting factor in biological productivity within lagoons.

B. *Tides:* This is the most important ecological factor in an estuary, as it affects water exchange and its vertical range determines the extent of tidal flats which may be exposed and submerged with each tidal cycle. Tidal action against the volume of river water discharged into an estuary results in a complex system whose properties vary according to estuary structure as well as the magnitude of river flow and tidal range. Tides are usually described in terms of their cycle and their relative heights. In the United States, tide height is reckoned on the basis of average low tide, which is referred to as *datum*. The tides, although complex, falls into three main categories:

1. *Diurnal:* This refers to a daily change in water level that can be observed along the shoreline. There is one high tide and one low tide per day.

2. *Semidiurnal:* This refers to a twice daily rise and fall in water that can be observed along the shoreline.

3. *Wind/Storm Tides:* This refers to fluctuations in water elevation to wind and storm events, where influence of lunar tides is less.

C. *Freshwater:* According to nearly all the definitions advanced, it is inherent that all estuaries need freshwater, which is drained from the land and measurably dilutes seawater to create a brackish condition. Freshwater enters an estuary as runoff from the land either from a surface and/or subsurface source.

1. *Surface water:* This is water flowing over the ground in the form of streams. Local variation in runoff is dependent upon the nature of the soil (porosity and solubility), degree of surface slope, vegetational type and development, local climatic conditions, and volume and intensity of precipitation.

2. *Subsurface water:* This refers to the precipitation that has been absorbed by the soil and stored below the surface. The distribution of subsurface water depends on local climate, topography, and the porosity and permeability of the underlying soils and rocks. There are two main subtypes of surface water:

a. *Vadose water:* This is water in the soil above the water table. Its volume with respect to the soil, is subject to considerable fluctuation.

b. *Groundwater:* This is water contained in the rocks below the water table, is usually of more uniform volume than vadose water, and generally follows the topographic relief of the land, being high below hills and sloping into valleys.

Group III—Chemical

A. *Salinity:* This reflects a complex mixture of salts, the most abundant being sodium chloride, and is a very critical factor in the distribution and maintenance of many estuarine organisms. Based on salinity, there are two basic estuarine types and eight different salinity zones (expressed in parts per thousand—ppt).

1. *Positive estuary:* This is an estuary in which the freshwater influx is sufficient to maintain mixing, resulting in a pattern of increasing salinity toward the estuary mouth. It is characterized by low oxygen concentration in the deeper waters and considerable organic content in bottom sediments.

2. *Negative estuary:* This is found in particularly arid regions, where estuary evaporation may exceed freshwater inflow, resulting in increased salinity in the upper part of the basin, especially if the estuary mouth is restricted so that tidal flow is inhibited. These are typically very salty (hyperhaline), moderately oxygenated at depth, and possess bottom sediments that are poor in organic content.

3. *Salinity zones (expressed in ppt):*

a. *Hyperhaline*—greater than 40 ppt.

b. *Euhaline*—40 ppt to 30 ppt.

c. *Mixohaline:* 30 ppt to 0.5 ppt.

(1) Mixoeuhaline—greater than 30 ppt but less than the adjacent euhaline sea.

(2) Polyhaline—30 ppt to 18 ppt.

(3) Mesohaline—18 ppt to 5 ppt.

(4) Oligohaline—5 ppt to 0.5 ppt.

d. *Limnetic:* Less than 0.5 ppt.

B. *pH Regime:* This is indicative of the mineral richness of estuarine waters and fall into three main categories:

1. *Acid:* Waters with a pH of less than 5.5.

2. *Circumneutral:* A condition where the pH ranges from 5.5 to 7.4.

3. *Alkaline:* Waters with a pH greater than 7.4.

[FR Doc. 84-16941 Filed 6-25-84; 8:45 am]

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federal register

Wednesday
June 27, 1984

Part V

Environmental Protection Agency

**40 CFR Part 60
Standards of Performance
for New Stationary Sources;
Reference Methods; Quality Assurance
and Quality Control Revisions to
Methods 6 and 7; Final Rule**

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD-FRL 2558-4]

Standards of Performance for New Stationary Sources; Reference Methods; Quality Assurance and Quality Control Revisions to Methods 6 and 7

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The purpose of this action is to promulgate quality assurance and quality control revisions to Methods 6 and 7 of Appendix A of 40 CFR Part 60. These revisions were proposed in the **Federal Register** on March 30, 1983 (48 FR 13388).

These revisions require source testers to analyze audit samples when making compliance determinations in order to assess their analytical accuracy and calculations. A quality control guideline for the Method 7 calibration data is also included for publication.

EFFECTIVE DATE: June 27, 1984.

Under section 307(b)(1) of the Clean Air Act, judicial review of this new source performance standard is available *only* by the filing of a petition for review in the U.S. Court of Appeals for the District of Columbia within 60 days of today's publication of this rule. Under section 307(b)(2) of the Clean Air Act, the requirements that are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

ADDRESSES: *Summary of Comments and Responses.* This document for the promulgated revisions may be obtained from the U.S. EPA Library (MD-35), Research Triangle Park, North Carolina 27711, telephone (919) 541-2777. Please refer to "Quality Assurance and Quality Control Revisions to Methods 6 and 7 (proposed March 30, 1983, 48 FR 13388)—Summary of Comments and Responses, EPA-450/3-84-006." The document contains (1) a summary of all the public comments made on the proposed rule and the Administrator's response to the comments, and (2) a summary of the changes made to the rule since proposal.

Background Information. This document may be obtained from the U.S. EPA Library (MD-35), Research Triangle Park, North Carolina 27711, telephone number (919) 541-2777. Please refer to "Methods 6 and 7 Quality Assurance and Quality Control Revisions—Background Information, EPA 450/3-82-017." The document offers guidelines for minimizing analytical inaccuracies.

Docket. A docket, number A-81-19, containing materials considered by EPA in development of the promulgated rulemaking, is available for public inspection between 8:00 a.m. and 4:00 p.m., Monday through Friday, at EPA's Central Docket Section (LE-131), West Tower Lobby, Gallery 1, 401 M Street, SW., Washington, D. C. 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Foston Curtis or Roger Shigehara, Emission Measurement Branch, Emission Standards and Engineering Division (MD-19), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone (919) 541-2237.

SUPPLEMENTARY INFORMATION: The promulgated revisions will require the source tester to: (1) Analyze audit samples supplied by EPA with Method 6 compliance samples, (2) assure that at least three of the four Method 7 calibration points are within 7 percent of the least squares line, and (3) analyze EPA audits with Method 7 compliance samples.

This rulemaking does not impose any additional emission measurement requirements on facilities affected by this rulemaking. Rather, this rulemaking adds quality assurance and quality control procedures to the test methods to which the affected facilities are already subject. If future standards impose emission measurement requirements, the impacts of the additions to the test methods promulgated today will be evaluated during development of these standards.

Public Participation

The revisions were proposed and published in the **Federal Register** on March 30, 1983 (48 FR 13388). The opportunity to request a public hearing was presented to provide interested persons the opportunity for oral presentation of data, views, or arguments concerning the proposed revisions, but no person desired to make an oral presentation. The public comment period was from March 30, 1983 to June 13, 1983. Fifteen comments letters were received concerning issues relative to the proposed revisions. The comments have been carefully considered and, where determined to be appropriate by the Administrator, changes have been made.

Significant Comments and Changes to the Proposed Method Revisions

Fifteen comment letters were received on the proposed revisions. The major comments and responses are summarized in this preamble. Some of the comment letters contained multiple comments. The significant comments and subsequent changes to the proposed revisions are listed here.

1. One commenter was concerned about logistic problems that would be created by the rulemaking. It was questioned whether EPA could guarantee delivery of audit samples that would be in the appropriate analytical range of the compliance samples and if assurance could be made that different audit concentrations be sent for different requests. Another commenter voiced concern over the significant cost for reanalysis because samples are not received on time or those received are of poor quality.

The Agency has, for a number of years, effectively delivered quality audit samples to laboratories from industry, contracting firms, universities, foreign countries, and governmental agencies who participate in a voluntary interlaboratory survey. The rulemaking will instruct the tester to notify the appropriate EPA quality assurance office 30 days prior to the test to allow sufficient time for mailing. The audit concentrations will be within the calibration range of Method 7 and within the titration range of Method 6. The EPA regional offices will coordinate the program to ensure that requesters receive different audits on different requests.

2. One commenter thought the proposed requirements were redundant, especially since the Agency already conducts a semiannual interlaboratory survey. It was felt that more frequent audit analyses should only be required in those cases where the ongoing interlaboratory program points out a deficiency in a laboratory's quality control program. A second commenter suggested that rather than analyzing unknown samples, it would be more beneficial to analyze specimens of known concentration prior to running the compliance test samples. A third commenter felt that a single audit check per quarter should be adequate, and that individual precision checks should be accomplished by requiring that the known concentration be analyzed with each set of compliance samples collected during the quarter.

The ongoing interlaboratory program will be phased down upon promulgation of these new audit requirements.

Participation in the program gave laboratories an indication of their relative analytical performance but did not check for or eliminate inaccuracies experienced on an actual test due to using different or inexperienced personnel, mistakes in the standards preparation, calculations, reporting, etc. To maximize the incentive to eliminate such inaccuracies, unknown audits should be analyzed with compliance samples. The proposed quarterly audit as a minimum for compliance samples that are analyzed on a frequent basis has been dropped. This will eliminate the use of 3-month-old analytical reagents that were allowed by the quarterly audit. For different compliance tests performed under the jurisdiction of the same enforcement agency, a monthly audit is required.

3. A commenter noted the additional level of regulation that would be created by the new requirements. It was perceived that the Administrator's discretion to use the compliance result whether the audit is passed or failed, and the option to waive reanalysis if the audit is failed would nullify the rationale for the requirements. The commenter felt that all data outside the maximum allowable error should be invalidated.

Administrator discretion comes into play in only two cases: when the test shows the source is substantially below the standard, but the audit is marginally failed, and when the source is substantially above the standard, but the audit is marginally failed. In each case, the applicatin of a correction factor would not change the compliance or noncompliance status of the source. Acceptance of the test results in each case is allowed because compliance or noncompliance is clearly shown and would not be affected by the additional error above that normally allowed.

4. One commenter thought it best to audit the sampling procedure in addition to the analysis procedure. Another commenter did not think the analysis procedure should be audited since the sampling procedure is not audited. The Agency has considered auditing of the sampling procedure (using gas cylinders) but, at this time, feels that such an approach would be impractical, expensive, and the benefits received would not justify the effort required to perform it. If a simple auditing technique can be developed, EPA will consider such an audit in the future.

5. The proposed rule was opposed by one commenter who saw it as giving smaller stack testing firms a competitive disadvantage due to increased costs. It was felt that the benefits gained would not justify the increased cost. The Agency does not feel that the increased cost associated with implementing quality assurance requirements will be substantial enough to give larger firms a competitive advantage.

6. One commenter objected to requiring only EPA-derived audit samples. It was recommended that internally-generated audit samples be allowed in place of the EPA samples, which themselves have the potential to introduce error due to mistakes in preparation and documentation of the actual concentrations.

The potential for errors in preparation and documentation of actual concentrations would be compounded if each laboratory were allowed to generate its own audit samples. Any error in an EPA-derived audit would be rapidly detected since more than one laboratory will be analyzing them. To assure fairness in meeting the audit accuracy levels, a single source of samples in needed to serve as a reference for all laboratories.

7. Objection was made by one commenter to obtaining the audit results only when reporting compliance results by telephone. Communicating compliance results to the Agency by telephone was a serious concern.

Initial reporting of audit and compliance sample results by telephone will be an allowable option, not a requirement. Submission of a written test report is still mandatory in this case. The allowance for telephone communication enables the tester to determine at an early stage whether the audit is passed and hence the compliance data acceptable, or whether the audit is failed, and a reanalysis is necessary. Determination of the audit status before the test report is written and before the audit and compliance samples have aged substantially would eliminate much of the unnecessary work and expense created if it is determined at a later date that a reanalysis is needed.

8. One commenter thought that Section 4.4 restricts the analysis to one person. This would delay the analysis and preparation of the compliance test report for some laboratories.

The intention of Section 4.4 is not to restrict the analysis to one person but to ensure that all parties involved in the analysis of the compliance samples likewise take part in the analysis of the audits.

Docket

The docket is an organized and complete file of the information considered by EPA in the development of this rulemaking. The docket is a dynamic file, since material is added throughout the rulemaking development. The docketing system is intended to allow members of the public and industries involved to identify readily and locate documents so that they can intelligently and effectively participate in the rulemaking process. Along with the statement of basis and purposes of the proposed and promulgated rule and EPA response to significant comments, the contents of the docket will serve as the record in case of judicial review [section 307(d)(7)(A)].

Miscellaneous

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a regulatory impact analysis. This regulation is not major because it will not have an annual effect on the economy of $100 million or more; it will not result in a major increase in costs or prices; and there will be no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets. This regulation was submitted to the Office of Management and Budget for review as required by Executive Order 12291.

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that the attached rule will not have a significant economic impact on a substantial number of small entities. The anticipated increase in costs due to implementing this rule should be 5 percent or less for a typical Method 6 or 7 test. Additional costs would be experienced by these laboratories required to perform a reanalysis due to analytical inaccuracies. However, reanalysis should not normally be necessary because the rule recommends procedures for eliminating these inaccuracies. This rule does not contain any information collection requirements subject to OMB review under the Paperwork Reduction Act of 1980 U.S.C. 3501 *et seq.*

List of Subjects in 40 CFR Part 60

Air pollution control, Aluminum, Ammonium sulfate plants, Asphalt, Cement industry, Coal, Copper, Electric power plants, Glass and glass products, Grains, Intergovernmental relations, Iron, Lead, Metals, Metallic minerals, Motor vehicles, Nitric acid plants, Paper and paper products industry, Petroleum, Phosphate, Sewage disposal, Steel, Sulfuric acid plants, Waste treatment and disposal, Zinc, Tires, Incorporation by reference, Can surface coating, Industrial organic chemicals, Organic

solvent cleaners, Fossil fuel-fired steam generators, Fiberglass insulation, Synthetic fibers.

This rulemaking is issued under the authority of sections 111, 114, and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7411, 7414, and 7601(a)).

Dated: June 15, 1984.

William D. Ruckelshaus,

Administrator.

PART 60—[AMENDED]

40 CFR Part 60, Appendix A, is amended as follows:

1. In Method 6, by adding Sections 3.3.6, 4.4, and 6.4, and by adding a second paragraph to Section 5.5, as follows:

Appendix A—Reference Methods

* * * * *

Method 6—Determination of Sulfur Dioxide Emissions From Stationary Sources

* * * * *

3. Reagents.

* * * * *

3.3 * * *

3.3.6 Quality Assurance Audit Samples. Sulfate samples in glass vials prepared by EPA's Environmental Monitoring Systems Laboratory, Quality Assurance Division, Source Branch, Mail Drop 77A, Research Triangle Park, North Carolina 27711. Each set will consist of two vials having solutions of unknown concentrations. Only when making compliance determinations, obtain an audit sample set from the Quality Assurance Management office at each EPA regional Office or the responsible enforcement agency. (**Note:** The tester should notify the quality assurance office or the responsible enforcement agency at least 30 days prior to the test date to allow sufficient time for sample delivery.)

4. Procedure.

* * * * *

4.4 Audit Sample Analysis. Concurrently analyze the two audit samples and a set of compliance samples (Section 4.3) in the same manner to evaluate the technique of the analyst and the standards preparation. (**Note:** It is recommended that known quality control samples be analyzed prior to the compliance and audit sample analysis to optimize the system accuracy and precision. One source of these samples is the Source Branch listed in Section 3.3.6.) The same analysts, analytical reagents, and analytical system shall be used both for compliance samples and the EPA audit samples; if this condition is met, auditing of subsequent compliance analyses for the same enforcement agency within 30 days is not required. An audit sample set may not be used to validate different sets of compliance samples under the jurisdiction of different enforcement agencies, unless prior arrangements are made with both enforcement agencies.

Calculate the concentrations in mg/dscm using the specified sample volume in the audit instructions. (**Note:** Indication of acceptable results may be obtained immediately by reporting the audit results in mg/dscm and compliance results in total mg SO_2/sample by telephone to the responsible enforcement agency.) Include the results of both audit samples, their identification numbers, and the analyst's name with the results of the compliance determination samples in appropriate reports to the EPA regional office or the appropriate enforcement agency. Include this information with subsequent compliance analyses for the same enforcement agency during the 30-day period.

The concentrations of the audit samples obtained by the analyst shall agree within 5 percent of the actual concentrations. If the 5-percent specification is not met, reanalyze the compliance samples and audit samples, and include initial and reanalysis values in the test report (see **Note** in first paragraph of this section).

Failure to meet the 5-percent specification may require retests until the audit problems are resolved. However, if the audit results do not affect the compliance or noncompliance status of the affected facility, the Administrator may waive the reanalysis requirement, further audits, or retests and accept the results of the compliance test. While steps are being taken to resolve audit analysis problems, the Administrator may also choose to use the data to determine the compliance or noncompliance status of the affected facility.

5. Calibration.

* * * * *

5.5 * * *

Run duplicate analyses. Calculate the normality using the average of a pair of duplicate analyses where the titrations agree within 1 percent or 0.2 ml, whichever is larger.

6. Calculations.

* * * * *

6.4 Relative Error (RE) for QA Audit Samples, Percent.

$$RE = \frac{C_d - C_a}{C_a} \times 100 \quad \text{Eq. 6-3}$$

Where:

C_d = Determined audit sample concentration, mg/dscm.

C_a = Actual audit sample concentration, mg/dscm.

* * * * *

2. In Method 7, by adding Sections 3.3.9, 4.4, 5.2.3, and 6.5, as follows:

Appendix A—Reference Methods

* * * * *

Method 7—Determination of Nitrogen Oxide Emissions From Stationary Sources

* * * * *

3. Reagents.

* * * * *

3.3 * * *

3.3.9 Quality Assurance Audit Samples. Nitrate samples in glass vials prepared by EPA's Environmental Monitoring Systems Laboratory, Quality Assurance Division, Source Branch, Mail Drop 77A, Research Triangle Park, North Carolina 27711. Each set will consist of two vials having solutions of unknown concentrations. Only when making compliance determinations, obtain an audit sample set from the quality assurance management office at each EPA regional office or the responsible enforcement agency. (**Note:** The tester should notify the quality assurance office or the responsible enforecement agency at least 30 days prior to the test date to allow sufficient time for sample delivery.)

4. Procedures.

* * * * *

4.4 Audit Sample Analysis. Concurrently analyze the two audit samples and a set of compliance samples (Section 4.3) in the same manner to evaluate the technique of the analyst and the standards preparation. (**Note:** It is recommended that known quality control samples be analyzed prior to the compliance and audit sample analysis to optimize the system accuracy and precision. One source of these samples is the Source Branch listed in Section 3.3.9.) The same analysts, analytical reagents, and analytical system shall be used both for the compliance samples and the EPA audit samples; if this condition is met, auditing of subsequent compliance analyses for the same enforcement agency within 30 days is not required. An audit sample set may not be used to validate different sets of compliance samples under the jurisdiction of different enforcement agencies, unless prior arrangements are made with both enforcement agencies.

Calculate the concentrations in mg/dscm using the specified sample volume in the audit instructions. (**Note:** Indication of acceptable results may be obtained immediately by reporting the audit results in mg/dscm and compliance results in total µg NO_2/sample by telephone to the responsible enforcement agency.) Include the results of both audit samples, their identification numbers, and the analyst's name with the results of the compliance determination samples in appropriate reports to the EPA regional office or the appropriate enforcement agency. Include this information with subsequent compliance analyses for the same enforcement agency during the 30-day period.

The concentrations of the audit samples obtained by the analyst shall agree within 10 percent of the actual audit concentrations. If the 10-percent specification is not met, reanalyze the compliance samples and audit samples and include initial and reanalysis values in the test report (see **Note** in the first paragraph of this section).

Failure to meet the 10-percent specification may require retests until the audit problems are resolved. However, it the audit results do not affect the compliance or noncompliance status of the affected facility, the Administrator may waive the reanalysis requirement, further audits, or retests and accept the results of the compliance test. While steps are being taken to resolve audit analysis problems, the Administrator may also choose to use the data to determine the

compliance or noncompliance status of the affected facility.

5. Calibration.

* * * * *

5.2 * * *

5.2.3 Spectrophotometer Calibration Quality Control. Multiply the absorbance value obtained for each standard by the K_c factor (least squares slope) to determine the distance each calibration point lies from the theoretical calibration line. These calculated concentration values should not differ from the actual concentrations (i.e., 100, 200, 300, and 400 μg NO_2) by more than 7 percent for three of the four standards.

* * * * *

6. Calculations.

* * * * *

6.5 Relative Error (RE) for QA Audit Samples, Percent.

$$RE = \frac{C_d - C_a}{C_a} \times 100 \quad \text{Eq. } 7-5$$

Where:

C_d = Determined audit sample concentration, mg/dscm.

C_a = Actual audit sample concentration, mg/dscm.

(Secs. 111, 114, and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7411, 7414, and 7601(a)))

* * * * *

[FR Doc. 84-16924 Filed 6-26-84; 8:45 am]

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federal register

Wednesday
June 27, 1984

Part VI

Office of Management and Budget

Budget Rescissions and Deferrals; Notice

OFFICE OF MANAGEMENT AND BUDGET

Cumulative Report on Rescissions and Deferrals

June 1, 1984.

This report is submitted in fulfillment of the requirements of section 1014(e) of the Impoundment Control Act of 1974 (Pub. L. 93–344). Section 1014(e) provides for a monthly report listing all budget authority for this fiscal year with respect to which, as of the first day of the month, a special message has been transmitted to the Congress.

This report gives the status as of June 1, 1984 of nine rescission proposals and 61 deferrals contained in the first ten special messages of FY 1984. These messages were transmitted to the congress on October 3, November 17, December 14 and December 21, 1983; and January 12, February 1 and 22, March 26, and May 8 and 21, 1984.

Rescissions (Table A and Attachment A)

As of June 1, 1984, there were no rescission proposals pending before the Congress. Attachment A shows the history and status of the nine rescissions proposed by the President in 1984.

Deferrals (Table B and Attachment B)

As of June 1, 1984, $3,558.2 million in 1984 budget authority was being deferred from obligation and $10,000 in 1984 outlays was being deferred from expenditure. Attachment B shows the history and status of each deferral reported during FY 1984.

Information From Special Messages

The special messages containing information on the rescission proposal and deferrals coverred by this cumulative report are printed in the **Federal Registers** listed below:

Vol. 48, FR p. 45730, Thursday, October 6, 1983
Vol. 48, FR p. 53060, Wednesday, November 23, 1983
Vol. 48, FR p. 56720, Thursday, December 22, 1983
Vol. 48, FR p. 57098, Tuesday, December 27, 1983
Vol. 49, FR p. 2076, Tuesday, January 17, 1984
Vol. 49, FR p. 4692, Tuesday, February 7, 1984
Vol. 49, FR p. 7342, Tuesday, February 28, 1984
Vol. 49, FR p. 13096, Monday, April 2, 1984
Vol. 49, FR p. 20234, Friday, May 11, 1984
Vol. 49, FR p. 22032, Thursday, May 24, 1984

David A. Stockman,

Director, Office of Management and Budget.

BILLING CODE 3110-01-M

TABLE A

STATUS OF 1984 RESCISSIONS

	Amount (In millions of dollars)
Rescissions proposed by the President	$ 636.4
Accepted by the Congress	-0-
Rejected by the Congress	-636.4
Pending before the Congress	$ -0-

****

TABLE B

STATUS OF 1984 DEFERRALS

	Amount (In millions of dollars)
Deferrals proposed by the President	$ 7,414.9
Routine Executive releases through June 1, 1984 (OMB/Agency Releases of $3,924.0 million and cumulative adjustments of -$69.3 million)	-3,854.7
Overturned by the Congress	-2.0
Currently before the Congress	$ 3,558.2 a/

a/ This amount includes $10,000 in outlays for a Department of the Treasury deferral (D84-16).

Attachments

Attachment A - Status of Rescissions - Fiscal Year 1984

As of June 1, 1984 Amounts in Thousands of Dollars Agency/Bureau/Account	Rescission Number	Amount Previously Considered by Congress	Amount Currently before Congress	Date of Message	Amount Rescinded	Amount Made Available	Date Made Available	Congressional Action
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT								
Public and Indian Housing Programs								
Payment for operation of low-income housing	R84-2		331,431	2-1-84		331,431	3-28-84	
DEPARTMENT OF THE INTERIOR								
National Park Service								
Land acquisition	R84-3		30,000	2-1-84		30,000	3-28-84	
DEPARTMENT OF LABOR								
Occupational Safety and Health Administration	R84-1		1,700	12-21-83		1,700	3-19-84	
OTHER INDEPENDENT AGENCIES								
Corporation for Public Broadcasting								
Public broadcasting fund	R84-9		20,000	2-1-84		20,000	3-28-84	
Delaware and Susquehana River Basin Commissions								
Salaries and expenses, Delaware River Basin Commission	R84-4							
Salaries and expenses, Susquehana River Basin Commission	R84-5							
Panama Canal Commission								
Operating expenses	R84-6A		17,750	2-1-84		17,750	3-28-84	
Capital outlay	R84-6B		7,625	2-1-84		7,625	3-28-84	
OFF-BUDGET FEDERAL ENTITIES								
DEPARTMENT OF AGRICULTURE								
Rural Electrification Administration								
Rural electrification and telephone revolving fund	R84-7		197,862	2-1-84		197,862	3-28-84	
Rural telephone bank	R84-8		30,000	2-1-84		30,000	3-28-84	
Rescissions, total BA			636,368			636,368		

Attachment B - Status of Deferrals - Fiscal Year 1984

As of June 1, 1984 Amounts in Thousands of Dollars Agency/Bureau/Account	Deferral Number	Amount Transmitted Original Request	Amount Transmitted Subsequent Change	Date of Message	Cumulative OMB/Agency Releases	Congressionally Required Releases	Congressional Action	Cumulative Adjustments	Amount Deferred as of 6-1-84
FUNDS APPROPRIATED TO THE PRESIDENT									
Appalachian Regional Development Programs									
Appalachian regional development programs	D84-1	10,000		10-3-83					10,000
International Security Assistance									
Foreign military sales credit	D84-30	1,315,000		1-12-84	-187000				1,128,000
Economic support fund	D84-24	303,880		12-14-83					
	D84-24A		2,257,691	1-12-84	-2294091				277,480
	D84-60	102,000		5-8-84					102,000
Military assistance	D84-31	426,970		1-12-84	-402830				24,140
DEPARTMENT OF AGRICULTURE									
Soil Conservation Service									
Watershed and flood prevention operations	D84-49	8,138		2-1-84					8,138
Forest Service									
Construction	D84-37	10,814		2-1-84					10,814
Timber salvage sales	D84-2	6,211		10-3-83					
	D84-2A		9,210	1-12-84					15,421
Expenses, brush disposal	D84-3	42,674		10-3-83					
	D84-3A		12,398	1-12-84					
	D84-3B		778	5-8-84					55,850
DEPARTMENT OF COMMERCE									
International Trade Administration									
Participation in U.S. expositions	D84-32	550		1-12-84					550
National Oceanic & Atmospheric Administration									
Promote and develop fishery products and research pertaining to American fisheries	D84-4	33,600		10-3-83	-33600				0
DEPARTMENT OF DEFENSE - MILITARY									
Operation and Maintenance									
Environmental restoration, defense	D84-33	75,000		1-12-84	-75000				0
Military Construction									
Military construction, all services	D84-5	414,597		10-3-83					
	D84-5A		488,340	12-14-83	-637776			125,198	390,359
Family Housing, Defense									
Family housing, Air Force	D84-6	53,000		10-3-83					
	D84-6A		20,131	12-14-83	-73131				0
DEPARTMENT OF DEFENSE - CIVIL									
Wildlife Conservation, Military Reservations									
Wildlife conservation	D84-7	777		10-3-83					
	D84-7A		385	1-12-84					1,162
DEPARTMENT OF EDUCATION									
Office of Postsecondary Education									
Higher education	D84-38	500		2-1-84					500
DEPARTMENT OF ENERGY									
Energy Programs									
Energy supply, research and development activities	D84-39	10,052		2-1-84					10,052
Uranium supply and enrichment activities	D84-8	130,000		10-3-83					130,000
Fossil energy research and development	D84-21	20,326		11-17-83	-20326				
	D84-21A		500	12-14-83					
	D84-21B		8,993	2-1-84					9,493
Fossil energy construction	D84-25	38,038	1,962	12-14-83				-26000	
	D84-25A		23,196	2-1-84					37,196
Naval petroleum and oil shale reserves	D84-40	41,500		2-1-84					41,500

As of June 1, 1984 Amounts in Thousands of Dollars Agency/Bureau/Account	Deferral Number	Amount Transmitted Original Request	Amount Transmitted Subsequent Change	Date of Message	Cumulative OMB/Agency Releases	Congressionally Required Releases	Congressional Action	Cumulative Adjustments	Amount Deferred as of 6-1-84
Energy conservation	D84-41	10,077		2-1-84	-8577				1,500
Strategic petroleum reserve	D84-26	12,707		12-14-83					
	D84-26A		256	2-1-84					12,963
Alternative fuels production	D84-22	13,800		11-17-83					
	D84-22A		4,300	2-1-84	-12300				5,800
Power Marketing Administrations									
Operation and maintenance, Southwestern Power Administration	D84-42	7,000		2-1-84					7,000
Departmental Administration									
Departmental administration	D84-43	29,053		2-1-84					29,053
DEPARTMENT OF HEALTH AND HUMAN SERVICES									
Centers for Disease Control									
Disease control	D84-27	15,560		12-14-83					15,560
Office of Assistant Secretary for Health									
Scientific activities overseas (special foreign currency program)	D84-9	6,463		10-3-83					
	D84-9A		571	1-12-84					7,034
Social Security Administration									
Limitation on administrative expenses (construction)	D84-10	10,571		10-3-83					
	D84-10A		10,491	12-21-83	-14				21,048
DEPARTMENT OF THE INTERIOR									
Minerals Management Service									
Payments for proceeds, sale of water, Mineral Leasing Act of 1920	D84-11	48		10-3-83					48
Bureau of Reclamation									
Construction program	D84-61	8,000		5-21-84	-8000				
Bureau of the Mines									
Mines and minerals	D84-44	1,667		2-1-84					1,667
National Park Service									
Land acquisition and state assistance (contract authority)	D84-23	30,000		11-17-83					
	D84-23A		2,700	2-1-84				-30000	2,700
Construction (trust fund)	D84-50	14,000		2-22-84					14,000
Office of the Secretary									
Office of Water Policy	D84-51	300		2-22-84					300
DEPARTMENT OF JUSTICE									
Interagency Law Enforcement									
Organized crime drug enforcement	D84-57	272		3-26-84					272
Federal Bureau of Investigation									
Salaries and expenses	D84-58	42,000		3-26-84					42,000
Federal Prison System									
Buildings and facilities	D84-28	22,025		12-14-83					
	D84-28A		23,752						45,777
Office of Justice Assistance, Research and Statistics									
Law enforcement assistance	D84-52	296		2-22-84					296
DEPARTMENT OF STATE									
International Organizations and Conferences									
Contributions to international organizations	D84-46	4,723		2-1-84					4,723
Contributions for international peacekeeping activities	D84-45	10,879		2-1-84					10,879
United States emergency refugee and migration assistance fund	D84-12	37,928		10-3-83					
	D84-12A		192	1-2-84					38,120
United States bilateral science and technology agreements	D84-13	2,000		10-3-83					2,000

As of June 1, 1984 Amounts in Thousands of Dollars Agency/Bureau/Account	Deferral Number	Amount Transmitted Original Request	Amount Transmitted Subsequent Change	Date of Message	Cumulative OMB/Agency Releases	Congressionally Required Releases	Congressional Action	Cumulative Adjustments	Amount Deferred as of 6-1-84
DEPARTMENT OF TRANSPORTATION									
Federal Railroad Administration									
Railroad research and development	D84-53	578		2-22-84					578
Federal Aviation Administration									
Facilities, engineering and development	D84-59	360		3-26-84					360
Construction, Washington Metropolitan Airports	D84-54	277		2-22-84					277
Facilities and equipment (airport and airway trust)	D84-14	1,083,268		10-3-83	-153063				930,205
U.S. Coast Guard									
Retired pay	D84-55	13,350		2-22-84					13,350
Maritime Administration									
Ship construction	D84-47	7,000		2-1-84					7,000
Office of the Secretary									
Transportation planning, research and development	D84-56	160		2-22-84					160
DEPARTMENT OF THE TREASURY									
Office of Revenue Sharing									
State and local government fiscal assistance trust fund	D84-15	56,068		10-3-83	-2866			111	53,313
	D84-16	15,209		10-3-83	-15199				10
Bureau of the Mint									
Expansion and improvements	D84-29	256		12-14-83	-256				
OTHER INDEPENDENT AGENCIES									
Pennsylvania Avenue Development Corporation									
Land acquisition and development fund	D84-17	13,148		10-3-83					13,148
Railroad Retirement Board									
Milwaukee Railroad restructuring, administration	D84-18	85		10-3-83					
	D84-18A		147	12-14-83					232
Tennessee Valley Authority									
Tennessee Valley Authority fund	D84-19	7,000		10-3-83					7,000
	D84-48	2,192		2-1-84					2,192
United States Information Agency									
Salaries and expenses	D84-34	2,400		1-12-84					2,400
Salaries and expenses (special foreign currency program)	D84-35	2,900		1-12-84					2,900
Acquisition and construction of radio facilities	D84-36	9,645		1-12-84					9,645
United States Railway Association									
Administrative expenses	D84-20	2,050		10-3-83		-2050	98-181		
TOTAL, DEFERRALS		4,538,942	2,875,993		-3,924,029	-2,050		69,309	3,558,165

Notes: Deferral D84-25 was reported as part of D84-21 in the second special message. In the third special message the deferral was reported separately and adjusted upward slightly.

Of the amount deferred as D84-25, $26 million was transferred to Fossil energy research and development pursuant to the 1984 Interior and Related Agencies Appropriations Act.

All of the above amounts represent budget authority except one general revenue sharing deferral (D84-16) of outlays only.

The Soil Conservation Service deferral was erroneously transmitted as D84-36 in the sixth special message. It has been renumbered as D84-49.

[FR Doc. 84-15980 Filed 6-26-84; 8:45 am]
BILLING CODE 3110-01-C

federal register

Wednesday
June 27, 1984

Part VII

Department of Agriculture

Agricultural Stabilization and Conservation Service

7 CFR Part 725

Flue-Cured Tobacco Acreage Allotment and Marketing Quota Regulations; Request for Comments

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

7 CFR Part 725

Flue-Cured Tobacco Acreage Allotment and Marketing Quota Regulations; Request for Comments

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Notice of request for comments.

SUMMARY: The purpose of this notice is to seek public comments and suggestions concerning the promulgation of regulations which would provide that, beginning with the 1985 crop of flue-cured tobacco, none of the consideration for the lease of any flue-cured tobacco acreage allotment and marketing quota may be paid to the lessor prior to the marketing of the flue-cured tobacco which is produced under the lease on the farm for which such allotment and quota is established.

DATE: Comments and suggestions on this notice of intent must be received by July 27, 1984, in order to be assured of consideration.

ADDRESS: Send comments and suggestions to the Director, Tobacco and Peanuts Division, ASCS, Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013. All written submissions made pursuant to this notice will be made available for public inspection in room 5750 South Building, USDA.

FOR FURTHER INFORMATION CONTACT: C. Douglas Richardson, Agricultural Program Specialist, Tobacco and Peanuts Division, USDA–ASCS, P.O. Box 2415, Washington, D.C. 20013, (202) 447–4281.

SUPPLEMENTARY INFORMATION: The Dairy and Tobacco Adjustment Act of 1983 amended section 316 of the Agricultural Adjustment Act of 1938 ("1938 Act") to provide that, beginning with the 1985 crop of flue-cured tobacco, a lease and transfer of all or any part of an areage allotment or quota may not be approved unless both the transferring farm owner and the lessee certify that none of the consideration for the lease has been or will be paid to the lessor, either directly or indirectly in any form, prior to the marketing of the tobacco which is produced under the lease. A false statement by the lessor will result in a reduction in the lessor's next established flue-cured tobacco acreage allotment and marketing quota. A false statement by the lessee will result in the lease agreement being declared null and void with respect to the lessee's farm and could result in loss of eligibility for Commodity Credit Corporation price support loans and the assessment of a marketing quota penalty. On May 1, 1984, (49 FR 18672) a proposed rule was published setting forth proposed amendments to 7 CFR 725.72 to implement this provision.

Section 316 was also amended to provide that, beginning with the 1985 crop of flue-cured tobacco, the Secretary shall promulgate regulations establishing, insofar as is reasonably practicable, a similar requirement with respect to the payment of consideration for the lease of any flue-cured tobacco acreage allotment or marketing quota under which the lessee will produce the tobacco on the farm for which such allotment or quota is established. The Department is considering various options to determine how this provision of the 1938 Act could be implemented in a manner which is not unduly burdensome with respect to tobacco producers and which could be effectively administered by the Department.

Under the regulations governing the flue-cured tobacco program (7 CFR Part 725), it is necessary to obtain the approval of the county ASC committee to effect a lease and transfer of a flue-cured tobacco acreage allotment and marketing quota to a farm owned or operated by the lessee. This approval is not needed in order for a flue-cured tobacco acreage allotment and marketing quota established for a farm to be leased by a farm owner to another person for the production of flue-cured tobacco on the lessor's farm.

In view of the different situations existing under a lease as contrasted with a lease and transfer of tobacco acreage allotments and marketing quotas, this notice solicits comments with respect to implementing a rule to prohibit payment of any of the consideration for the lease of flue-cured tobacco acreage allotment and marketing quota prior to the time of marketing the tobacco which is produced under the lease, when the lessee will produce such tobacco on the farm for which such allotment and quota is established. The Department has indentified several specific areas of concern and, therefore, requests that particular attention by given to these areas:

1. In implementing such a requirement, it would be necessary to require each owner of a farm for which a flue-cured tobacco acreage allotment and marketing quota is established who leases such allotment and quota, as well as every flue-cured tobacco producer who is the lessee in such an arrangement, to file a statement with respect to all terms and conditions of the lease and specifically certify that none of the consideration for the leased allotment and marketing quota will be paid to the lessor prior to the marketing of tobacco produced under the lease. Accordingly, the Department requests comments on the following questions:

A. Should all farm owners and all flue-cured tobacco producers be required to file certifications with the county ASCS office stating whether or not acreage allotments and marketing quotas have been leased?

B. If the farm owner certifies that flue-cured tobacco has been or will be produced on the farm but that no lease arrangement is involved, should the county ASC committee make any further inquiry concerning the accuracy of such certification?

2. Many different and varying lease arrangements are in use throughout the flue-cured tobacco producing area. A farm owner may lease the farm's flue-cured tobacco allotment and marketing quota to a lessee to produce the tobacco on the farm and subsequently the lessee may lease such allotment and quota to another person to produce the tobacco on the farm. Also, many tobacco producers lease entire farms, combine such farms with other farms, and operate all the farms as a single farming unit. Accordingly, the Department requests comments on the following questions:

A. Considering the different lease arrangements, what practical method will ensure that all lessors and lessees are contacted when determining compliance with such a regulation?

B. How may the county ASC committee determine those cases in which a farm owner actually leased flue-cured tobacco acreage allotment and marketing quota to a lessee, received payment prior to marketing of tobacco produced under the lease, and concealed such fact from the county ASC committee by indicating that the farm owner is actually producing the crop of tobacco?

C. What action should the county ASC committee take when all owners of a farm cannot be contacted for the purpose of filing any required certification?

3. A means of enforcing such a regulation is necessary to ensure compliance. Under the statute if a lessor knowingly files a false statement with respect to receiving payment for a lease prior to marketing of tobacco, the flue-cured tobacco acreage allotment and marketing quota next established for the farm is required to be reduced by the percentage which the leased allotment

or quota was of the total flue-cured tobacco allotment or quota for the farm. The Department requests comments with respect to the following further questions:

A. What action should be taken with respect to a lessee who fails to file any applicable certification or files a false certification with respect to the payment of any of the consideration for the lease of flue-cured tobacco acreage allotment and marketing quota prior to the time of marketing the tobacco which is produced under the lease?

B. What action should be taken with respect to a lessor who refuse to certify that the consideration of a lease of flue-cured tobacco acreage allotment and marketing quota has not been and will not be paid prior to marketing of tobacco produced under such lease?

C. What action should be taken with respect to a lessor who refuses to certify as to whether or not the flue-cured tobacco has been produced under a lease of the acreage allotment and marketing quota?

D. What action should be taken when there are two or more owners of a farm, either joint owners or different owners of separate tracts, and one or more of such owners fail to file a certification or files a false certification?

4. County ASC committees and county ASCS office employees are prohibited from becoming involved in any lease and transfer activitives which would adversely reflect on ASCS. Prohibited acts include: (a) Acting as a broker in allotment transactions, (2) acting as an agent for any party to a transfer, (3) acting as a "finder" for individual farmers, (4) negotiating transactions, and (5) other similar activities. Accordingly, the Department request comments on the following question:

When a lease covers land or chattels, in addition to a flue-cured tobacco acreage allotment and marketing quota, to what extent should the county ASC committee become involved in determining the consideration applicable to flue-cured tobacco acreage allotment and marketing quota?

All comments are welcome and will be considered. Most desired, however, are comments which specifically address one or more of the specific areas of concern which have been enumerated in this notice.

List of Subjects in 7 CFR Part 725

Acreage allotment, Marketing quota, Report requirements, Tobacco.

(Sec. 316(a)(1), 75 Stat. 469, as amended, 7 U.S.C. 1314b(a)(1))

Signed at Washington, D.C. on June 22, 1984.

Everett Rank,

Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 84-17056 Filed 6-26-84; 8:45 am]

BILLING CODE 3410-05-M

federal register

Wednesday
June 27, 1984

Part VIII

Department of Health and Human Services

Food and Drug Administration

21 CFR Part 102

Common or Usual Name for Nonstandardized Foods; Diluted Fruit or Vegetable Juice Beverages; Extension of Effective Date

Wednesday
June 27, 1984

Part VIII

Department of Health and Human Services

Food and Drug Administration

21 CFR Part 102

Common or Usual Name for Nonstandardized Foods; Diluted Fruit or Vegetable Juice Beverages; Extension of Effective Date

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 102

[Docket No. 80N-0140]

Common or Usual Name for Nonstandardized Foods; Diluted Fruit or Vegetable Juice Beverages; Extension of Effective Date

AGENCY: Food and Drug Administration.

ACTION: Final rule; extension of effective date for compliance.

SUMMARY: The Food and Drug Administration (FDA) is extending the period of time for compliance with the labeling requirements to the common or usual name for diluted fruit or vegetable beverages regulation for all affected products initially introduced or initially delivered for introduction into interstate commerce. The extension will last until the effective date of a final rule resulting from an EDA proposal to amend aspects of the labeling requirements in the regulation.

DATE: The effective date for compliance is extended from July 1, 1984 until the effective date of the final rule resulting from the proposal to amend this regulation published at 48 FR 2735, January 21, 1983.

FOR FURTHER INFORMATION CONTACT: Elizabeth J. Campbell, Center for Food Safety and Applied Nutrition (HFF-312), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-485-01777.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of June 10, 1980 (45 FR 39247), FDA published a final regulation concerning label requirements for the common or usual name of diluted fruit or vegetable juice beverages (21 CFR 102.33). FDA extended the effective date of the regulation until July 1, 1982, by a document published in the **Federal Register** of December 5, 1980 (45 FR 80497). Subsequently, FDA published a proposal in the **Federal Register** of March 26, 1982 (47 FR 13003), and then a final rule in the **Federal Register** of January 21, 1983 (48 FR 2735), extending to July 1, 1984, the effective date for compliance with this common or usual name regulation.

In the **Federal Register** of June 1, 1984 (49 FR 22831), FDA published a proposal that would amend the requirements in 21 CFR 102.33 concerning label requirements for the common or usual name of diluted fruit or vegetable juice beverages. (See 49 FR 22931 for a full discussion of the history of this proceeding and the relevant issues.) In that same issue of the **Federal Register** (49 FR 22834), FDA published a proposal announcing its intention to extend the effective date of § 102.33 until the effective date of a final rule resulting from the new proposal. FDA provided a 15-day comment period on the proposed extension of the effective date of § 102.33. FDA received only supporting comments and, accordingly, is published this final rule extending the effective date as proposed.

List of Subjects in 21 CFR Part 102

Common or usual name; Food labeling.

PART 102—COMMON OR USUAL NAME FOR NONSTANDARDIZED FOOD

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(n), 403, 701(a), 52 Stat. 104, as amended, 1047-1048 as amended, 1055 (21 U.S.C. 321(n), 343, 371(a))) and under 21 CFR 5.11, the effective date for compliance with the labeling requirements of the common or usual name for diluted fruit or vegetable juice beverages regulation (21 CFR 102.33) is extended indefinitely.

(Secs. 201(n), 403, 701(a), 52 Stat. 1041 as amended, 1047-1048 as amended, 1055 (21 U.S.C. 321(n), 343, 371(a)))

Dated: June 20, 1984.

Mark Novitch,

Acting Commissioner of Food & Drugs.

Margaret M. Heckler,

Secretary of Health and Human Services.

[FR Doc. 84-17273 Filed 6-26-84; 11:14 am]

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Reader Aids

Federal Register

Vol. 49, No. 125

Wednesday, June 27, 1984

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Indexes	523-5282
Law numbers and dates	523-5282
	523-5266

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Executive orders and proclamations	523-5230
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United States Government Manual 523-5230

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Library	523-4986
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TDD for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, JUNE

22751-23018.....1
23019-23156.....4
23157-23330.....5
23331-23596.....6
23597-23824.....7
23825-24006.....8
24007-24106.....11
24107-24364.....12
24365-24508.....13
24509-24704.....14
24705-24872.....15
24873-24986.....18
24987-25216.....19
25217-25420.....20
25421-25608.....21
25609-25832.....22
25833-26022.....25
26023-26184.....26
26185-26542.....27

CFR PARTS AFFECTED DURING JUNE

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Administrative Orders:

Presidential Determinations:
No. 84-9 of May 31, 1984.....24107
No. 84-10 of May 31, 1984.....23025
12426 (Amended by EO 12482).....26023
12480.....25611
12481.....25613
12482.....26023

Executive Orders:

11888 (Amended by EO 12483).....26185
12483.....26185

Proclamations:

5201.....22751
5202.....22753
5203.....22755
5204.....23019
5205.....23021
5206.....23023
5207.....24365
5208.....24873
5209.....24875
5210.....25217
5211.....25219
5212.....25421
5213.....25609
5214.....26025

5 CFR

Proposed Rules:

Ch. XIV.....25243

7 CFR

33.....23825
35.....23825
46.....23825
51.....23825
52.....23825
54.....23331
56.....25221
70.....25221
245.....26027
250.....25615
301.....26187
319.....24877, 24987
360.....25222
400.....22757, 22758
411.....26189
420.....24007
431.....26192
435.....26197, 26201
717.....24371
810.....22761, 24509
900.....23825
904.....23157
905.....23157
908.....23158, 24372, 24878, 26035
910.....22767, 23826, 24705, 25616
918.....24509
928.....24109
930.....24510
953.....23333
1004.....23029
1036.....23034
1049.....23029
1062.....23029
1064.....23029
1065.....23029
1207.....23825, 26202
1250.....24009
1421.....23597, 23827
1427.....25223
1430.....26203
1434.....24878
1464.....23334, 24372
1736.....24511
2012.....24010

Proposed Rules:

Ch. IX.....23186
Ch. X.....26239
418.....23848
427.....23852, 24522
429.....23856
430.....24528
431.....24539
432.....24533
435.....26238
438.....24144
447.....24145
504.....23651
724.....24540
725.....26536
810.....23651, 25004
911.....25243
916.....24895
917.....24895
989.....23193, 25635
991.....23061
1006.....23653
1007.....25879
1012.....23653
1093.....25879
1094.....25879
1139.....24736
1765.....23860
1872.....26072
1900.....23359
1901.....23359
1951.....23359, 26072
1955.....23359
1965.....26072
2900.....23061

8 CFR

100.....22767
103.....22767, 24010
204.....23827
238.....23159, 26203
316a.....23335

9 CFR

78 ... 25616
81 ... 24011
91 ... 24013
92 ... 23036
112 ... 22770
309 ... 23602
310 ... 23602
318 ... 23602

Proposed Rules:

94 ... 25004
113 ... 23862, 24025
145 ... 23391
147 ... 23391
313 ... 26240
318 ... 26242
319 ... 26242

10 CFR

2 ... 24110, 24111, 24512
20 ... 24512
30 ... 24512, 24705
40 ... 24512, 24705
50 ... 24111, 24512, 26036
51 ... 24512
61 ... 24512
70 ... 24512
72 ... 24512
110 ... 24512
150 ... 24705
170 ... 24112
840 ... 24374

Proposed Rules:

2 ... 24748
9 ... 25482
50 ... 24748
70 ... 25005
73 ... 23867
430 ... 23142

11 CFR

Proposed Rules:

6 ... 26244

12 CFR

8 ... 26204
207 ... 23606
220 ... 23606
221 ... 23606
224 ... 23606
265 ... 25224
507 ... 25618
508 ... 25618
509 ... 25618
509a ... 25618
512 ... 25618
513 ... 25618
618 ... 23159

Proposed Rules:

5 ... 24748
12 ... 24748
211 ... 26002

13 CFR

101 ... 25833
120 ... 24879

14 CFR

39 ... 23335, 23336, 24014, 24015, 24514, 24708, 24710, 25423, 25623, 26045
71 ... 23037, 24514-24516, 24880, 25424, 25624-25626, 26046, 26047, 26205-26207
75 ... 25425, 26207
97 ... 23337
252 ... 25408
291 ... 23338, 25225
296 ... 25226
297 ... 25226
375 ... 24711
382 ... 24988
398 ... 24711

Proposed Rules:

Ch. I ... 25880
25 ... 24749, 25638
39 ... 25638
71 ... 23392, 24030, 24896, 25639, 26102, 26253
73 ... 23392
93 ... 23788, 23806, 24626, 24982, 25244
108 ... 24974
129 ... 24974

15 CFR

921 ... 26502

Proposed Rules:

930 ... 22825
1400 ... 26254

16 CFR

13 ... 23812, 25226, 25228, 25628, 25833
1017 ... 22770

Proposed Rules:

13 ... 24385, 25881
1032 ... 25005

17 CFR

1 ... 25425
31 ... 25426, 25834
229 ... 25228
240 ... 23828

Proposed Rules:

1 ... 22827
33 ... 25483
230 ... 23393
239 ... 23393, 23653
240 ... 23653, 25244

18 CFR

11 ... 22770
154 ... 22778, 24880
271 ... 23339, 26047, 26048
282 ... 26050
290 ... 23609
300 ... 25230

Proposed Rules:

35 ... 22831
301 ... 24146

19 CFR

6 ... 23038
10 ... 23161
19 ... 23161
24 ... 23161
101 ... 23832, 26050
103 ... 23339
113 ... 23161
125 ... 23161
134 ... 22793
141 ... 23161
142 ... 23161
143 ... 23161
144 ... 23161
146 ... 23161
177 ... 25836

Proposed Rules:

4 ... 25884

20 CFR

404 ... 24112
621 ... 25837
655 ... 26208

Proposed Rules:

10 ... 23658

21 CFR

73 ... 23832
74 ... 23832
81 ... 23039, 23040
100 ... 24118
102 ... 26541
103 ... 23832
105 ... 23832
109 ... 24892
131 ... 23832
133 ... 23832
135 ... 23832
136 ... 23832
137 ... 23832
139 ... 23832
145 ... 23832
146 ... 23832
150 ... 23832
155 ... 23832
160 ... 23832
161 ... 23832
163 ... 23832
164 ... 23832
166 ... 23832
168 ... 23832
169 ... 23832
177 ... 25628
178 ... 23348, 25630
179 ... 24988
182 ... 24118
184 ... 22796, 24118, 25428
430 ... 25845
436 ... 24016, 25845
442 ... 25845
450 ... 24016
510 ... 23041
520 ... 24019, 23341
522 ... 23834
540 ... 23042
558 ... 23041, 23341, 24119, 24120
600 ... 23833
601 ... 23833
606 ... 23833
607 ... 23833
610 ... 23833
620 ... 23833
630 ... 23004, 23833
640 ... 23833
650 ... 23833
660 ... 23833
680 ... 23833, 25430
1308 ... 25849

Proposed Rules:

3 ... 23194
102 ... 22831, 22834
131 ... 23194
133 ... 24031, 25247
155 ... 25007
158 ... 25007
161 ... 22834
182 ... 25248
184 ... 25248
193 ... 24749
250 ... 24031
886 ... 25008

23 CFR

635 ... 24374
658 ... 23302

Proposed Rules:

635 ... 23663

24 CFR

52 ... 24634
58 ... 23610
200 ... 23580, 24121
202 ... 24989
203 ... 23580
207 ... 24634
220 ... 23580
221 ... 23580
232 ... 23342
234 ... 23580
235 ... 23342, 23580
255 ... 24634
390 ... 23586, 24892
811 ... 24634
850 ... 24634
888 ... 25850

Proposed Rules:

115 ... 25640
200 ... 23394
203 ... 23063
205 ... 24147
220 ... 23063
221 ... 23063
234 ... 23063
235 ... 23063

25 CFR

140 ... 25433

Proposed Rules:

700 ... 23663

26 CFR

1 ... 26208
31 ... 25238
49 ... 25238
601 ... 25238

Proposed Rules:

1 ... 23074, 25008, 26102, 26106, 26256
301 ... 23074, 26106

27 CFR

9 ... 24711, 24714

Proposed Rules:

55 ... 23872

28 CFR

524 ... 24104

Proposed Rules:

2 ... 22834

29 CFR

1601 ... 24721
1908 ... 25082
1910 ... 23175, 25734
1956 ... 22994
2619 ... 24721

Proposed Rules:

530 ... 25641
1926 ... 25248

30 CFR

250 ... 26225
913 ... 24019

916.....23834
935.....23178
944.....23836

Proposed Rules:
15.....23281
16.....23281
17.....23281
25.....23281
901.....23074
914.....26106
915.....23872
926.....24542
935.....26108

31 CFR
317.....24021
321.....24021
500.....24993

32 CFR
64.....23616
96.....23042
216.....22800
955.....23343

33 CFR
100.....23043-23045, 23180, 24517, 25436-25443, 25631, 25632
110.....24722, 25444
117.....25445
147.....25446
165.....23180, 23617-23620, 25446
240.....24021

Proposed Rules:
100.....23075-23077
117.....25642
151.....25196
158.....25196
181.....23663
183.....23663

34 CFR
241.....23494
250.....23760
251.....23760
252.....23760
253.....23760
254.....23760
255.....23760
256.....23760
257.....23760
259.....23760
260.....23760
261.....23760
262.....23760
305.....25996
320.....25984
338.....25990
356.....24978
661.....24362

36 CFR
7.....24892, 25852
251.....25447
261.....25447

Proposed Rules:
13.....22835

37 CFR

Proposed Rules:
1.....24751
2.....24033

38 CFR
17.....26226
21.....26226
36.....22807

Proposed Rules:
3.....24035
8.....24148
9.....24148

39 CFR
111.....26227
775.....23181

40 CFR
52.....22809-22814, 23181, 24022, 24128, 24518, 24723-24725, 25451
60.....22815, 23837, 26228, 26229, 26522
61.....23478, 23498, 23837, 25453, 26229, 26230
81.....23045, 23046, 23343, 24124, 24128, 25451
85.....24320
122.....25978
124.....25978
125.....25978
147.....24133, 25633
162.....26230
180.....23394, 24375, 24376, 24864, 25239
228.....23148
261.....23284
271.....23837, 24377, 25855
420.....24726, 25634
712.....24135, 25856, 25859
717.....23182, 25453
747.....24658
761.....25239

Proposed Rules:
23.....23152
52.....23195, 23873, 24149, 24543-24549, 24751, 24752, 24897, 24898, 25251
60.....22835, 24151, 25102, 25152, 25156
61.....23522, 23558, 23568
81.....23195, 24898, 25008, 25252
87.....25643
100.....23152
124.....25885
141.....24330
144.....25885
145.....24037
146.....24037, 25885
147.....25885
180.....23394, 24387, 24752
260.....23290
264.....23290, 25885
265.....23290, 25885
421.....26352
434.....24388
455.....24492
756.....23664
761.....23836
763.....23664, 24552
773.....25009, 25013

41 CFR
Ch. 109.....25564
105-53.....24994
201-36.....24726

Proposed Rules:
101-21.....26259

42 CFR
57.....25634
405.....23620

Proposed Rules:
405.....23078
432.....23078
433.....23078

43 CFR
5400.....23838

Public Land Orders:
4289 (Amended by PLO 6546).....26052
6401 (Corrected by Public Land Order 6542).....23626
6542.....23626
6543.....23626
6544.....26051
6545.....26052
6546.....26052
6547.....26053
6548.....26053
6549.....26231

Proposed Rules:
2880.....25972

44 CFR
8.....24518
64.....24519, 24729
65.....23839
67.....25861

Proposed Rules:
67.....23664, 23874, 23889, 26108
83.....23664

45 CFR
612.....23049
1180.....24731
1601.....23050
1611.....24733
1612.....23627
1620.....22816
1628.....23056

Proposed Rules:
1629.....23395

46 CFR
26.....25453
30.....25453
31.....25453
32.....25453
35.....25453
67.....23627
70.....25453
71.....25453
75.....25453
77.....25453
78.....25453
90.....25453
91.....25453
94.....25453
96.....25453
97.....25453
107.....25453
108.....25453
109.....25453
163.....25453
188.....25453
189.....25453
192.....25453
195.....25453
196.....25453
502.....26054
530.....23183
536.....22817, 24023, 24696, 26231
538.....24696
572.....24521, 24697
580.....22817, 23183, 24023, 24696, 24701, 24703, 26231

Proposed Rules:
151.....23085

47 CFR
1.....23628
21.....25456
22.....23628
63.....22817
64.....24733, 24996, 26056
67.....23649, 24023
73.....23057-23059, 23344, 23345, 23840-23846
76.....23348
83.....24378
90.....26066
94.....24135

Proposed Rules:
Ch. I.....22837, 23397, 26109
15.....23397, 26115
21.....25486
31.....26115
73.....23896-23901, 24151, 24388-24415, 25254, 26115, 26116
74.....26260
90.....24038, 25255, 26264

48 CFR
Ch. 5.....25872
Ch. 12.....22922
Ch. 15.....24733
553.....26071

Proposed Rules:
Ch. 5.....23197
Ch. 29.....25160
309.....24552

49 CFR
171.....24306
172.....24306
173.....24306, 24684
176.....24306
178.....24306, 24684
179.....24306
575.....24024
700.....24378
701.....24378
800.....26232
1033.....26235
1152.....24735

Proposed Rules:
215.....25645
218.....24252, 26266
225.....24252, 26266
1201.....24554

50 CFR
26.....24139
32.....22819
33.....22819
371.....25877
611.....23355
630.....24380

652.....23184, 23355
661.....23185
672.....23355, 24142
675.....23355

Proposed Rules:

Ch. II.....25016
10.....23197
13.....24898
14.....24898
17.....23399–23409, 23794, 24416, 24903, 24906, 25342
20.....24417, 25646
21.....23665
222.....25017
285.....22838
628.....23668
630.....23668
642.....24038, 26267
669.....25258
671.....26117

List of Public Laws

Last List June 25, 1984

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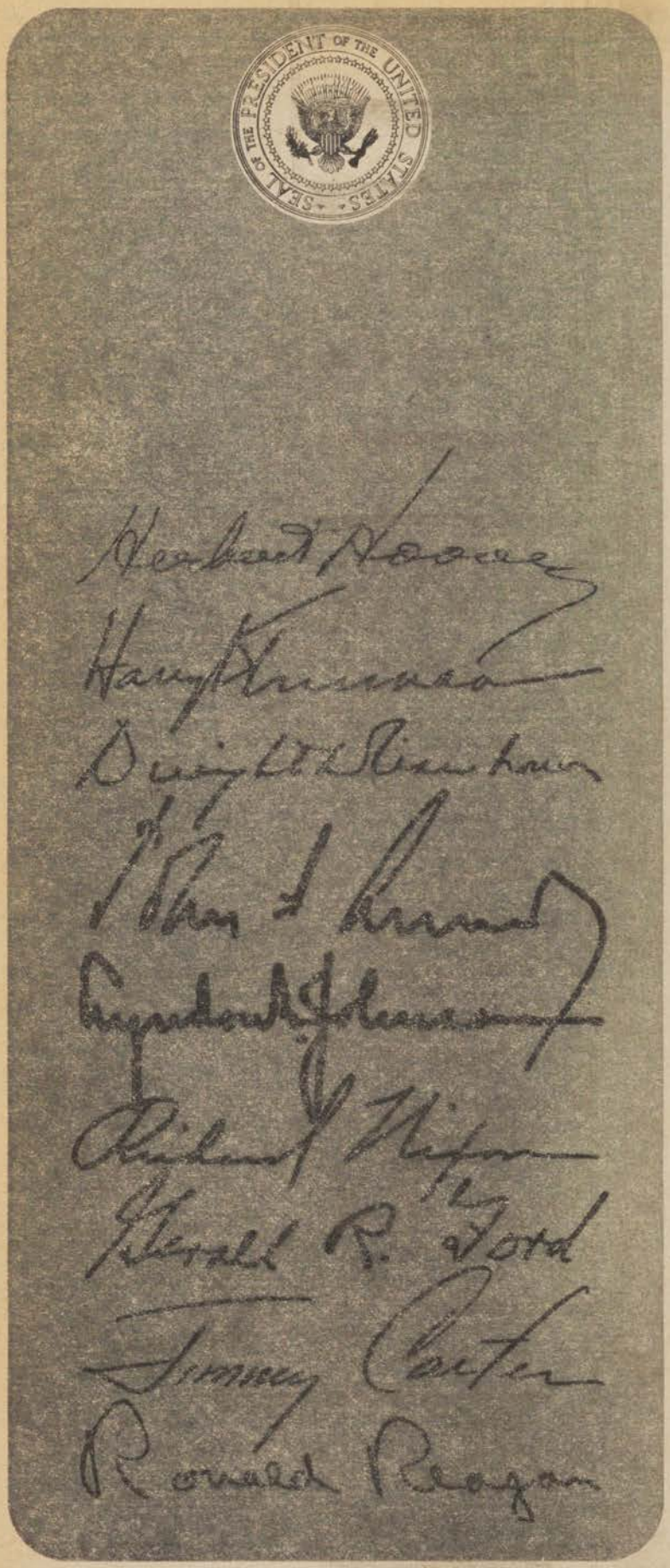
H.R. 5517 / Pub. L. 98–326

To amend title 31, United States Code, to provide for certain additional experts and consultants for the General Accounting Office, to provide for certain additional positions within the General Accounting Office Senior Executive Service, and for other purposes. (June 22, 1984; 98 Stat. 269) Price: $1.50



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